



Food and Agriculture
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United Nations

Promoting responsible investment in agriculture and food systems

Guide to assess national
regulatory frameworks affecting
larger-scale private investments

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regulatory frameworks affecting
larger-scale private investments

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ACRONYMS AND ABBREVIATIONS

CBD	Convention on Biological Diversity
CDM	Clean Development Mechanism
CESCR	Committee on Economic, Social and Cultural Rights
CFS	Committee on World Food Security
CFS-RAI	CFS Principles for Responsible Investment in Agriculture and Food Systems
FAO	Food and Agriculture Organization of the United Nations
FPIC	Free, Prior and Informed Consent
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
IFA	International Framework Agreement
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
ILO	International Labour Organization
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
OECD	Organisation for Economic Cooperation and Development
OIE	World Organisation for Animal Health
TRIPS	World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights
SPS	World Trade Organization Agreement on Sanitary and Phytosanitary Measures
SSF	Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication
TBT	World Trade Organization Agreement on Technical Barriers to Trade
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
REDD+	United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks
RTFG	Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WHO	World Health Organization
WTO	World Trade Organization

INTRODUCTION

Background

Recent years have shown rising interest in investment in agriculture and food systems, driven by concerns over food security and commodity price volatility as well as broader economic, social and environmental trends. These include the diversification of investments, rising population and urbanization rates in addition to the impact of climate change and changing energy and food consumption patterns. International policymakers have raised the potential for both public and private agricultural investments to achieve many of the goals on the sustainable development agenda. As Investing in agriculture is now recognized as a key tool to promote agricultural productivity, reduce poverty and enhance environmental sustainability, renewed public and private sector commitments have been made to reverse decades of trends towards stagnant or falling agricultural investment in regions where hunger is most widespread (FAO, 2015).

However, it is important to note that the potential benefits of investment in agriculture and food systems may also be outweighed by adverse social and environmental impacts. For example, some large-scale investments may threaten local livelihoods and marginalize smallholders or lead to environmental degradation and water scarcity, thereby reversing development pathways (Mirza *et al.*, 2014). Many of these risks have been raised in the context of foreign direct investment (FDI) involving transfers of land. Yet domestic investors, including smallholders who are often poor, rural women, account for the greatest share of agricultural investments in developing countries, and the issues surrounding these investments go far beyond those related to land acquisition and FDI (FAO, 2012c). It is clear that the potential benefits and risks of agricultural investment can arise independently of whether investors are foreign or domestic.

Growing attention has been drawn to the need to ensure that all investments in agriculture and food systems are done in a way that promotes sustainable development. With this in mind, the Committee on World Food Security Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI) aim to promote complementary policy goals, encouraging much needed responsible public and private agricultural investment to enhance livelihoods, promote human rights and mitigate risks to food security and nutrition (CFS, 2014). They address the core elements of what makes investment in agriculture and food systems responsible, identify key roles and responsibilities for stakeholders and serve as a framework to guide their actions. Together, they aim to:

- 1. Contribute to food security and nutrition.**
- 2. Contribute to sustainable and inclusive economic development and the eradication of poverty.**
- 3. Foster gender equality and women's empowerment.**
- 4. Engage and empower youth.**
- 5. Respect tenure of land, fisheries and forests, and access to water.**
- 6. Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks.**
- 7. Respect cultural heritage and traditional knowledge, and support diversity and innovation.**
- 8. Promote safe and healthy agriculture and food systems.**

- 9. Incorporate inclusive and transparent governance structures, processes and grievance mechanisms.**
- 10. Assess and address impacts and promote accountability.**

The CFS-RAI principles are complementary and designed to apply to all sectors and all stages of agricultural production and food systems, not every principle may be relevant for every investment. The actions needed to achieve a principle vary depending on the nature, structure and type of investment, as well as the national context. The Principles are voluntary and non-legally binding, and are to be interpreted and applied consistently with existing obligations under national and international law (CFS, 2014).

The CFS-RAI principles were developed through an inclusive process of consultations with governments, UN agencies, civil society and non-governmental organizations, international agricultural research institutions, private sector associations and private philanthropic foundations, as well as international and regional financial institutions and endorsed by the Committee on World Food Security (CFS) at its 41st session in Rome in October 2014.

CFS-RAI conceptual framework:

Food security exists when all people, at all times, have physical, economic and social access to sufficient, safe, and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The four key dimensions of food security are availability, access, utilization and stability. The nutritional dimension is integral to the concept of food security.

- a) The Principles are based on the following documents as the foundation for responsible investment in agriculture and food systems:
 - i. Universal Declaration of Human Rights – Adopted by the UN General Assembly on 10 December 1948 and human rights treaties which are binding for respective State Parties;
 - ii. International Labour Organization Declaration (ILO) on the Fundamental Principles and Rights at Work – Adopted by the International Labour Conference in June 1998;
 - iii. Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (RTFG) – Adopted by FAO in 2004;
 - iv. United Nations Declaration on the Rights of Indigenous Peoples – Adopted by the United Nations General Assembly on 7 September 2007;
 - v. Guiding Principles on Business and Human Rights – Endorsed by the UN Human Rights Council in June 2011 and the ten Principles of the UN Global Compact in 2000;
 - vi. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) – Adopted by the CFS in May 2012;
 - vii. Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication (SSFSG) – Endorsed by the Committee on Fisheries at its 31st Session in June 2014;
 - viii. Global Strategic Framework for Food Security and Nutrition (GSF) of the CFS;
 - ix. Rio Declaration on Environment and Development, proclaimed by the UN Conference on Environment and Development in June 1992; and
 - x. The Outcome document on the UN Conference on Sustainable Development: The Future We Want – Adopted UNCSD in June 2012.
- b) The following documents, which are only legally binding for their respective Parties, are also relevant for the Principles:
 - i. International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA);

- ii. UN Framework Convention on Climate Change (UNFCCC);
- iii. UN Convention Against Corruption;
- iv. Relevant Multilateral WTO Agreements.

Overarching values of for the implementation of the Principles are consistent with the Principles of implementation described in the VGGT: human dignity, non-discrimination, equity and justice, gender equality, holistic and sustainable approach, consultation and participation, the rule of law, transparency, accountability, and continuous improvement. Responsible investment should respect and not infringe on the human rights of others and address adverse human rights impacts. It should safeguard against dispossession of legitimate tenure rights and environmental damage.

(CFS, 2014, paragraphs 18-20)

Purpose of this guide

Incentives and capacities to invest responsibly are significantly affected by the presence of an enabling environment, including supporting policies, laws and institutions. Governments have requested international guidance on the kind of enabling environment needed to attract and secure responsible agricultural investments at the national level. Many other stakeholders, including civil society and the private sector, also seek guidance to design their own strategies to promote responsible investments in agriculture and food systems.

While international instruments are an important reference for the CFS-RAI, implementation and enforcement will be predominantly at the national level, through domestic policies that are aligned with supporting legislation and institutions. A legal and institutional review can help to understand how far the policy themes and approaches related to responsible agricultural investment are already reflected within the domestic regulatory framework. Strengthening of the domestic enabling environment will need to go hand in hand with institutional changes and reform as well as with an improvement of knowledge and skills of national actors at both technical and decision-making levels, to ensure that countries' expectations for responsible investment are improved sustainably.

This guide provides a methodology for the review of national legal and institutional frameworks related to responsible investments in agriculture and food systems. It also identifies key areas of regulation within a thematic context, with a focus on larger-scale private agricultural investments in primary agriculture. These investments often involve the allocation of long-term rights to natural resources and may take a long time to recover capital costs and generate profits. As a result, investors look to national legal and institutional frameworks for safeguards to ensure they are not adversely affected over an extended period. This provides a significant leverage point for national governments, as the domestic regulatory framework can help to promote a favorable business climate for both foreign and domestic investors while securing the short, medium and long term social, economic and environmental objectives of responsible agricultural investment (Cotula, 2016).

Target audience

The guide is addressed primarily to national technical specialists, including government legal advisors, and investment promotion agency staff, as well as other public and private sector stakeholders, including civil society organizations, research organizations, universities and extension organizations, smallholders and their organizations, workers organizations, communities and consumer organizations, business enterprises, including farmers, financing institutions, donors and funds seeking to ensure effective implementation of responsible agricultural investment initiatives affecting larger-scale private investments through regulatory measures. It is designed as an input for national government-led multi-stakeholder initiatives in support of a national legal assessment exercise to validate findings, highlight gaps in the regulatory framework and encourage enforcement of existing provisions related to responsible agricultural investment. It is also designed to foster dialogue among relevant stakeholders so that they can identify priority areas for additional legal and institutional strengthening to further responsible agricultural investment within the national context. While the CFS-RAI are non legally binding in nature, the guide provides options for government decision-makers and other national stakeholders to determine how they might be best incorporated within national regulatory systems.

How to use this guide

This guide can be used with respect to existing or proposed legislation and institutional mandates related to responsible agricultural investment. Reviews of proposed legislation are generally targeted towards a particular sector, whereas existing reviews can range from a very narrow assessment to a detailed analysis of on the ground effectiveness, involving field research and appraisal. Where resources are scarce, it may be more prudent to assess a few key issues in-depth than to have a superficial review of many areas.

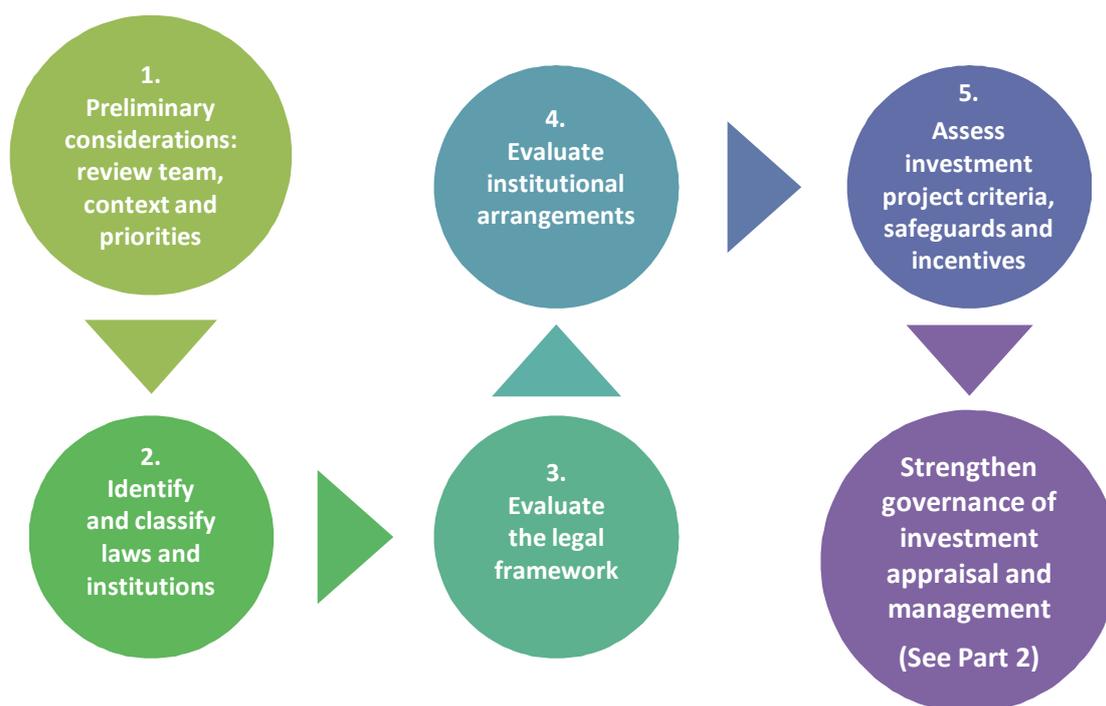
This guide identifies many different thematic areas of relevance that governments, in consultation with other stakeholders, may decide to incorporate into an existing legislative review process or to target further in a stand-alone review. A stand-alone review process may be more costly, but it may have the advantage of providing a more comprehensive analysis of the priority areas that all relevant stakeholders have agreed upon. This guide can also be used to identify the institutions responsible for administering the review. It can also assist both state and non-state actors to take stock of the overall current regulatory framework and assess the impact of recent developments in other areas related to agricultural investment.

The guide contains three main sections. The first two parts of the guide focus on the broader context of enabling environments for responsible investment in agriculture and food systems. Part 1 of the guide offers a methodology for the review process to national governments and other stakeholders involved in evaluating the effectiveness of legislation and institutions related to responsible agricultural investment. Part 2 identifies key areas for strengthening governance of investment appraisal and management, as outlined under CFS-RAI Principles 9 and 10. Part 3 frames responsible agricultural investment within the specific thematic contexts of CFS-RAI Principles 1-8. Annex I provides a non-exhaustive list of sources of domestic law and relevant institutions as well as international law and policy frameworks for the 8 thematic areas covered under Part 3. Annex II provides a sample outline with summary considerations that can be used to present the findings of a screening of national regulatory frameworks.

PART 1

NATIONAL REGULATORY REVIEW PROCESS FOR RESPONSIBLE AGRICULTURAL INVESTMENTS

Figure 1: Review process for responsible agricultural investments



CFS-RAI key stakeholder roles and responsibilities

States play a unique role in fostering an enabling environment for responsible investment in agriculture and food systems, in accordance with their national and regional development strategies as appropriate, given their specific function in the areas of legislation, policy, public administration, and provision of public goods. States are encouraged to promote an enabling policy, legal, regulatory, and institutional environment, including appropriate safeguards where necessary, to foster responsible investment that treats all investors fairly and equitably, taking into consideration the specific needs and interests of smallholders. The foundation for an enabling environment is coherence, consistency and predictability among policies, laws and regulations in the range of areas related to agriculture and food systems. Coherence and consistency can be further strengthened by multi-and inter-sectoral planning and coordination. Policy coherence, related to both domestic and foreign transactions and all types of stakeholders can be addressed through:

- i. Applying the Principles through the development or adaptation of transparent and stable policies, laws and regulations, including through monitoring and accountability mechanisms, as appropriate;
- ii. Promoting the meaningful participation of relevant stakeholders in agricultural food system investment policies and/or policy making including by establishing inclusive and

- equitable multi-stakeholder and multi-sectoral platforms;
- iii. Promoting coordination and support at different levels of government;
- iv. Promoting non-discriminatory access to information, services, incentives, resources, and relevant government bodies;
- v. Impartial judicial and administrative bodies and legally binding mechanisms for non-discriminatory, gender sensitive, fair, equitable, effective, accessible, affordable, timely, and transparent resolution of disputes;
- vi. Undertaking due diligence within national jurisdiction.

(CFS, 2014, paragraph 36)

States are encouraged, in consultation with all relevant stakeholders, especially the most vulnerable, and as appropriate with national human rights institutions, to establish monitoring, assessment and reporting systems in order to:

- i. Measure the impacts of investment in agriculture and food systems and address negative impacts;
- ii. Assess the efficiency and effectiveness of laws, policies, and regulations and address any gaps related to the Principles;
- iii. Provide clear guidance to stakeholders on monitoring and reporting procedures.

(CFS, 2014, paragraph 42)

1.1 PRELIMINARY CONSIDERATIONS

A national review of the enabling environment can not only ensure that the existing framework is adequate but also assist in the process of defining strategies to attract responsible agricultural investments over the short, medium and long-term. It can identify areas where incentives and safeguards are already in place, the extent of their effectiveness and the scope for improvement through legal or institutional strengthening. The following sections will set out a review process targeted towards the domestic regulatory framework for larger-scale investments in agriculture and food systems, followed by criteria for strengthening governance of investment appraisal and management that can be used to identify key areas and set priorities for reform.

a. The review team

Assessing how far responsible agricultural investment has been incorporated into the national regulatory framework requires a broad understanding of social, economic and environmental impacts, suggesting the need for a more technical body to conduct the study. One possibility may be to entrust the review to an independent research institution, working in close cooperation with governmental institutions involved in monitoring priority aspects such as food security or human rights, as well as with other interested and/or affected stakeholders from civil society and the private sector. On the other hand, to ensure high-level political support, it may be important to enlist a parliamentary committee or establish a coordinating unit among relevant government ministries and other external stakeholders who will be responsible for oversight. Where a decision is taken to integrate responsible agricultural investment considerations into an existing legislative review process, it may be necessary to ensure that the composition of the operational review team is multi-

disciplinary (including but not limited to lawyers), gender-sensitive and carries sufficient technical expertise in the areas highlighted in this guide. Multi-stakeholder representation is also needed throughout the process.

b. The legal and institutional context

A preliminary step is to identify the broader context for the legal and institutional framework in the country. This includes legal traditions related to how laws are enacted, interpreted and enforced, the role of the courts for those seeking access to justice, as well as customary rules and practices. Another key question related to the overarching legal system is whether there is a national constitution or a bill of rights. The national constitution is typically the supreme law of the country and any legal provision found to conflict with constitutional norms may be challenged in court and struck down. Some constitutions and bills of rights provide for direct recognition of human rights that may be affected by agricultural investments or may refer to related principles of good governance and the rule of law, addressing the role of the state in promoting measures of transparency, consultation, participation, non-discrimination and legal recourse. Constitutions or bills of rights may also enshrine principles of economic, social and environmental sustainability and gender equality, and address land and other resource rights affecting food security and nutrition- all key elements to promote responsible investments in agriculture and food systems. They can even provide access to national courts by directly claiming rights that are included in international treaties in some cases (FAO, 2009a).

It is also important to consider how legislative, executive and judicial functions and responsibility are distributed within government. Such provisions may be outlined in the national constitution or other basic legal texts. However, there is more to the legal framework than what is explicitly outlined under legislation and the institutional set up for administering and interpreting the laws. The legal framework also includes broader considerations of access to justice and accountability. For example, the extent to which affected individuals or groups are able to mobilize and assert their rights may have greater impact than any rights they may have formally acquired under a given piece of legislation. The potential to obtain remedies for violations of rights depends not only on the willingness of the judges to apply constitutional or other legislative provisions to the circumstances at hand but also on the ability of individuals or groups to approach impartial authorities at different levels to obtain administrative redress (Blackmore *et al*, 2015).

c. Policy choices and priority setting

Regulatory frameworks governing agricultural investments are complex as they involve a broad range of public policies as well as public and private law aspects that may derived from domestic, contract and international law. Some countries have adopted targeted policies and incentives to attract responsible agricultural investments and ensure adequate social and environmental protections through domestic legal enforcement mechanisms. Other countries may have appropriate laws and regulations in place, but they may lack sufficient incentives or capacity for enforcement. In some contexts, there is a risk that international investment contracts or treaties may exploit existing gaps in the domestic legal framework in favour of large foreign investors and to the detriment of smallholders and local communities (Smaller *et al.*, 2014). A key challenge is to achieve efficient balance between clear and legally certain private law mechanisms facilitating commercial activities and the public law measures ensuring public policy protection and enforcement. National policies on

agricultural investment must be also clear and congruent with actual legal requirements for effectiveness.

With this in mind, the anticipated timeframe and cost of regulatory reform processes needs to be taken into account. Some legal and institutional strengthening measures may take many years to implement at considerable expense to national governments and taxpayers. Where institutional capacities are limited, it may be necessary to prioritize certain measures such as investor pre-screening, or strengthening the capacity of individual stakeholders to negotiate more equitable and sustainable investment contracts. These may involve relatively short-term, inexpensive and less complicated ways to prevent greater conflict and costs down the line. On the other hand, strengthening the overall governance framework to ensure the right set of policies, laws and regulations and improving the capacity of institutions to implement them in an effective and fair manner is essential to build an effective environment for responsible investment (FAO, 2012b). Therefore, relevant regulatory frameworks also need to be aligned over the medium and long-term with solid mechanisms for monitoring, evaluation and review.

1.2 IDENTIFY AND CLASSIFY POLICIES, LAWS AND INSTITUTIONS

Once the preliminary considerations have been addressed, the review team should gather all existing and proposed laws and policies relevant to responsible investments in agriculture and food systems and identify the institutions responsible for implementing them. Part 3 of this guide can be used to identify relevant areas affecting large-scale private investments, which may be found in parliamentary legislation, such as acts or statutes, setting forth general provisions and providing authority for decision-making and oversight. They may also be found in subsidiary instruments, such as ministerial regulations, decrees, bylaws and orders detailing operational procedures that do not modify or derogate from what is established by in force superior legislation. Policy documents, strategies and visions affecting agricultural investments that may not be legally binding but that form part of the overall strategy of the government should also be reviewed. As mentioned above, it is often advisable to prioritize and focus on particular issues and areas, in order to review these aspects in an in-depth manner. A thorough analysis can contribute to more meaningful and actionable recommendations.

After the relevant policies, laws and institutions have been identified, they should be classified according to subject matter, where possible. However, a multi-disciplinary approach is also needed, considering the intersectoral context. For example, a forestry law cannot be assessed without reference to numerous other sector-specific or general laws including the national constitution, civil and criminal codes, local government laws, laws on finance, taxation, contracts, investment, transport, credit, labour, companies and associations, laws on environment, soil conservation, wildlife, protected areas, plant protection, water laws, land tenure laws as well as international agreements to which the state may be a party, where these are thematically applicable (FAO, 2000). Similarly, the ministry responsible for forestry will need to work closely with many other national ministries and agencies in other sectors at the international and sub-national level on issues related to responsible investment in agriculture and food systems.

It is also important to classify laws and institutions according to the hierarchy of legislation and their position within the policy framework for agricultural investment. Subsidiary instruments (e.g. regulations) must always be drafted and interpreted consistently with the parliamentary legislation under which it was made, as well as with constitutional provisions. The goal is to ensure policy coherence, consistency and predictability through domestic laws and institutions that support responsible investment in agriculture and food systems which are mainstreamed at all levels of government.

1.3 EVALUATE THE POLICY AND LEGAL FRAMEWORK

One of the key objectives of the policy and legal framework for responsible investment in agriculture and food systems is to establish rights and responsibilities that can promote the equitable and meaningful participation of all stakeholders, from central institutions to local communities. Good policies and legislation establish coherent, consistent and predictable rules for the exercise of public powers, which can encourage agricultural investment while safeguarding public interests such as the sustainable management of natural resources and third party rights. Good policies and legislation also establish effective institutional coordination mechanisms for agricultural investment that avoid duplication and disputes and also helps improve efficiency. Ultimately, if the analysis of the existing policy and legal framework leads to the determination that the current set of instruments is appropriate, the emphasis will be on improving the implementation and enforcement of existing policies, laws and regulations.

Key questions for assessment:

Regulatory capacities and constraints to implementation, oversight and enforcement

- Are relevant policies and laws operational on their own or do implementing or enabling regulations need to be developed or adopted before they can be applied? What are the constraints (human/ financial) to effective implementation?
- Are there direct, indirect or unintended regulatory obstacles that increase transaction costs and time requirements or limit the capacity of people to assert their rights?
- Are existing limitations, gaps or inconsistencies justified to achieve a pressing public interest and are there accompanying measures to counterbalance negative effects?
- Are there effective oversight mechanisms, including investment pre-screening, impact assessment, monitoring and evaluation?
- Are there effective grievance and dispute resolution mechanisms and remedies, as well as the right to appeal decisions?
- Are there effective deterrence and law enforcement mechanisms in place?

A first question to ask when evaluating the identified policies and laws is whether they cover all of the relevant topics addressed by responsible investment in agriculture and food systems or whether gaps are apparent from the outset. Under the CFS-RAI framework, these topics include the four dimensions of food security and nutrition (availability, access, stability and utilization), as well as the goals of sustainable development, including increased production and productivity, respecting, protecting and promoting human rights and environmental considerations (CFS, 2014). In addition, the international instruments referenced as foundation documents for the CFS-RAI can set useful benchmarks for evaluating the existing domestic policy and legal framework.

International investment policy, law and treaty obligations may have particular domestic implications for responsible agricultural investment involving host states. For example, in many countries, the promotion, approval and monitoring of investments involving foreign investors implicate international investment agreements, including bilateral treaties and regional trade agreements (FAO, 2012d). International and regional human rights policy and legal instruments also bear on many domestic considerations related to responsible agricultural investment. For example, although the CFS-RAI Principles are voluntary, States that have ratified human rights treaties have legal obligations to apply and enforce these agreements. Applying the CFS-RAI to investment promotion, approval and monitoring activities facilitates compliance with international human rights commitments. More specialized fields of international law may also affect agricultural investment. For example, States that have ratified the Convention on Biological Diversity (CBD) and its Nagoya Protocol have to pay particular attention to upholding the rights of indigenous peoples. The CFS-RAI Principles are consistent with these binding treaty obligations (CFS, 2014).

A second question to consider is whether both national and international policies and laws are operational on their own or whether implementing or enabling regulations need to be developed or adopted before they can be applied. The lack or delayed enactment of implementing regulations is a common problem in many countries. Only after assessing the capacities and constraints of implementing institutions should legislation be drafted, and these characteristics must be kept in mind and revisited throughout the negotiation, drafting and implementation process. Laws should establish the supporting institutional framework and delineate mandates, spelling out the rights and obligations they create and the basic objectives, orientations and principles for processes that will implement them within a given timeframe. The result should be a basic legal text that will lay the foundation, delineate the boundaries, and facilitate enactment of subsidiary legislation where technical specifications and procedural requirements will be detailed.

A third question to consider is whether the complexity and inconsistency of regulatory constraints could inhibit agricultural investment activities. Regulatory obstacles can take many forms. In some cases, the provisions of an existing law or regulation may directly prohibit a particular activity. More often, regulatory obstacles are indirect, and as such, they are not always easy to identify and address. These may include bureaucratic procedures that increase the transaction costs and time requirements to engage in a particular activity, without providing a corresponding public benefit. They may also include procedures that are not adequately detailed, creating a distinct lack of clarity. On the other hand, almost all legal systems are burdened by regulatory impediments that can make some laws difficult to use or to apply, even though the policy reasons for establishing the regulatory framework in the first place may no longer be required. As a result of excessive regulation, parties involved in agricultural investments may be more inclined to seek alternative non-legal routes to obtain results. Institutional strengthening may be required to facilitate regulation, reduce overlap and transaction costs, increase transparency and ensure enforcement (IFAD, 2013).

A fourth question is whether the policy and legal framework establishes or identifies effective oversight, enforcement and grievance mechanisms to address violations of legal rights where agricultural investments are involved. In legislation relating to larger-scale agricultural investment projects, the right to appeal administrative decisions typically applies to decisions with environmental, social, economic, cultural or human rights implications. These decisions could involve granting licences or permits for concessions or development projects with potentially significant impacts on a given area or they could relate to rule-making on certain matters related to natural resource use, for example. In addition,

provisions under relevant legislation may recognize the legal standing of individuals or particular groups of citizens to challenge violations of their rights or to enforce the law through litigation, mediation or other conciliatory measures available to affected parties or third parties. Whether there is an appropriate liability regime, fault-based or strict liability, for violations of legal rights and the range of available remedies are also key considerations. For example, does the relevant law provide for restitution of the right, cessation of violation or guarantees of non-repetition? Are there provisions for rehabilitation, compensation or mitigation? Where offences and penalties are clearly defined, and imposed fairly, they can both deter and remediate irresponsible investments causing harm to local populations and the environment.

Particular care should also be taken to review provisions that directly or indirectly limit the capacity of people to assert their existing rights. For example, discriminatory provisions for access to land and water, or other natural resources would clearly enter into the category of direct limitations. An example of an indirect limitation would be a tenure system based on the assumption of equality among groups and individuals or within communities but that may result in the *de facto* discrimination of specific groups, such as women, youth or ethnic minorities. Finally, it will also be necessary to consider the unintended consequences of the legislation, actual effects of non-compliance and the importance of these effects. Key questions to ask are whether existing limitations, gaps or inconsistencies are justified to achieve a pressing public interest and whether there are requirements to adopt appropriate accompanying measures to counterbalance negative effects.

1.4 EVALUATE INSTITUTIONAL ARRANGEMENTS

To assess the functions of relevant institutions, the source of the legislated mandate, the scope of the actors involved, and a comparison with the effective mandate is needed. For example, are the roles and responsibilities of government bodies clearly defined and well-coordinated through a lead agency? Do the institutions have the necessary capacity and resources – human and financial – to carry out their respective mandates and monitor outcomes? Are they anchored appropriately in the national institutional structure? There may be contradictory provisions within sector-specific legislation that appear to give the same or overlapping powers to different agencies.

Key questions for assessment: Institutional arrangements

- Are the roles of relevant institutions, including administrative, technical, and judicial bodies responsible for implementing the regulatory framework, clear, transparent and coordinated?
- Are stakeholders involved in an appropriate way in implementing the mandates of relevant institutions? Are the criteria for their selection and representation fair and transparent?
- Do institutions have the necessary authority to perform their tasks, and if not, who is filling the gap? Are there overlapping authorities? Are there opportunities for delegating authority from the central to the local level and for independent monitoring and evaluation?
- Do institutions have sufficient human and financial resources to perform their functions and how do they interact and coordinate with other institutions to manage resources?
- Do institutions have the effective capacity, including technical knowledge and training on methods and tools, to perform their tasks?

There may also be confusion between the powers allocated to different levels of government in a decentralized system, or across relevant ministries at the national level, including those responsible for agriculture, land water and investment. For example, countries with a federal system often suffer from duplication of mandates between the federal and state level. It may therefore be necessary to ensure that there is a clear division of powers between different jurisdictions. Often the provisions of principal legislation establishing institutions are brief and general to retain flexibility in allocating responsibilities among government agencies. This may be an acceptable approach as a basis for administrative arrangements that vary from time to time as long as any institutional restructuring is supported by detailed subsidiary legislation that is updated when needed.

The composition of administrative, technical and judicial bodies responsible for implementing laws related to responsible investment in agriculture and food systems and the criteria for their selection and representation are also important considerations. This will involve identifying the role of local, national regional and international courts and other dispute resolution mechanisms to ensure individuals and communities have adequate access to legal recourse. In many jurisdictions, rules and procedures to further access to justice may already exist in separate legislation relating to administrative law or procedural law relating to the court system. For example, administrative law procedures may include requirements for alternative dispute resolution and mediation before the issue is addressed through the courts. Ombudspersons may also be used to resolve disputes in specific contexts. Indigenous peoples or traditional communities may also have traditional conflict management mechanisms governing their internal affairs. Company grievance mechanisms may be particularly relevant for larger-scale private agricultural investments. Where civil actions and appeals involve specific communities or groups, the review should consider whether representatives from their own conflict management bodies are effectively able to participate in proceedings and whether the kind of legal assistance that is provided to them is adequate.

Law enforcement institutions and procedures should also be reviewed. For example, the powers of officials to inspect agricultural investment activities, issue search warrants, seize evidence, arrest offenders and stop illegal activities need to be well defined under the law. It may be necessary to compare laws relating to general criminal procedure and policing as well as detailed regulations relating to the enforcement of specific activities under an investment project with the actual use of powers and the training of officials who exert them. For example, powers to cease operations need to be granted and exercised with care to avoid undermining the balance of incentives for compliance. In particular, law enforcement officials need specialized training and limited discretionary powers to ensure that licences or concessions relating to agricultural investments are not arbitrarily terminated or disrupted and are not subject to corruption. Law enforcement officials also need the appropriate level of authority and discretion to determine whether a loss of a licence and disqualification from future licences should involve a criminal sanction or a purely administrative measure, depending on the nature of the offence. To promote responsible investments, law enforcement officials also need to be aware of specific incentives for compliance, as outlined in the following section.

1.5 ASSESS INVESTMENT PROJECT CRITERIA, SAFEGUARDS AND INCENTIVES

Responsible investment in agriculture and food systems promotes business growth, agricultural competitiveness as well as sustainability. In this regard, the regulatory review can include an assessment of procedures, criteria and incentives for investment project registration, business licensing and due diligence, including investment promotion and impact assessment criteria to safeguard food security and promote economic, social and environmental sustainability. These criteria can target specific aspects of agricultural and food production and prioritize specific crops, sectors or geographic areas. They can also refer to specific development objectives, providing for benefit-sharing agreements, contracts with local suppliers or quotas for training and employment of locals, youth or women, for example. Criteria can also evolve over time and be revised through consultation with relevant stakeholders before incorporation into investment agreements and contracts as the basis for investment approval.

Key questions for assessment: Investment project criteria, safeguards and incentives

- Do procedures for project registration, business licensing, due diligence safeguard food security and promote economic, social and environmental sustainability?
- Are pre-screening, promotion and impact assessment criteria and processes appropriately targeted and implemented to meet specific development objectives and priorities?
- Are there appropriate requirements for disclosing the purpose and location of the investment, the investor's experience and financial capacity and the scope of local involvement in equity, operations and processes before an investment project can be approved?
- Are there requirements for registering transactions and declaring the full sale value of assets acquired under an investment project?
- Is there an appropriate framework for taxation and subsidies to ensure economic viability and avoid speculative investments/inequitable concentrations of ownership?
- Are there provisions to review and revise investment criteria, safeguards and incentives in consultation with relevant stakeholders as a basis for investment approval?
- Are there adequate provisions for transparency, stakeholder involvement and accountability in agricultural investment project design, approval, monitoring and evaluation processes?

Requirements for disclosure of the purpose and location of the investment and whether there are local representatives are pertinent considerations, particularly for foreign investments but also where larger-scale domestic investors are involved (Mirza *et al.* 2014). The screening of investment proposals involves consideration of the investor's reputation and experience, transparency of operations and processes, financial capacity and alignment with and contribution to investment priorities. These can be assessed through documents to be submitted for the approval process, such as company's memorandum and articles of association, list of directors, business plan, financial statements and experience with other investment activities. Requirements for registering transactions and declaring the full sale value of assets acquired in an investment project can also be assessed to determine the extent to which they encourage local equity participation and prevent speculation or inequitable concentrations of ownership. The regulatory review can also consider whether there are adequate provisions for transparency, stakeholder involvement and accountability

in agricultural investment project design, approval, monitoring and evaluation processes. It can also ensure that investors are treated fairly and equally under the law.

The framework for agricultural investment safeguards and incentives, including tax exemptions, the capping of tax rates and subsidies, are also important aspects to consider. For example, there may be provisions in national investment codes exempting machinery, equipment and vehicles from customs duties or exemptions from profit tax for a specified period. As income tax is only payable once a project starts generating income, it may take some time before the government benefits if there are high infrastructure costs involved at the early stage of the investment. Measures to require the payment of royalties based on production value may ensure that the government receives revenues before the project starts generating profits. In addition, regulation can provide safeguards against “transfer pricing”, whereby a company’s taxable profits are reduced either through input purchases from related companies at inflated prices, or through product sales to other companies at discounted prices. They may also include requirements for registering transactions and declaring the full sale value of the assets acquired in an investment project. Guidelines for agricultural investment proposals can clarify specific development and fiscal goals that can be verified *ex ante* as well as during implementation of the investment. This may involve granting subsidies only when a certain percentage of the investment is made to ensure that the investment is economically viable. The granting of subsidies may also be contingent on local equity participation, or non-speculative investments, or investments that do not have an inequitable concentration of ownership, for example (Cotula & Vermuelen, 2010).

International initiatives for economic, social and environmental corporate responsibility can have an important domestic regulatory influence on agricultural investments and can serve as additional incentives for compliance. For example, the ‘Equator Principles’, are voluntary benchmarks used by the financial industry to extend the application of the International Finance Corporation (IFC) Performance Standards to large projects funded by the commercial lenders. They are available for all investment projects to use, even if the IFC is not involved (IFC, 2012). Investment contracts may be negotiated to explicitly require the application of such international standards in addition to domestic law, making non-compliance a violation of legally binding contractual terms.

Another example is the OECD Guidelines for Multinational Enterprises which call upon state parties to establish National Contact Points to increase awareness and promote social corporate responsibility initiatives, liaise between governments, civil society and the private sector, including the business community, workers organizations, non-governmental organizations. The National Contact Point is a facilitator/mediator for implementation issues and may undertake its own enquiries, seek advice and consultation from relevant authorities and experts as well as the OECD Investment Committee. The National Contact Point also issues reports and recommendations for the resolution of disputes submitted to the OECD Investment Committee. While the OECD Guidelines are non-legally binding recommendations, the monitoring and dispute resolution systems established through the National Contact Points are designed to complement national regulatory systems and ensure effective implementation (OECD, 2011).

Governments may also provide additional incentives for investment project compliance with existing private initiatives such as industry association standards, certification or labelling schemes that promote responsible agricultural investment criteria. The incentives can take various forms, including awareness raising, lowering administrative barriers and providing

technical assistance as well as establishing or strengthening monitoring, evaluation and oversight agencies (UNCTAD, 2011).

The human rights-based approach to responsible agricultural investment

- Human rights include a wide range of indivisible and mutually reinforcing civil, cultural, economic, political and social rights. The human rights based approach to the CFS-RAI Principles requires that states not only comply with existing relevant international obligations, but also recognize the interdependence of human rights. For example, under article 11 of the International Covenant on Economic, Social and Cultural Rights, every state is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate, and safe to ensure their freedom from hunger (CESCR, 1999). States act in violation of the human right to food if by leasing or selling land to investors (domestic or foreign), they deprive local populations of access to the productive resources indispensable to their livelihoods, or if they negotiate investment agreements without ensuring food security for their populations (CESCR, 1999). Yet a human-rights based framework is needed to further all aspects of responsible investment in agriculture and food systems, including the right to decent work and to an adequate standard of living. It can also address the unequal relationships of power that may stem from gender-based discrimination and discrimination against indigenous peoples, youth, vulnerable categories of producers and workers, such as migrant workers, and other marginalized groups. It can also ensure that agricultural investments are made in a truly accountable, transparent and participatory way (CFS, 2014).
- States can establish comprehensive legal requirements for investors to conduct social as well as environmental impact assessments with rigorous public scrutiny and sanctioning of non-compliance. For example, social sustainability can be enhanced if relevant positive and negative distributional impacts are identified at the investment project preparation phase so that targeted strategies can be devised to address them. In this way, there can be explicit consideration of the interests and constraints of local and indigenous communities, women, youth and vulnerable or marginalized groups. States can also promote equal investment opportunities for socio-economic empowerment by encouraging local employment and innovative technology transfer that can be adapted to their particular circumstances. They can ensure that investments provide for public goods and services, especially in rural areas, for example, and ensure that effective and accessible grievance mechanisms are provided for all people affected by the investment (FAO, 2011b).
- The 2011 UN Guiding Principles on Business and Human Rights: Implementing the “Protect, Respect and Remedy” Framework (Guiding Principles) provides recommendations to further compliance with human rights obligations that are applicable to both states and investors. They recognize the duty of states and the role of business enterprises and the need for rights and obligations to be matched to appropriate and effective remedies when breached. For example, states are required to prevent, investigate, punish and redress human rights abuses through effective policies, legislation, regulation and adjudication. Businesses also have a responsibility to avoid causing and contributing to adverse human rights impacts, as well as preventing and mitigating such impacts when they occur. The Guiding Principles also recognize the important role of National Contact Points in states that have adopted the OECD Guidelines on Multinational Enterprises, as well as national human rights institutions that are compliant with the 1993 Principles relating to the Status of National Institutions (Paris Principles) in helping to ensure that relevant domestic laws are aligned with international human rights obligations.

PART 2

STRENGTHENING GOVERNANCE OF INVESTMENT APPRAISAL AND MANAGEMENT

Figure 2: Improving the regulatory environment for investment



CFS-RAI Principle 9: Incorporate inclusive and transparent governance structures, processes, and grievance mechanisms

Responsible Investment in agriculture and food systems should abide by national legislation and public policies, and incorporate inclusive and transparent governance structures, processes, decision-making and grievance mechanisms, accessible to all, through:

- i. Respecting the rule and application of law, free of corruption;
- ii. Sharing information relevant to the investment, in accordance with applicable law, in an inclusive, equitable, accessible and transparent manner at all stages of the investment cycle;
- iii. Engaging with and seeking the support of those who could be directly affected by investment decisions prior to decisions being taken and responding to their contributions, taking into account existing 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;

- iv. Effective and meaningful consultation with indigenous peoples, through their representative institutions in order to obtain their free, prior and informed consent under the United Nations Declaration of Rights of Indigenous Peoples and with due regard for the particular positions and understanding of individual States;
- v. “Promoting access to transparent and effective mediation, grievance and dispute resolution mechanisms, particularly for the most vulnerable and marginalized”;
- vi. Taking steps to respect human rights and legitimate tenure rights, during and after conflict to achieve free, effective, meaningful and informed participation in decision-making processes associated with investments in agriculture and food systems with all parties affected by the investments, including farmers, consistent with applicable international law, including human rights law and international humanitarian law, and in accordance with the VGGT.

(CFS, 2014, paragraph 29)

CFS-RAI Principle 10: Assess and address impacts and promote accountability

Responsible investment in agriculture and food systems includes mechanisms to assess and address economic, social, environmental, and cultural impacts, considering smallholders, gender, and age, among other factors, and respects human rights and promotes accountability of each actor to all relevant stakeholders, especially the most vulnerable, by:

- i. Applying mechanisms that provide for independent and transparent assessments of potential investments involving all relevant stakeholder groups, in particular the most vulnerable;
- ii. Defining baseline data and indicators for monitoring and to measure impacts;
- iii. Identifying measures to prevent and address potential negative impacts, including the option of not proceeding with the investment;
- iv. Regularly assessing changes and communicating results to stakeholders;
- v. Implementing appropriate and effective remedial measures in the case of negative impacts or non-compliance with national law or contractual obligations.

(CFS, 2014, paragraph 10)

2.1 IMPROVING REGULATORY STRUCTURES, PROCESSES AND MECHANISMS

Once gaps and shortcomings of the existing regulatory system have been identified, a strategy to address them can be developed. As an initial consideration, it is important to assess whether the rule of law is weak or ineffective in certain contexts and determine what mechanisms should be used to address this problem. Legislative strengthening needs to go hand-in-hand with institutional reform to ensure adequate enforcement capacity. There should also be careful consideration of the type and level of legislation or institutions needed. Given the risk of overlap and inconsistency, it may be preferable to ensure that responsible investment in agriculture and food systems is appropriately addressed in existing legislation and institutions rather than to develop a new, overarching law and institutional framework. The process for adopting legislation or establishing new institutions must also be considered, as care needs to be taken to ensure that changes are not rushed through and that appropriate financial arrangements are in place. A legal and institutional strategy should set out clear reporting requirements including financial and timeframe implications of the

measures taken. Responsibilities for resolving disputes should be placed at levels that can most effectively deliver services. Above all, a participatory process is needed to secure ownership and consensus amongst stakeholders, as they are essential to ensure the effectiveness and sustainability of any legal or institutional reform. An Inclusive reform process that efficiently involves local stakeholders and secures their buy-in and understanding of the reasons behind it will ensure an effective implementation phase for any actions taken. More detail on all of these suggested areas for improvement is provided in the sections below.

2.2 IMPROVING TRANSPARENCY

In general, transparency may be improved by clearly defining and widely publicizing relevant policies, laws and regulations, and by widely publicizing decisions in applicable languages, formats and locations that are accessible to all. At a minimum, making legal information available to citizens requires the publication of legislation, for instance, in official gazettes. Where access to official documentation is constrained or literacy is low, public authorities can take more proactive steps to ensure that legal information reaches poor and vulnerable groups, for example, by using targeted information and communication technology (ICT) and awareness raising campaigns (FAO, 2015b).

Both governments and investors can also be required to share information on agricultural investment agreements and contracts with the public before and during their negotiation. Relevant government agencies and investors can also issue regular reports and audits about agricultural investment activities and the costs and benefits involved to raise public awareness about the issues at stake and how they can be addressed. There can be requirements for any information retained by public bodies and information that may assist in the exercise or protection of rights held by private bodies to be accessible without delay or cost. For example, legal requirements can inform all prospective investors and affected stakeholders of their established entitlements, as well as the services and standards for agricultural investment project financing, operations and winding up in the event of termination or breach of contract or in an insolvency situation. Limitations on freedom of contract such as the restrictions on damage awards, the duration of agreements and the freedom to agree on termination rights, procedures and compensation payments as well as limitations of liability can also be widely publicized. Non-disclosure may be justifiable only in exceptional circumstances and only on the basis of clearly defined criteria (Darby, 2010).

In addition, government agencies can ensure that the content of proposed agricultural investment contracts are made available for public consultation for a reasonable time before they are approved. There is also the option of ratification through parliament to add another layer of scrutiny and broad public oversight can be required during contract performance. The 2011 UN Principles for Responsible Contracts can be used as a basis for this process when foreign investors are involved.

When information related to agricultural investments as well as reliable and gender-disaggregated statistical data is made readily available to the public, it can be used for independent analysis and monitoring as well as informed decision and policy-making. For example, relevant data on investments can be registered and updated by one national agency, to which other agencies and local government units can actively contribute. Relevant data may include the area of land or water involved, the communities affected and the impact on smallholders, the age and gender of farmers or fishers engaged, the workers

employed and the type of business arrangement. For this purpose, baseline data and indicators need to be clearly defined. Freedom of information legislation to provide public access to government-held information, about land, water and other natural resource use planning, zoning, tenure, and the modalities of land transfers, as well as investors' business and investment plans, can enable independent monitoring and third party verification and provide stronger incentives for compliance (FAO, 2015b).

Finally, specific investigative and disciplinary bodies can be used to reduce corruption and abuse of power in transactions involving agricultural investments. Anti-corruption legislation may also assist in defining the requirements for transparency, eliminating conflicts of interest and narrowing the discretionary powers of authorities involved in the licensing, permit and approval process for agricultural investments. Many other practical steps to combat corrupt practices and abuse of power as well as public oversight measures to improve transparency are outlined under the 2003 UN Convention against Corruption and other related multilateral and regional instruments, including the 1998 UN Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention).

2.3 INCREASING EQUITABLE STAKEHOLDER PARTICIPATION

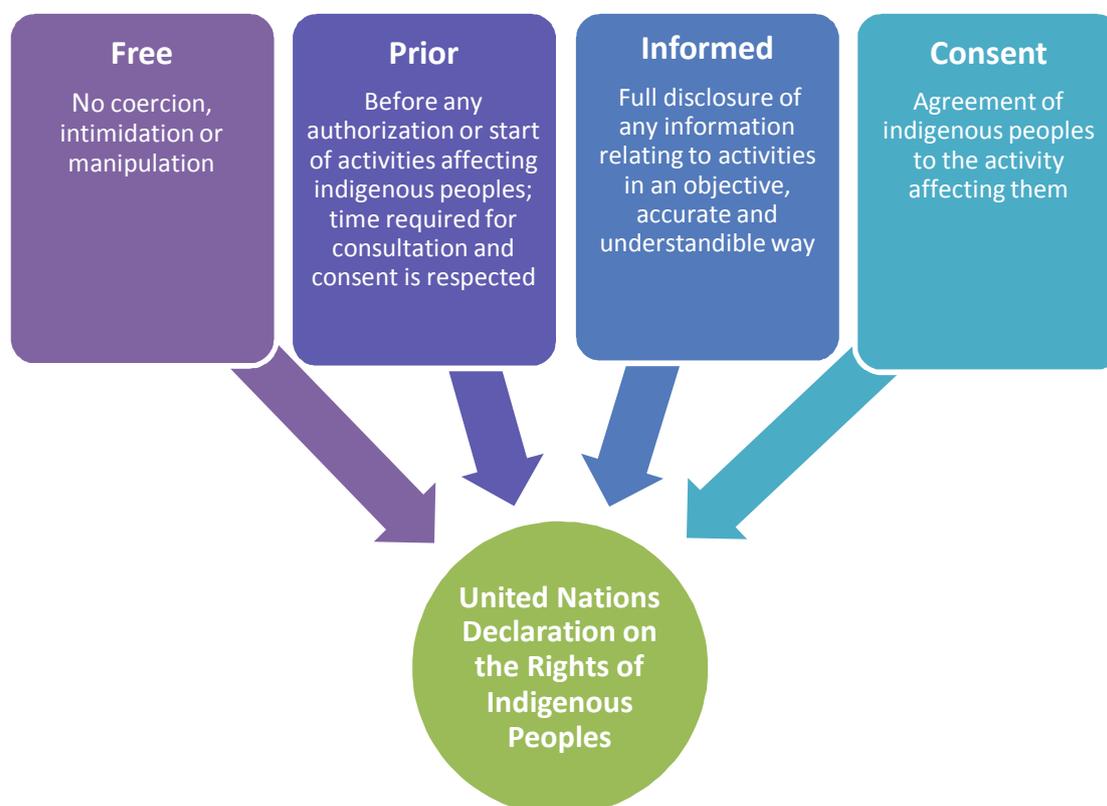
Supporting equitable and inclusive participation is key to better and more equitable outcomes. To promote responsible investment in agriculture and food systems, the appropriate involvement of all relevant civil society and other private and public actors can be ensured not only at the national level but also at the regional and community levels in relevant planning and decision-making processes. It can also be done by engaging with, and seeking the support of, those who could be directly affected before decisions are taken and responding to their contributions. There can be specific requirements to ensure that vulnerable or marginalized groups, such as women and youth, are included from the outset through equitable representation processes and to ensure that accurate information is provided to all affected stakeholders. An important aspect is ensuring that communities are given adequate technical support to participate in the negotiation process, including by relevant experts.

Which stakeholders are relevant and what type of involvement is appropriate will depend on the context of the agricultural investment, including the type of investment contract, the location of the investment and its size. Relevant public sector stakeholders may include public officials at the national regional, municipal and local levels, such as those involved in land administration. Customary authorities such as community leaders, land authorities or councils of elders may also need to be consulted when appropriate. Stakeholders from the private sector may include commercial investors, real estate agents or brokers, land developers and construction businesses, bankers and moneylenders, lawyers and notaries, surveyors, business advisors, contractors as well as agricultural producer organizations and processing enterprises and their market intermediaries. Civil society stakeholders may include non-governmental organizations, community based organizations, associations and cooperatives of farmers, fishers, foresters and other producers and water-users, indigenous groups, women's and youth groups, potential vulnerable groups (such as the disabled and elderly), workers' organizations (including those operating in the informal economy), employers' associations, religious organizations and relevant actors from research and academic institutions. In addition, stakeholders may be groups of individual citizens, such as landowners, lessors, lessees, landless agricultural workers, sharecroppers and other users,

pastoralists, squatters, refugees and internally displaced persons. Finally, international organizations, such as UN agencies and missions, the World Bank and relevant regional development banks, bilateral development agencies as well as private foundations may also be considered relevant stakeholders, depending on the context.

Of particular importance are requirements for the participation of members or representatives of indigenous and other local communities in decision-making processes that are likely to affect their rights. For example, according to the UN Declaration on the Rights of Indigenous Peoples, the scope of requirements includes engaging and seeking the support of indigenous communities through good faith consultation to obtain their free, prior and informed consent (FPIC) before adopting and implementing legislative or administrative measures affecting the resources for which these communities hold rights. This involves iterative, continuous processes, before during and after investment decisions taken and the timely and full disclosure of information, taking into account existing power imbalances and responding to the contributions of these communities. Some States apply the principle of FPIC as a good practice in all dealings where tenure rights and human rights could be affected, regardless of whether indigenous communities are involved. Many private companies have also declared that they will institute a policy of obtaining FPIC in all sourcing of products and in their own land transactions and many certification schemes require all investors to adhere to FPIC. Obtaining FPIC for all investment activities throughout the investment cycle can foster stronger long-lasting positive relationships with local communities and ensure the long-term success of the investment and its contribution to development objectives (FAO, 2013d).

Figure 3: Applying the principle of FPIC



The role and selection criteria for the involvement of stakeholders in decision-making processes affecting agricultural investments should also be carefully assessed to ensure effectiveness. For example, regulatory measures can identify *how* various stakeholders will participate. They may determine the frequency, location and the type of interaction needed. They may also determine whether specific stakeholders are always represented or whether they will serve on a rotational basis. These can be done without specifically identifying the *kinds* of stakeholders who can participate, to avoid the risk of excluding particular groups who might not have been afforded “official” recognition by the government. Regulatory measures can also guarantee the right of certain types of stakeholders to their own self-selection and representation process, rather than by government invitation and selection. To ensure fair representation, measures can ensure that there is a balance among areas of interests, regions or other criteria, such as the size or type of the group, gender balance and organizational capacity. Regulatory measures may also ensure that selected participants are truly representative by establishing additional consultation and accountability criteria, such as those for reporting back to their local constituents. Time and financial resources, as well as legal requirements for participation and engagement may also be needed to ensure effectiveness (IFC, 2007).

Ultimately, the regulatory framework should ensure the contributions of all relevant stakeholders in administrative decision-making. It should also identify specific areas where public authorities can seek to involve them further whether it be in policy or law-making, establishing benchmarks or evaluating progress in promoting responsible investment in agriculture and food systems. Changes in procedures and targeted training sessions may also be required where necessary to ensure that stakeholders are able to effectively contribute to these decision-making processes affecting them.

Figure 4: Evaluating stakeholder involvement



2.4 ENSURING EFFECTIVE DECISION-MAKING AND ACCOUNTABILITY

To ensure administrative and enforcement provisions are effective, those involved in decision-making processes, such as public officials, police, prosecutors and judges, need to be well-trained in their respective areas and have up-to-date access to legal information. For example, public officials who do not have a legal background may require specialized training in law enforcement, as well as evidentiary matters, case preparation and court procedures if they are tasked with prosecuting cases or imposing sanctions for non-compliance with the law. Decision-making can also be improved by recruiting, training and awareness raising for relevant decision-makers with due regard to gender and social equality, including decent work aspects, at all management and technical levels. Adequate and equitable salary scales can be introduced to reduce incentives for corrupt practices. Positions vulnerable to corruption can be identified and safeguards, such as staff rotations, can be introduced. Finally, governments can support professional associations in developing, publicizing and monitoring the implementation of high levels of ethical behavior to help ensure that decision-makers are held accountable for their actions. Where such associations do not exist, governments and professionals can cooperate to establish them.

Most states have established institutions responsible for monitoring information and progress on some relevant issues such as food security and human rights (FAO, 2009a). However, governments can promote an integrated approach for the monitoring and evaluation of a wide range of measures to promote responsible investment in agriculture and food systems through multisectoral and comprehensive analysis of available data with appropriate indicators for accountability. Information-sharing at all levels of government and broad dissemination of monitoring and evaluation outputs to all stakeholders can be encouraged. Specific regulatory measures can also be adopted to provide assurances to stakeholders that they will rely on the monitoring and evaluation information received to refine their legal and institutional approaches related to agricultural investment. These may include requirements for regular reporting on targets and goals, such as the publishing of performance standards supervised by an external and impartial agency. They may also include specific provisions for legal recourse, including administrative and judicial remedies when specific obligations are not met.

2.5 STRENGTHENING GRIEVANCE AND DISPUTE RESOLUTION MECHANISMS

Governments and other stakeholders can ensure that grievance and dispute resolution approaches are aligned with procedures that avoid or resolve potential disputes before they escalate into litigation by sharing information and engaging in participatory consultations and negotiations throughout decision-making processes. Potential disputes may be resolved informally at the preliminary stages through internal processes such as an independent review.

Governments and other stakeholders can also ensure that dispute resolution services are affordable and accessible to all, both women and men, and with due regard for the most vulnerable and marginalized groups and individuals, in terms of location, language and procedures. Where customary or other established forms of dispute settlement exist, they can be reviewed to ensure that they provide fair, reliable, accessible, and non-discriminatory

ways of promptly resolving disputes among affected communities and investors alike. Alternative dispute resolution measures, such as arbitration and mediation at the local level can be encouraged, and legal assistance, such as through community paralegal organizations or legal aid funds can be provided to vulnerable and marginalized groups. Introducing mobile courts and specialized tribunals or bodies or establishing expert positions for adjudicative authorities to address technical areas, such as those relating to tenure, may also be considered. Regulation can ensure that decisions are delivered promptly in writing and are based on objective reasoning by impartial and competent authorities.

Governments and other stakeholders can also ensure that enforceable, effective remedies, including a right to appeal decisions, are available to all affected stakeholders of agricultural investment decisions. This can be done through low cost streamlined case management systems or decentralized/mobile court systems that can effectively address small claims and can provide accessible, efficient and reliable services. The legal system can also place a duty of the one starting the dispute to provide good reasons why the case should be considered to provide a basis for the claim, as well as penalties, such as court costs, for those who start disputes without solid claims. Public officials also need adequate powers to enforce court decisions and to act with integrity, avoiding recourse to bribery or intimidation.

While the focus of this guide is on strengthening the domestic legal system, governments can also ensure that stakeholders are aware of the different avenues of legal recourse that are available under international investment agreements, treaties and contracts and the implications for enforcement. For example, the WTO provides for a state-to-state dispute settlement mechanism, whereby a challenge to a prohibited requirement under a WTO agreement needs to be brought to the attention of the WTO bodies by the investor's home state. In contrast, investment treaties and some regional free trade agreements may give investors direct access to international remedies through investment arbitration. To avoid the risk that contractual provisions or treaty obligations will prevail over responsible agricultural investment provisions, States can take pre-emptive measures by requiring the laws of the host state to apply to agricultural investments made there when negotiating investment treaties. They can also require state parties to enforce investor compliance with internationally recognized standards, such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. To minimize their exposure to arbitration, States can also require that domestic remedies be exhausted before a matter goes to arbitration and ensure that their own judicial institutions are effective and independent in handling such disputes (Smaller *et al.*, 2014).

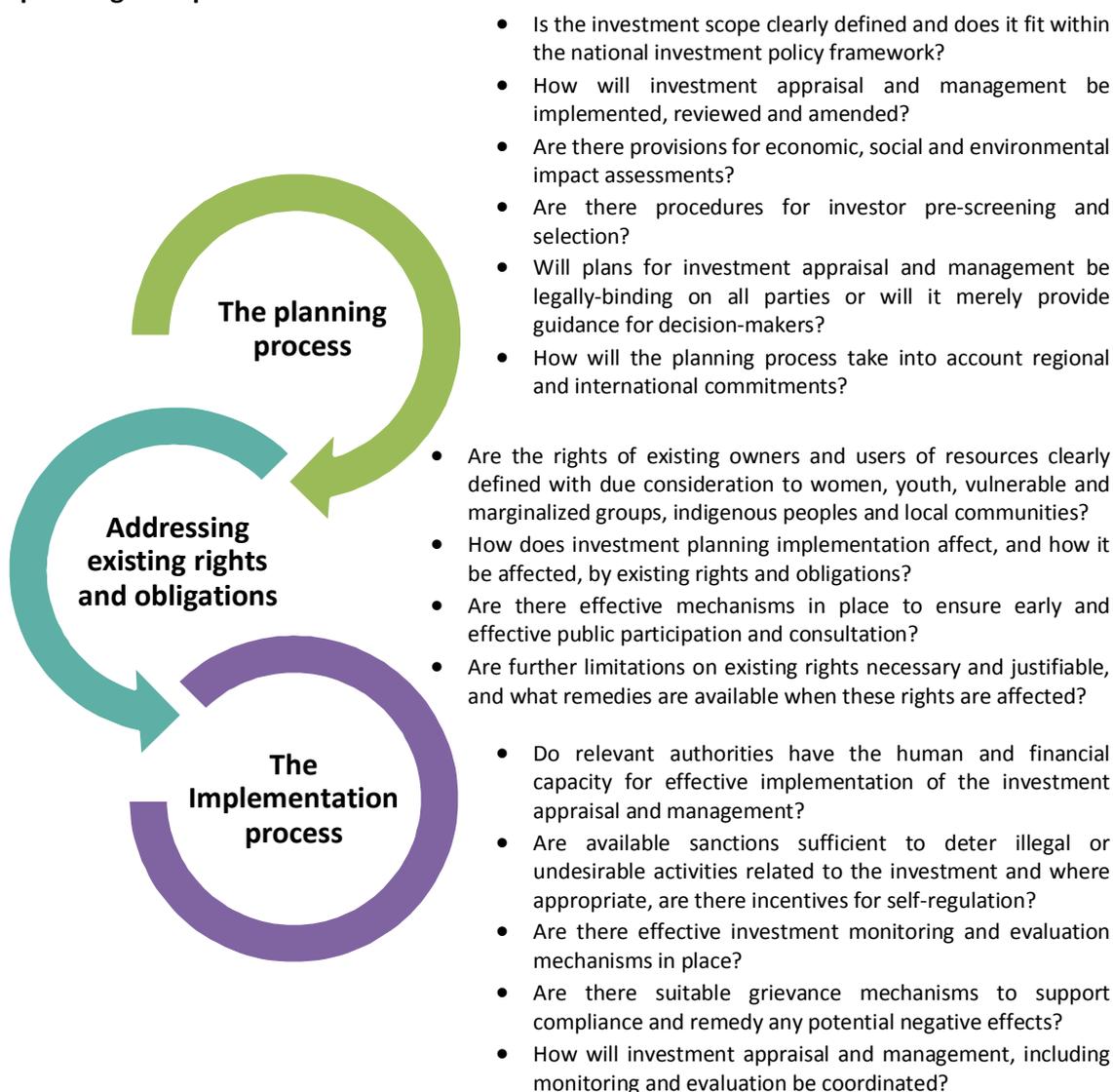
2.6 ENHANCING COORDINATION MECHANISMS

It may also be useful to consider strengthening coordination mechanisms among existing government institutions or the feasibility of adopting new mechanisms to further responsible investment in agriculture and food systems. For example, the mandate of investment promotion agencies can be reviewed to ensure that they provide effective mechanisms for consultation among government authorities, investors and local communities and further opportunities for shared benefits. Enhanced coordination among the relevant authorities can foster information exchange and a more appropriate allocation of national resources and capacities. It can also assist in harmonizing standards in accordance with regional and international obligations and voluntary commitments. An improved mechanism for multi- and intersectoral coordination may provide much needed input of scientific advice into all levels of policy, planning and decision-making and provide

technical support of stakeholders across the spectrum of interests involved in agricultural investment. Enhanced coordination can also facilitate the development of education and awareness programmes to encourage compliance and enforcement of legislation. Through enhanced coordination, national authorities will be in a better position to monitor the effective implementation of responsible agricultural investment initiatives.

Legislation can establish a national authority for coordinating activities related to responsible investment in agriculture and food systems. It can be charged with regularly reviewing national policies to ensure they are based on all relevant and available information and are consistent with the needs of affected populations. The national authority can also be assigned the task of providing advice on harmonizing relevant sector-specific policies and in settling differences of positions on them. It can also set benchmarks for progress in the implementation of the framework, with reporting functions at regular intervals. A key consideration is ensuring that it will be allocated sufficient resources and support. Reporting functions should include an evaluation of the authority's own institutional functioning and performance as well as the financial and human resource constraints it is faced with on an ongoing basis.

Figure 5: Agricultural investment appraisal and management: Key considerations from planning to implementation



PART 3

OTHER AREAS OF REGULATION AFFECTING LARGER-SCALE PRIVATE INVESTMENTS IN AGRICULTURE AND FOOD SYSTEMS

Figure 6: CFS-RAI Principles



A broad range of policies, legislation and related institutions can be considered for review in support of responsible investment in agriculture and food systems. Part 2 of this guide highlighted Principles 9 and 10 as the key Principles for improving regulatory structures, processes and mechanisms relevant to all of the CFS-RAI thematic areas. The sections that follow will provide more detail on the implications of the other eight CFS-RAI Principles that may apply to specific kinds of larger-scale private investments. In addition to outlining the applicable principles and roles and responsibilities for states and business enterprises,

provide an overview of the main thematic issues, international instruments and guidance as well as a sample checklist of relevant safeguards and incentives. The information provided under Annex I, Tables 1-8 complement this section with key sources of domestic law, implementing institutions, areas of international regulation and guidance relevant to the individual thematic areas covered under CFS-RAI Principles 1-8. It is important to note, however, that the information and checklists provided in this section and Annex I Tables 1-8 are not meant to be exhaustive but rather to highlight important areas for regulatory review and improvement.

3.1 FOOD SECURITY AND NUTRITION

CFS-RAI Principle 1: Contribute to food security and nutrition

Responsible investment in agriculture and food systems supports State obligations regarding the progressive realization of the right to adequate food in the context of national food security, and all intended users' responsibility to respect human rights. Responsible investment in agriculture and food systems contributes to food security and nutrition, particularly for the most vulnerable, at the household, local, national, regional, or global level, and to eradicating poverty through:

- i. Increasing sustainable production and productivity of safe, nutritious, diverse and culturally acceptable food, and reducing food loss and waste;
- ii. Improving income and reducing poverty, including through participation in agriculture and food systems and/or through improving the ability to produce food for oneself and others;
- iii. Enhancing the fairness, transparency, efficiency and functioning of markets, in particular taking into account the interests of smallholders, improving related infrastructure, and increasing the resilience of agriculture and food systems;
- iv. Enhancing food utilization through access to clean water, sanitation, energy, technology, childcare, healthcare, and access to education, including on how to prepare, provide and maintain safe and nutritious food.

(CFS, 2014, paragraph 21)

CFS-RAI key stakeholder roles and responsibilities

States have the primary responsibility for achieving food security and nutrition, fulfilling their obligations under international instruments relevant to the progressive realization of the right to adequate food in the context of national food security; and respecting, protecting and fulfilling the human rights of all individuals. States should set out clearly the expectation that investors domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Business enterprises involved in agriculture and food systems should apply the Principles with a focus on mitigating and managing risks to maximize positive and avoid negative impacts on food security and nutrition relative to their context and circumstances. Business enterprises have a responsibility to comply with national laws and regulations and any applicable international law, and act with due diligence, to avoid infringing on human rights.

(CFS, 2014, paragraphs 32 and 50)

Several key international instruments and human rights norms provide for incorporating CFS-RAI Principle 1 on food security and nutrition into national legal frameworks (see Table 1, Annex 1). For example, Article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) enshrines the right to food and the 2009 Optional Protocol to the ICESCR makes this right justiciable at the international level. In addition, the UN General Assembly has explicitly recognized the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realization of all human rights, calling upon all States to provide safe, clean, accessible and affordable drinking water and sanitation for all (UN, 2010).

In addition, the RTFG recommend actions to be undertaken at the national level in order to address the four dimensions of food security: availability, access, utilization and stability. These include:

- Establishing basic prerequisites for the progressive realization of the right to food, including good governance and institutional support, access to markets, assets and resources, multi-stakeholder approaches, and the allocation of sufficient financial resources to address hunger and poverty;
- Ensuring coherent policies and laws, as well as promoting education, awareness and international cooperation to support sustainable development, food security, nutrition security and food safety through a human rights-based approach, with indicators for monitoring and evaluation;
- Providing support for the vulnerable, including safety nets and international food aid in emergency situations as well as development assistance and technical cooperation.

(FAO, 2005)

States are invited to apply the recommendations in developing their domestic legislation, strategies, policies, and programmes aimed at realizing the right to food. This includes the development of administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies that are accessible, in particular, to members of vulnerable groups. The FAO Guide on Legislating for the Right to Food provides national law and policy-makers with practical information and guidance for developing or strengthening national legal and institutional frameworks on the right to food (FAO, 2009a). Finally, the CFS Global Strategic Framework for Food Security and Nutrition outlines the following seven steps to implement the Right to Food Guidelines:

1. Identify who the food insecure are, where they live, and why they are hungry. Using disaggregated data, analyse the underlying causes of their food insecurity to enable governments to better target their efforts;
2. Undertake a careful assessment, in consultation with key stakeholders, of existing policies, institutions, legislation, programmes and budget allocations to better identify both constraints and opportunities to meet the needs and rights of the food insecure;
3. Based on the assessment, adopt a national human-rights-based strategy for food security and nutrition as a roadmap for coordinated government action to progressively realize the right to adequate food. This strategy should include targets, timeframes, responsibilities and evaluation indicators that are known to all, and should be the basis for the allocation of budgetary resource;.

4. Identify the roles and responsibilities of the relevant public institutions at all levels in order to ensure transparency, accountability and effective coordination and, if necessary, establish, reform or improve the organization and structure of these public institutions;
5. Consider the integration of the right to food into national legislation, such as the constitution, a framework law, or a sectoral law, thus setting a long-term binding standard for government and stakeholders;
6. Monitor the impact and outcomes of policies, legislation, programmes and projects, with a view to measuring the achievement of stated objectives, filling possible gaps and constantly improving government action. This could include right to food impact assessments of policies and programmes. Particular attention needs to be given to monitoring the food security situation of vulnerable groups, especially women, children and the elderly, and their nutritional status, including the prevalence of micronutrient deficiencies;
7. Establish accountability and claims mechanisms, which may be judicial, extrajudicial or administrative, to enable rights-holders to hold governments accountable and to ensure that corrective action can be taken without delay when policies or programmes are not implemented or delivering the expected services.

(CFS, 2015)

There are many different ways to incorporate food and nutrition security considerations into the national regulatory framework. For example, to increase the supply of food and resilience of agriculture and food systems before, during and after shocks, investment laws and other market incentives targeted towards larger-scale private investments may be used to improve production, processing and distribution in affected areas by facilitating access to agricultural inputs, financing, training, technology and related infrastructure for smallholder women and men, including those that are family farmers and other local actors in the agricultural supply chain. Regulatory measures can be used to set aside land or water resources in or near investment project sites to grow food for local consumption, or to make value-added food by-products available in local markets. Ensuring stable pricing mechanisms, such as minimum price guarantees and accessible relief funds in the event of crop failure can also help ensure access to food throughout the year. In addition, regulatory measures can provide opportunities for out-grower involvement and off-farm employment that are designed in an equitable way and promote the inclusion of vulnerable groups to protect livelihoods and raise the incomes of those affected by food and nutrition insecurity (FAO, 2012c).

Distribution, labelling and sale requirements can also be introduced on food products to ensure that consumers can make informed nutritional decisions and are not misled about food choices. For example, public health nutrition regulation can be targeted in the form of informative product labelling, advertising and marketing requirements, applicable to the food industry. Requirements can also ensure food is of sufficient quantity and quality to satisfy dietary needs of particular types of consumers, including nursing mothers and children. Finally, measures can be taken to strengthen dietary diversity and healthy eating and cooking habits, while avoiding excessive consumption and unbalanced diets. For example, regulatory measures can be taken to promote coordinated public-private investments in the health and education sectors that increase consumer awareness of the nutritional value of their food choices (FAO, 2015a).

Safeguards and incentives

- ✓ Requirements that revenues accruing from investments are at least sufficient to procure food in volumes equivalent to those produced for export.
- ✓ Measures to establish that a certain minimum percentage of food crops necessary for food security will be sold on local markets and that this provision will increase, in proportions agreed upon in advance, if prices of food commodities on international markets reach certain levels.
- ✓ Requirements for investors to, at a minimum, do no harm, and preferably to commit to increase local availability and accessibility of food and/or water in areas affected by food and nutrition insecurity.
- ✓ Entitlements to food subsidies and transfers in cash or in kind, such as land for growing food for local consumption, or rural infrastructure improvements.
- ✓ Market incentives to improve production, processing and distribution by facilitating access to agricultural inputs, financing, training, technology for smallholder women and men.
- ✓ Incentives to reduce waste and losses in the food system, including post-harvest losses involved in large-scale production.
- ✓ Public-private health and education incentives to address the nutritional needs of women, in particular pregnant and lactating women and children under the age of two.

While food safety is an intrinsic part of food security and nutrition, it is discussed under Principle 8 to avoid repetition.

3.2 ECONOMIC DEVELOPMENT AND POVERTY ERADICATION

CFS-RAI Principle 2: Contribute to sustainable and inclusive economic development and the eradication of poverty

Responsible investment in agriculture and food systems contributes to sustainable and inclusive economic development and poverty alleviation by:

- i. Respecting the fundamental principles and rights of work, especially those of agricultural and food workers, as defined in the ILO core conventions;
- ii. Supporting the effective implementation of other international labour standards, where applicable, giving particular attention to the standards relevant to the agri-food sector and the elimination of the worst forms of child labour;
- iii. Creating new jobs and fostering decent work through improved working conditions, occupational safety and health, adequate living wages, and/or training for career advancement;
- iv. Improving income, generating shared value through enforceable and fair contracts, fostering entrepreneurship and equal access to market opportunities both on-farm and for upstream and downstream stakeholders;
- v. Contributing to rural development, improving social protection coverage and the provision of public goods and services such as research, health, education, capacity development, finance, infrastructure, market functioning and fostering rural institutions;
- vi. Supporting the implementation of policies and actions aimed at empowering and improving human resource capacity for stakeholders, particularly for smallholders, including those that are family farmers- women and men- and their organizations, and

- promoting their access to resources and inputs, as appropriate;
- vii. Promoting greater coordination, cooperation and partnerships to maximize synergies to improve livelihoods;
 - viii. Promoting sustainable patterns of consumption and production to achieve sustainable development.

(CFS, 2014, paragraph 22)

CFS-RAI key stakeholder roles and responsibilities

States should apply the Principles as part of their overall efforts to address food security and nutrition within their own territory. States are encouraged to develop stable and long-term national food security and nutrition strategies, including, as appropriate, social protection strategies and systems, such as social protection floors and safety nets, to protect the most vulnerable including agricultural and food workers.

States should take measures to address all agriculture and food system worker's labour rights, in line with applicable international labour standards and in social dialogue with their respective organizations and employers, when formulating and applying labour laws...

The role of workers in agriculture and food systems is vital. Workers and their organizations play a key role in promoting and implementing decent work, thereby contributing to efforts towards sustainable and inclusive economic development. They also have a crucial role in engaging in social dialogue with all other stakeholders to promote the application of the Principles in investments in agriculture and food systems, and in promoting the integration of the Principles in national laws and policies.

All stakeholders entering into agreements or contracts have to adhere to applicable laws and mutually agreed terms and conditions. Contracts should, using clear, coherent and transparent language and documentation, define the rights and duties of all parties and any mutually agreed terms for renegotiation and cancellation. Contracts should balance the interests of contracting parties, be based on their mutual benefit and be developed in line with the Principles. While negotiating with smallholders, contracting parties are asked to give special consideration to the situation and needs of smallholders. Contracting parties are invited to consider the UN principles for responsible contracts.

(CFS, 2014, paragraphs 35, 37, 54, 59)

Several key international instruments and human rights norms provide for incorporating CFS-RAI Principle 2 related to labour and employment into national legal frameworks (see Table 2, Annex 1). For example, the Universal Declaration of Human Rights guarantees everyone *“the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”* (Article 23). The ICESCR goes even further, by including *“the right of everyone to the opportunity to gain his living by work”* (Article 6) and *“the right to fair wages and equal remuneration for work of equal value without distinction of any kind”* (Article 7). State parties to the ICESCR have a duty to protect the right to free choice of work as well as just and favourable working conditions to all persons within their jurisdiction. Most states also adhere to the fundamental labour conventions related to freedom of association and collective bargaining, non-discrimination in employment and occupation, the elimination of forced labour and child labour and have committed to the ILO Declaration on the Fundamental Principles and Rights at Work to

further protect these rights. In addition, most states are committed to promote full, productive and freely chosen employment and many explicitly adhere to the promotion of the four strategic objectives of the 1999 ILO Decent Work Agenda. This agenda underscores that both the quantity and the quality of employment are essential for human well-being and can be achieved by promoting employment and entrepreneurship, guaranteeing rights at work, extending social protection and enhancing social dialogue (ILO, 2011c). In addition, many states have adopted ILO conventions related to the numerous occupational health and safety hazards inherent in the agricultural sector. All of these can be reviewed, in addition to ILO sector-specific recommendations and codes, to promote a regulatory framework that protects agricultural workers in the context of responsible investment in agriculture and food systems.

Some states have also established legislation on minimum wages either through a single national minimum wage established by law or a targeted system of legally backed minimum requirements for food, clothing, housing, health, medical, social service or security arrangements that have been agreed upon by employers and workers and are applicable to certain industries or regions. Such regulatory measures can minimize the effects of economic and food price volatility and ensure that food security is not compromised for workers. They may also address discriminatory conditions of pay and rewards, as women, youth, migrants and other disadvantaged groups are most often disproportionately represented and are most likely to remain in low-paying jobs (FAO, 2012b).

Labour regulation can assist in setting appropriate wages and incentivizing employers to provide training programs to diversify and improve skill sets so that workers can obtain higher wages. Governments can facilitate and provide incentives for formalized work, but can also encourage the application of labour standards for those categories of workers which are not covered by legislation and which will likely continue to operate informally. In particular, governments can promote sustainable agriculture, good and safer agricultural practices to reduce hazardous work, as well as labour saving practices and technologies that reduce dependence on child labour and the burden of work on women. Furthermore, governments can encourage innovative mechanisms and partnerships to identify innovative solutions for the application of standards. For instance, public-private partnerships can be promoted to enhance collaboration between ministries of labour and agriculture, investors and producers' and workers' organizations, as well as through corporate social responsibility-related initiatives and certification mechanisms. Social protection measures can be enhanced through targeted forms of social protection floors, safety nets and insurance for farmers, foresters and fishers and their families (HLPE, 2012a).

Compliance with these measures can be facilitated through the participation of unions, farmers and fishers organizations, and other institutions and employers that can raise awareness, foster dialogue among different stakeholders and monitor progress in achieving social objectives. For example, International Framework Agreements (IFAs) concluded between trade union organizations and the management of multinational corporations may be another useful tool to protect labour rights in the context of international agricultural investments. Such agreements typically include a commitment to respect, at a minimum, the core labour standards of the ILO, and engagements with trade unions. Some IFAs also contain more detailed provisions on, for example, the non-intervention of multinational corporations with organizational activities of trade unions at the national and local level, the establishment of effective arbitration, mediation and conflict resolution mechanisms, and the provision of resources necessary for the implementation and monitoring of IFAs (UN, 2009). One important function of work councils in this context can be the monitoring and oversight of information about compliance with the terms of IFAs. In addition, by ensuring

that there are no capital requirements for the initial investment needed to establish co-operatives and by allowing them to merge and take out loans from third parties to facilitate coordination activities, the contribution of these organizations to rural development can be encouraged (World Bank, 2016).

Safeguards and incentives

- ✓ Protection of fundamental labour rights, such as prohibitions on the use of child labour and forced labour, as well as the effective recognition of freedom of association, the right to collective bargaining and the right to non-discrimination in the employment of agricultural and food workers.
- ✓ Investment impact assessments that consider not just the number but also the quality of jobs created, in terms of working conditions, occupational safety and health, adequate living wages, social protection and opportunities for career advancement.
- ✓ Incentives for investors to create new jobs, foster decent work and promote entrepreneurship, particularly in rural areas with high unemployment.
- ✓ "Local content" provisions prioritizing the local workforce in recruitment, procurement and contracting.
- ✓ Provisions to encourage awareness of, and participation in, agricultural investment decisions, by unions, farmers and fishers associations, where possible.

3.3 GENDER EQUALITY AND WOMEN'S EMPOWERMENT

CFS-RAI Principle 3: Foster gender equality and women's empowerment

Responsible investment in agriculture and food systems fosters gender equality and women's empowerment by:

- i. Ensuring that all people are treated fairly, recognizing their respective situations, needs, constraints, and the vital role played by women;
- ii. Eliminating all measures and practices that discriminate or violate rights on the basis of gender;
- iii. Advancing women's equal tenure rights, and their equal access to and control over productive land, natural resources, inputs, productive tools and promoting access to extension, advisory and financial services, education, training, markets and information;
- iv. Adopting innovative and/or proactive approaches, measures and processes to enhance women's meaningful participation in partnerships, decision-making, leadership roles, and the equitable sharing of benefits.

(CFS, 2014, paragraph 23)

CFS-RAI key stakeholder roles and responsibilities

...States should seek to establish policy, legal and institutional frameworks that promote gender equality to enable women and men to participate in and benefit from investment opportunities.

States have a key role in enabling, supporting and complementing investments by smallholders, including those that are family farmers, and empowering them to invest responsibly, through:

(i) Addressing the needs and constraints of smallholders - women and men - in a gender sensitive manner in policies, laws and regulations, and strategies to address capacity development through improved access to inputs, advisory and financial services including insurance, education, extension, training, and infrastructure..

...Smallholders and their organisations should apply the Principles, with particular attention to promoting gender equality and the empowerment of women and youth by.. participating in policy, programme, and monitoring processes at all levels and... complying with national laws and regulations and acting with due diligence to avoid infringing on human rights.

All stakeholders have a role in promoting gender equality and the economic empowerment of women to support their access to productive resources and to the benefits from agricultural investments.

(CFS, 2014, paragraphs 37, 39, 47, 60)

Gender inequalities in access to assets, inputs, services and rural employment opportunities have played an important role in underperforming agricultural, forestry and fisheries sectors in many developing countries. The gender gap imposes real costs on society in terms of lost agricultural output, food insecurity and poorer economic growth. In many developing countries, despite the essential role that women have in the ensuring food security, existing social, cultural, economic and institutional gender biases severely restrict their access to human, natural, financial and physical assets. For example, unfavourable marital and inheritance laws, family and community norms and unequal access to markets often limit women's access to land. Women are less likely to own land, and female landowners tend to own less and lower quality land than men. Where women have a main role in cultivation, their weak land rights negatively affect productivity and discourage investment. Addressing gender inequalities and empowering women is not only fundamental from an economic and human rights perspective but also from a food security standpoint. This is because women are also primarily responsible for growing food for household consumption and ensuring the nutritional needs of the family are met in many countries around the world (FAO, 2015a).

Several international instruments provide a solid basis for incorporating CFS-RAI Principle 2 related to gender equality and women's empowerment into national legal frameworks (see Table 3, Annex I). Under the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, state parties are required to take all appropriate measures to ensure, on the basis of equality of men and women, that women participate in, and benefit from, rural development. Although non-legally binding, the 1995 Beijing Declaration and the Platform for Action sets strategic objectives and concrete actions that states can use to address these issues and promote women's empowerment. For example, in support of these measures, many states have reformed their constitutions and civil codes either by incorporating gender-neutral language, or explicitly recognizing women's rights and prohibiting discrimination based on gender. Many states have also modified land and property laws and regulations so as to guarantee women's equal property and inheritance rights (World Bank, 2009).

However, even where laws promote gender equality, their implementation in practice may not have the desired results, and may even enshrine discriminatory practices. For example, laws may recognize land rights derived from customary regimes that do not allow for women to be adequately represented in traditional community level decision-making processes. In such cases, appropriate regulatory safeguards may accompany legislation. These may include quotas to increase female representation among relevant decision-

making authorities and monitoring and evaluation requirements to ensure that they are fulfilled. In addition, it may be necessary to require separate consultations with women to ensure that their concerns and needs are adequately addressed (FAO, 2013a).

Some important gender considerations are whether the regulatory framework creates opportunities for the socio-economic empowerment of women. Institutional arrangements can promote women's participation in partnerships, decision-making, and leadership roles by collaborating with women's business, cooperative and producer associations, labour unions, trade groups as well as other women's groups in the community, to ensure that women benefit from agricultural investments along with men. It also involves considering whether the regulatory framework contributes to gender equality in the distribution of resources and inputs, including productive land, tools, extension, advisory and financial services, information and access to markets. For example, agricultural investments operated under different business models, such as plantations, contract farming, outgrower schemes or joint ventures, can create gender-differentiated labour and income-generating opportunities that may need to be addressed. Legislation can address gender biases in institutions relating to who receives technology, training and education to ensure that both men and women are equally supported. In this regard, the regulatory framework can draw on the distinct knowledge and skills of men and women and take into account their different vulnerabilities, due to differences in access to resources and other social constraints (FAO, 2013a).

Safeguards and incentives

- ✓ Requirements for investors to consider gender impacts, consult with women regarding potential investment projects and mainstream gender in business plans.
- ✓ Provisions for investors to ensure non-discrimination and equality in treatment between men and women in their business models, to report on gender participation and to engage in the promotion of women's empowerment.
- ✓ Measures to facilitate the entry of women into agricultural and food sector businesses on their own and participate in decision-making, without the involvement of a male husband or relative as co-owner or director, as well as clear business registration processes that are accessible to women and women's community groups.
- ✓ Measures that support women's entrepreneurship, including support for women's business associations, as well as services offered by investment promotion agencies that benefit women-owned-enterprises.

3.4 YOUTH ENGAGEMENT AND EMPOWERMENT

CFS-RAI Principle 4: Engage and empower youth

Responsible Investment in agriculture and food systems engages and empowers youth by:

- i. Advancing their access to productive land, natural resources, inputs, productive tools, extension, advisory, and financial services, education, training, markets, information, and inclusion in decision-making;
- ii. Providing appropriate training, education, and mentorship programs for youth to increase their capacity and/or access to decent work and entrepreneurship opportunities, and foster their contribution to local development;
- iii. Promoting development and access to innovation and new technologies, combined with traditional knowledge, to attract and enable youth to be drivers of improvement in agriculture and food systems.

(CFS, 2014, paragraph 24)

The emergence of a large youth population of unprecedented size can have a profound effect on any country. Whether that effect is positive or negative depends largely on how well governments respond to young people's needs and enable them to engage fully and meaningfully in civic and economic affairs. Despite evidence in recent years of greater attention to young people, including through public policy initiatives, youth as a whole continue to confront many obstacles that keep them from safely transitioning into adulthood and the workforce (FAO, 2014b).

The UN generally defines "Youth" as persons between 15 and 24 years of age, although it is a fluid category. In many countries the upper age limit may be much higher, in particular in relation to young farmers and rural youth in developing countries. This is acknowledged by several UN entities, instruments and regional organizations that may apply different definitions for youth. Flexibility in defining youth allows for country-specific policies and programming, considering the diversity of youth populations and that different age groups may have different needs in different contexts. This is particularly true in crises and post-conflict situations where the years of "childhood" and "youth" may be lost (FAO, 2014b).

Although young people account for a large percentage of rural populations, particularly in low-income countries, they are often unemployed, underemployed or working in poverty and do not have access to the resources and assets, including land and credit, needed to contribute to more productive and dynamic agriculture and food systems. When youth engagement is lacking in these sectors, the result is often a reduction in agricultural outputs, a decrease in GDP and, in turn, a prolonged cycle of poverty in many regions. Youth can play a key role in ensuring food security for present and future generations in the context of global population growth, diminishing agricultural productivity and long-term skilled labour shortages that threaten sustainable food production and supply chains. The high amount of risk often associated with agricultural livelihoods may also be a significant contributing factor for youth migration, unemployment and overpopulation in urban areas. Investing in young people living in rural areas is therefore key to improving agricultural productivity, food security and rural economies (CFS *et al.*, 2015).

Globally, the demonstrable majority of young poor working people are employed in the rural agricultural sectors and the majority of young working people earning above USD 2 per day are employed in the world's industrial and service related sectors. As there are unavoidable "pull" factors attracting youth away from agriculture, such as globalization, urbanization and diversifying labour markets, it is important to address the "push" factors in a holistic and coherent way (Bargout *et al.*, 2015). Integrated regulatory approaches for investment, including through the promotion of economic and social infrastructure, agricultural value chains and technology transfer can reverse the growing trend of youth migration and improve the capacity of youth to take on innovative and entrepreneurial roles in the agricultural and food sector. Age and gender-sensitive employment opportunities in farm and non-farm activities, improved occupational safety and health, social security and working conditions interventions can all reduce dependence and vulnerabilities, stimulate growth, promote decent work and empower youth in rural areas.

Several non-legally binding international instruments identify youth as a priority area for national action (see Table 4, Annex I). In addition, the World Programme of Action for Youth (WPAY), adopted by the UN General Assembly in 1995 and expanded in 2007, provides a policy framework and practical guidelines for governments to improve the situation of young people around the world. Some of the thematic areas of WPAY relevant to responsible investment in agriculture and food systems include: education, employment, hunger and poverty, health, environment and the full and effective participation of youth in decision-making (UN, 2010). For example, governments and organizations can create or promote grant schemes to provide seed money, land or settlement grants to encourage and support agricultural enterprise and employment programmes for young people. They can also provide regulatory incentives for businesses and enterprises to provide counterpart financial and technical support for such schemes. Cooperative schemes involving young people in agricultural production and marketing of agricultural goods and services could also be adopted as well as youth development banks and guidelines for youth training in agricultural techniques and management.

Safeguards and incentives

- ✓ Dedicated agricultural investments for decent employment creation for youth, such as investments in education and vocational training tailored to rural youth.
- ✓ Streamlined registration and licensing procedures for agri-businesses involving or led by youth.
- ✓ Public-private partnerships to create opportunities for youth as employees and entrepreneurs in agricultural value chains, including contract farming and out-grower schemes, as well as the innovative application of information and communications technology that will engage youth in a modern food and agricultural sector.
- ✓ Measures to promote youth participation, leadership and decision-making such as in producer and marketing organizations and other rural institutions.

3.5 TENURE OF LAND, FISHERIES, FORESTS, AND ACCESS TO WATER

CFS-RAI Principle 5: Respect tenure of land, fisheries, and forests, and access to water

Responsible Investment in Agriculture and Food Systems respects legitimate tenure rights to land, fisheries and forests, as well as existing and potential water uses in line with:

- i. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, in particular, but not limited to Chapter 12;
- ii. The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication.

(CFS, 2014, paragraph 25)

Secure tenure rights provide the foundation for economic growth, enhanced food security and nutrition, reduced conflict and improved natural resource management. Safeguarding tenure rights improves the overall investment environment, thereby fostering increased investment.

Several international instruments address tenure security either directly or indirectly (see Table 5, Annex I). CFS-RAI Principle 5 refers specifically to The Voluntary Guidelines on the Responsible Governance of Tenure, Land, Fisheries and Forests in the Context of National Food Security (VGGT), which provide practical guidance on improving the domestic regulatory framework, including recommendations for states to:

- Recognize and respect all legitimate tenure rights and the people who hold them;
- Safeguard legitimate tenure rights against threats;
- Promote and facilitate the enjoyment of legitimate tenure rights;
- Provide access to justice when tenure rights are infringed upon; and
- Prevent tenure disputes, violent conflicts and opportunities for corruption.

(FAO, 2012e)

The VGGT address specific rights and responsibilities related to tenure, including the legal recognition and allocation of informal tenure rights, indigenous people's rights and other communities with customary rights. Chapter 12 of the VGGT calls for responsible agricultural investments that safeguard against the dispossession of legitimate tenure rights. While the definition of these rights varies among countries, the VGGT set out a consultative and participatory process to identify them, and recognizes that tenure rights can be legitimate even when they are not recognized and protected by law. The VGGT also promotes the development of inclusive business models to ensure that investments in land, fisheries and forests support broader social, economic and environmental objectives (FAO, 2012e). FAO has published a number of technical guides to elaborate on the provisions of the VGGT.

FAO guides have been developed to further VGGT implementation in specific thematic areas (see FAO 2016, 2015b, 2013a, 2013b, 2013c, 2013d, 2009). In the context of agricultural investments, of notable interest are *Safeguarding land tenure rights in the context of agricultural investment: A technical guide on safeguarding land tenure rights in line with the*

Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, for government authorities involved in the promotion, approval and monitoring of agricultural investments (FAO, 2015b) and *Responsible governance of tenure and the law: A guide for lawyers and other legal service providers* (FAO, 2016). Readers of this guide are referred to those publications for further guidance.

The SSFG also have a specific section dedicated to the responsible governance of tenure that complements the VGGT, providing, among others: “States and other parties should, prior to the implementation of large-scale development projects that might impact small-scale fishing communities, consider the social, economic and environmental impacts through impact studies, and hold effective and meaningful consultations with these communities, in accordance with national legislation.” (Paragraph 5.10) and “States should foster, provide and enable investments in appropriate infrastructures, organizational structures and capacity development to support the small-scale fisheries post-harvest subsector in producing good quality and safe fish and fishery products, for both export and domestic markets, in a responsible and sustainable manner.” (Paragraph 7.3) (FAO, 2015c).

Both of these instruments address the particular risks posed to human rights, livelihoods, food security and the environment due to large-scale land acquisitions, concessions and leases or development projects that involve the conversion of agriculture, forestry, fisheries or water resources used by local communities, families and individuals and smallholders in particular, to commercial activities. In these circumstances, additional safeguards to ensure tenure security may be required. For example, specific measures can be put in place to avoid evictions resulting in people being rendered homeless or vulnerable to the violation of other human rights. Appropriate measures can be required to ensure adequate alternative housing, resettlement or access to productive land, fisheries or forests and water (FAO, 2015b).

In addition, limits on the scale of tenure rights to be transferred as a result of acquisitions, concessions, or leases can be introduced. For example, limits can be established on the amount of land transfers, or the timing of concessions or leases. This may involve imposing a ceiling on land transfers, or a minimum time before land can be resold without applying higher taxes related to land speculation. Appropriate taxation mechanisms can also ensure that land does not sit idle without agreed production investments in place. Additional requirements for stakeholder consultation and independent assessments of potential positive and negative impacts before the investment can be approved, and requirements for approval by parliament for investments above a defined limit may also be important safeguards to consider (FAO, 2015b).

Measures to encourage alternative production and investment models to the full acquisition of land and to large-scale concessions and leases can also be adopted as incentives for responsible investments, in partnership with local tenure rights holders. For example, depending on the circumstances, they may also consider arrangements under which the investor provides access to credit and improved technologies for contract farming, for the option of buying a portion of the crops produced at predefined prices. Increasing opportunities for local participation in agricultural investment activities, including appraisal and management and strengthening requirements for free, prior and informed consent in related decision-making processes promotes transparency and accountability and can ensure that existing rights to land and associated natural resources are recognized and respected (FAO, 2013d).

Safeguards and incentives

- ✓ Clear legal recognition of all rights and uses to use land, forests, water and other natural resources and the same legal protection of customary and collective rights as state-issued rights, irrespective of registration.
- ✓ Adequate checks and balances to prevent corruption and hold decision-makers accountable in the allocation of tenure rights, such as requirements for public disclosure, as well as the right to seek legal assistance, challenge decisions and claim compensation through grievance mechanisms.
- ✓ Appropriate measures to address potential conflicts over coexisting rights, including requirements for investors to establish independent and accessible mechanisms for resolving tenure disputes or grievances.
- ✓ Requirements for food security, human rights and tenure issues to be addressed in environmental and social impact assessments before investments can proceed
- ✓ Appropriate procedures and criteria, with due regard to human rights obligations, where concessions, expropriations, evictions and resettlements are justified for reasons of public interest.
- ✓ Targeted safeguards from the risks that could arise from large-scale acquisitions and transfers of rights, such as transparent rules on the scale, scope and nature of allowable transactions.
- ✓ Requirements to consult in good faith through an iterative, continuous process, with indigenous peoples and local communities before, during and after investment decisions affecting them are taken.
- ✓ Requirements for the timely and full disclosure of information about investments affecting indigenous and local communities so that they can participate in the decision-making process, including the ability to decide not to proceed if they are not in favour of an investment.
- ✓ Prohibitions on the removal and or/relocation of indigenous and tribal populations from their territories without their free, prior and informed consent
- ✓ Opportunities for indigenous peoples and local communities to participate in decision-making processes through their own freely chosen representatives customary and other institutions.

3.6 NATURAL RESOURCE MANAGEMENT, RESILIENCE, DISASTER RISKS

CFS-RAI Principle 6: Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks

Responsible investment in agriculture and food systems conserves and sustainably manages natural resources, increases resilience and reduces disaster risks by:

- i. Preventing, minimizing and remedying, as appropriate, negative impacts on air, land, soil, water, forests and biodiversity;
- ii. Supporting and conserving biodiversity and genetic resources, including local genetic resources, and contributing to the restoration of ecosystem functions and services, and in this regard, recognizing the role played by indigenous peoples and local communities;
- iii. Reducing waste losses in production and post-harvest operations, and enhancing the

efficiency of production, the sustainability of consumption and the productive use of waste and/or by-products;

- iv. Increasing resilience of agriculture and food systems, the supporting habitats, and related livelihoods, particularly of smallholders, to the effects of climate change through adaptation measures;
- v. Taking measures, as appropriate, to reduce and/or remove greenhouse gas emissions;
- vi. Integrating traditional and scientific knowledge with best practices and technologies through different approaches, including agro-ecological approaches and sustainable intensification, among others.

(CFS, 2014, paragraph 26)

Agricultural investments that involve poor agricultural practices can lead to the over-exploitation and degradation of natural resources, particularly land degradation, deforestation, water resource depletion and pollution. They can also pose threats to human, plant and animal health and exacerbate resilience to climate change and natural disasters. Responsible investment in agriculture and food systems aims to address these potential negative impacts while promoting sustainable agricultural production and productivity to ensure food security (CFS, 2014).

There are many different international instruments and policy frameworks that address environmental sustainability and support the application of CFS-RAI Principle 6 at the national level (see Table 6, Annex I). One of the key legally binding international instruments committing member states to further CFS-RAI sustainable resource management goals is the Convention on Biological Diversity (CBD). This Convention addresses not only the conservation, but also the sustainable use of biodiversity components, as well as the fair and equitable sharing of benefits arising out of the use of genetic resources. The non-legally binding Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity provide additional guidance for national legislators seeking to incorporate elements of responsible investment in agriculture and food systems in this area. These instruments can help governments ensure that investment projects are formulated with a sufficient understanding of biologically diverse production systems. They can also help governments ensure that investment activities integrate the conservation and sustainable use of biodiversity and take into account its potential social, economic, agricultural, medicinal components. These instruments also help governments incorporate risk management measures to address environmental, social and health impacts as well as benefit sharing measures to address conflicts over competing uses or prevailing rights over resources. Finally, they can provide a framework for practices, approaches, technologies, training, and institutional capacity development to sustainably manage natural resources used for the crop, livestock, forestry, fisheries and aquaculture sectors (Secretariat to the CBD, 2004a).

For example, regulation can require independent environmental and social impact assessments prior to agricultural investment project approval and can ensure that any potential negative impacts are effectively addressed through regularly monitored management plans that are available for public consultation. Environmental good practices in processing and manufacture and the provision of desirable ecosystem services will also support responsible investment in agriculture and food systems. Measures to integrate traditional and scientific knowledge with good practices and technologies to foster sustainable intensification of agricultural production are also important elements. In addition, measures can require the pricing of natural assets used in agricultural investments

to reflect their true scarcity and take into account the specificities of the sector. The goal is to ensure that the most appropriate food production, processing, retail and consumption systems are chosen to enhance resource use efficiency, while preserving the future availability of these resources. For example, provisions can be made to ensure that agricultural investment projects with potential negative environmental impacts are located away from sensitive habitats as well as conservation measures to avoid the extraction of biotic and abiotic resources to the detriment of local populations and ecosystems. In addition, measures to avoid the release of chemical substances or the introduction of biologically modified organisms, the use of alien species, varieties and breeds for livestock, crop, aquaculture or fishery restocking and the erosion of local genetic resources, varieties, and species can be adopted. There can also be measures to prevent the spread of pests and diseases, the degradation of natural agro-systems and the diminishment of ecosystem functions. Integrated water resource management, as well as policies and legislation to address water scarcity are essential to sustainable agricultural production. Finally, the conservation of natural resources can be furthered by imposing measures to reduce waste, harvest and post-production losses and encourage recycling (FAO, 2014a).

Safeguards and incentives

a. Agriculture

- ✓ Requirements for social and environmental impact assessments and sustainable management plans for agricultural land and resource uses involved in investments and measures to protect biodiversity, wildlife habitats, human health and traditional livelihoods of local communities.
- ✓ The ecosystem approach to sustainable production and management and conservation agriculture, based on integrated practices such as zero or minimum tillage, crop and grazing rotation and permanent soil cover, as well as balanced production systems with a genetically diverse portfolio of varieties and breeds.
- ✓ Water conservation measures and efficient irrigation, surface and ground water use.
- ✓ Measures to reduce top-soil losses from erosion, promote soil fertility and land rehabilitation, adopt integrated plant nutrition and pest management systems and prevent the misuse of agro-chemicals and other toxic substances in soil, water, food and feed.
- ✓ Requirements for extension services as well as prior consultation with affected populations on the handling, use and safe disposal of fertilizers, pesticides and other biological control agents.
- ✓ Requirements to increase agro-processing capacity without expanding the use of arable land.

b. Forestry

- ✓ Sustainable management requirements for natural and planted forests, including forest outputs such as timber and non-timber products, maintenance of forest cover, conservation of biodiversity, forest genetic resources, wildlife and habitats as well as protection for the cultures and traditional livelihoods of forest dwellers and recreational and other forest services for local communities.
- ✓ Measures to avoid unregulated conversion of forests to other land uses, erosion, the loss of organic matter, nutrient leaching, undesirable vegetation types and

promote forest regeneration, land rehabilitation and favourable impacts on soil, groundwater, water runoff and water quality.

- ✓ Sanctions for forestry infractions such as illegal logging, non-payment of forest fees, royalties and non-sharing of economic benefits with local communities, illegal timber marking and setting incendiary fires, poaching.
- ✓ Targeted initiatives to prevent the sale of illegally harvested lumber, including timber certification and tracking, chain of custody systems and verification systems.
- ✓ Requirements for reduced impact harvesting techniques, carbon sequestration services, efficient wood based energy consumption and wood product recycling to promote conservation rather than deforestation.

c. Fisheries and aquaculture

- ✓ Ecosystem and precautionary approaches, including measures to conserve aquatic ecosystems and protect the quantity and quality of fisheries resources, including genetic resources and traditional patterns of use.
- ✓ Effective monitoring, control and surveillance systems, including enforcement measures to prevent illegal, unreported and unregulated fishing.
- ✓ Support for artisanal and small-scale fisheries within local communities while avoiding conflicts over competing uses or prevailing rights to fish.
- ✓ Consideration of preferential access or exclusive zones for small-scale and artisanal fisheries before agreements on resource access are entered into with third countries and third parties.
- ✓ Management practices to avoid the depletion of fisheries stocks or wild populations, negative impacts on non-target species, resources and habitats and the unsafe use of pesticides and antibiotics.
- ✓ Targeted biosecurity and health measures, including aquafeed management, ecolabelling and certification for aquatic animal health and welfare, food safety and environmental protection.
- ✓ Measures to reduce pollution, waste and discards and promote low-impact fishing gear use, measures to coordinate river basin development, integrated coastal management and integrated aquaculture-agriculture systems for inland fisheries in water and land planning and management.

Climate change and disaster risk management

Agriculture has a major role to play in responding to climate change. While temperature rise poses a real threat to global food production in many areas of the world, investments in all sectors of agriculture can simultaneously support climate change adaptation and mitigation while improving rural people's livelihoods (FAO, 2012a).

In December 2015, 195 States committed to the Paris Agreement, a new binding international instrument within the framework of the UNFCCC to hold global warming well below 2°C and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels (UNFCCC, 2015). The contribution that each country should make in order to achieve the worldwide goal are determined by all countries individually and called "nationally determined contributions." The Agreement requires them to be ambitious and to be reported every five years to the UNFCCC Secretariat for a global stocktaking to be used for further, more ambitious national contributions.

In addition, under the Clean Development Mechanism (CDM) of the UNFCCC Kyoto Protocol, which was extended until 2020 by the 2012 Doha Amendment, developed states are encouraged to meet part of their legally binding emission reduction commitments by facilitating and supporting investment of corporations in third country projects that generate emission reductions. A condition for state support through CDM is that corporate investments in developing country projects contribute to creating sustainable development benefits, including reducing environmental pollution and encouraging technology transfer. To provide enduring benefits for target countries, governments may introduce legislation requiring CDM project participants to ensure the effective consultation, due representation and public participation of affected local communities and to provide access to all relevant information, including impact assessments and the results of monitoring and evaluation measures.

International climate finance through funds such as the UNFCCC Green Climate Fund also have the potential to leverage additional private sector investments as well as regular national public sector expenditures and overcome investment adoption barriers which can slow down the implementation of innovative agricultural technologies. Climate finance can also be used to provide loan guarantees for investments with high upfront payments and delayed benefits. As climate change mitigation and adaptation financing becomes increasingly available to developing countries, some of these countries are also establishing national funding entities to manage climate change and clean energy finance funds to promote clean technology investments through a country-driven, direct access approach (FAO, 2010).

Another key non-legally binding framework to address climate change is REDD+: reducing emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. REDD+ is a system whereby forest countries make domestic commitments to maintain more forests, and are then supported by developed countries. International assistance can help forest countries develop strategies and build capacity to implement national policies and develop projects to reduce emissions. Those able to deliver deforestation reductions and reliably measure, report and verify them, can enter into carbon finance agreements with advanced economies and multilateral development banks, with a “results-based payment” for emission reductions below the agreed reference level. The Green Climate Fund can provide payments for REDD+ results through the UNFCCC process. In addition, the World Bank’s Carbon Partnership Facility can assist countries in their REDD+ efforts by providing them with financial and technical assistance in building their capacity to benefit from possible future systems of positive incentives for REDD+ (ODI, 2015).

As climate change is one of the drivers of disaster risk, governments can also ensure that they adopt adaptation frameworks that address these risks together. At the Global level, the Sendai Framework is a 15-year, voluntary, non-legally binding agreement recognizes the primary role of states in reducing disaster risk while acknowledging the need to share this responsibility with other stakeholders, including the private sector (UNISDR, 2015). It aims to substantially reduce disaster risks and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries. Improved understanding of disaster risk and strengthening disaster risk governance, including national platforms, accountability for disaster risk management and preparedness to “Build Back Better” are also key components.

One of the ways to strengthen disaster risk governance is by promoting compliance with existing safety-enhancing provisions of sectoral laws and regulations, including those addressing land use and urban planning, building codes, environmental and resource management and health and safety standards, and updating them, where needed, to ensure an adequate focus on disaster risk management. In addition, risk-sensitive public and private investments can be mobilized, including financial support and loans from international financial institutions and support from the Global Platform for Disaster Risk Reduction and other regional platforms, to improve resilience and avoid creating new risk. States can assist by allocating resources, including finance and logistics, for disaster risk reduction strategies, policies, plans, laws and regulations and by promoting mechanisms for disaster risk transfer and insurance, risk-sharing and retention and financial protection for both public and private investment.

States can also review voluntary commitments under the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”)-and the Humanitarian Charter and Minimum Standards in Disaster Responses (The Sphere Project, 2004). This can ensure for example, that the provision of secure access to alternative resources and livelihoods for displaced persons as a result of climate change or natural disasters is negotiated with host communities to ensure that the resettlement does not jeopardize the livelihoods of others. Regulatory requirements for early warning systems, hazard & vulnerability mapping, infrastructure improvements, community-based adaptation, planning and preparedness can also assist in reducing the risks associated with climate change and natural disasters.

Finally, sustainability considerations should include the potential for synergies and complementarities between sectors. For example, synergies between crops and livestock include the provision of fodder and feed through crop production, the contribution of grasslands to the sequestration of some of the greenhouse gases emitted by livestock, and the contribution of manure to the productivity of crops, reducing the need for mineral fertilizers. In addition, manure can be used to produce bioenergy, reducing the need for fossil fuels in crop and aquaculture systems. Forests support all of these systems by providing ecosystem services, especially soil formation, water purification, biodiversity conservation and climate regulation. To promote these synergies, governments, civil society and the private sector need to cooperate in developing both short and long-term strategies, including innovative technologies and multidisciplinary interventions from the local to the global level. These interventions include regulatory measures that are targeted towards holistic rather than individual objectives (FAO, 2014a).

Safeguards and incentives

- ✓ Climate smart agriculture adaptation measures to build ecosystem and livelihood resilience through the application of good practices, processes and technologies in farming, fisheries and aquaculture and forestry, including agroforestry, as well as improved weather forecasting and vulnerability mapping.
- ✓ Mitigation measures to address the impacts of climate change through binding obligations to reduce or remove greenhouse gas emissions, avoid environmental pollution and sequester carbon.
- ✓ Access to adaptation funds or facilities for affected communities to reap benefits from renewable energy sources which are often constrained by prohibitive upfront, fixed costs.

- ✓ A national platform for disaster risk management, including early warning systems, community-based planning, insurance and secure access to alternative resources and livelihoods for displaced persons that are negotiated with host communities.
- ✓ Support for energy efficient technologies and technology transfer throughout the agricultural value chain from production to post-production practices, marketing and distribution.
- ✓ Payments for ecosystem services that are duly incorporated into dealings between investors and their subcontractors/suppliers.
- ✓ Carbon credit financing and trading agreements and national funding agencies to promote the development and use of clean/renewable energies and technologies.

3.7 CULTURAL HERITAGE, TRADITIONAL KNOWLEDGE, DIVERSITY AND INNOVATION

CFS-RAI Principle 7: Respect cultural heritage and traditional knowledge, and support diversity and innovation

Responsible investment in agriculture and food systems respects cultural heritage and traditional knowledge, and supports diversity, including genetic diversity, and innovation, by:

- i. Respecting cultural heritage sites and systems, including traditional knowledge, skills and practices, and recognizing the role of indigenous people and local communities in agriculture and food systems;
- ii. Recognizing the contributions of farmers, especially smallholders, in all regions of the world, particularly those in centres of origin and diversity, in conserving, improving and making available genetic resources, including seeds, and subject to national law and in accordance with applicable treaties, respecting their rights to save, use, exchange and sell these resources, and recognizing the interests of breeders;
- iii. Promoting fair and equitable sharing of benefits arising from the utilization, including commercial, of genetic resources for food and agriculture, on mutually agreed terms, in accordance with international treaties, where applicable for parties to such treaties. This should be done within applicable systems of access to genetic resources for food and agriculture, while respecting the rights of indigenous peoples and local communities under national law;
- iv. Promoting the application and use of locally adapted and innovative technologies and practices, agricultural and food sciences, research and development, as well as the transfer of technology as mutually agreed, including for smallholders.

(CFS, 2014, paragraph 27)

Several international agreements relating to cultural rights, indigenous rights and local community rights relevant to CFS-RAI Principle 7, including tangible and intangible property rights, are applicable to the agriculture and food sector (see Table 7, Annex 1). For example, Article 15 of the ICESCR enshrines to the right to take part in cultural life and the benefit from the protection of cultural expression. In addition, several UNESCO Conventions aim to protect cultural heritage and diversity. Article 14 of the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries states that *“the rights of ownership and possession of the people concerned over the lands which they traditionally occupy shall*

be recognized” and calls for *“safeguarding the right to use non-exclusively occupied land to which they have traditionally had access for their subsistence and traditional activities.”* underlining the need for effective consultation and participation with indigenous communities to protect these rights in the context of agricultural investment (Bürge Bonanomi, 2015).

Article 27 of the Universal Declaration of Human Rights recognizes the right of individuals to benefit from the protection of their intellectual property as well as the importance of disseminating knowledge. Intellectual property law attempts to balance the rights of those who created the knowledge with the rights of those who need it to further other development goals, such as the promotion of the human right to health and education. Well-defined intellectual property protection legislation and enforcement mechanisms can encourage innovative techniques and products derived from agro-research investments, such as new forms of seeds to increase productivity. Not only can such a framework favor local research and development by foreign investors, but it may also provide local businesses with a secure environment to invest in innovation. This may contribute to local entrepreneurship and competitiveness and even further social inclusiveness.

The TRIPS Agreement commits all WTO members to establish a legal framework for the protection of patent rights, or in the case of plant varieties, either patent rights or other intellectual property rights regimes such as plant breeder’s rights. While legislation may be required to protect intellectual property rights, governments can counterbalance with provisions to assist smallholder farmers in purchasing patented technologies from the private sector, to protect local knowledge and plant varieties or to encourage public investment in the development of technology for free distribution where access is needed most, in line with the ITPGRFA (FAO, 2009b).

Another important instrument is the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Secretariat of the CBD, 2011). It requires state parties to establish benefit-sharing agreements through mutually agreed terms as a key incentive for biodiversity conservation. It also establishes the parameters for regulatory provisions governing the assignment, transfer or exclusion of the right to claim any property rights, including intellectual property rights, over genetic resources received through material transfer agreements. It can also require the transfer to the provider of the genetic resources of knowledge and technology including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity for indigenous and local communities, for example.

Safeguards and incentives

- ✓ Requirements for socio-cultural impact assessments, community-based management arrangements and benefit-sharing mechanisms for the use of traditional knowledge, including monitoring and evaluation mechanisms to ensure the social and cultural sustainability of investments.
- ✓ Protection of diverse cultural expression and heritage, such as artifacts and sacred sites, from destruction or removal due to agricultural investments.
- ✓ Protection of investor's intellectual property rights, including plant varieties as well as a transparent system to facilitate the exchange of seeds and other germ plasmas to be used for research, breeding and crop development.

- ✓ Support for investors to use and develop innovative technologies and incentives for technology transfer, especially for smallholders and rural communities.
- ✓ Provisions to strengthen existing local institutions and knowledge.

3.8 SAFE AND HEALTHY AGRICULTURE AND FOOD SYSTEMS

CFS-RAI Principle 8: Promote safe and healthy agriculture and food systems

Responsible investment in agriculture and food systems promote safety and health through:

- i. Promoting the safety, quality and nutritional value of food and agricultural products;
- ii. Supporting animal health and welfare, and plant health, to sustainably increase productivity, product quality and safety;
- iii. Improving the management of agricultural inputs and outputs, to enhance the efficiency of production and minimize potential threats to the environment and to plant, animal, and human health, including occupational hazards;
- iv. Managing and reducing risks to public health across agriculture and food systems, including strengthening science based strategies and programmes for the control of food safety, with supporting infrastructure and resources;
- v. Enhancing awareness, knowledge, and communication, related to evidence-based information on food quality, safety, nutrition, and public health issues, leading to strengthened capacity along the entire agriculture and food system, particularly for smallholders;
- vi. Enabling consumer choice by promoting the availability of and access to food that is safe, nutritious, diverse and culturally acceptable which in the context of this document is understood as food that corresponds with consumer demand and preferences, in line with national and international law, as applicable.

(CFS, 2014, paragraph 28)

CFS-RAI key stakeholder roles and responsibilities

States have a key role in....promoting access to inputs and technologies that improve the safety, quality, sustainability and diversity of smallholder production.

Business enterprises involved in agriculture and food systems are encouraged to inform and communicate with other stakeholders... and support efforts to track the supply chain...Processors, retailers, distributors, input suppliers, and marketers are encouraged to inform and educate consumers about the sustainability of products and services and respect national safety and consumer protection regulations. Enterprises involved in the marketing of food products are encouraged to promote the consumption of food which is balanced, safe, nutritious, diverse, and culturally acceptable, which in the context of this document is understood as food that corresponds to individual and collective consumer demand and preferences, in line with national and international law, as applicable.

(CFS, 2014, paragraphs 39 and 51)

Food and agricultural production systems often involve some of the most hazardous activities to human, animal and environmental health (ILO, 2014). For example, many agricultural workers suffer from occupational accidents and illnesses due to chemical product exposure, difficult working postures, lengthy hours, as well as the use of hazardous

tools and machinery. Transboundary animal diseases and zoonoses can also pose significant threats to human health as well as to trade in agricultural products. Risks to animal health and welfare include restrictions on movement and high stocking, unsatisfactory feeding, injurious husbandry and breeding procedures involved in agricultural production. In addition, unsafe levels of biological, chemical or physical hazards in food and feed may originate from contaminants and micro-organisms (pathogens, viruses, parasites) in the environment, from agricultural practices such as the misuse of veterinary drugs, pesticides, biotechnology and from unhygienic food and feed handling practices. Furthermore, waste and run-off from food production and food processing and distribution stages can contaminate the environment - air, land, and waterways.

Food safety management systems and legislation, including complete “farm to fork control systems that incorporate good hygiene practices and the use of safe water, along with up-to-date plant protection, veterinary and biosafety legislation, founded on science-based risk management and aligned with relevant international standards, can prevent many of these risks. For example, risks to public health can be addressed by promoting measures that prevent diseases and zoonoses among humans, animals and the environment and by ensuring responsible use of antibiotics. Risks to animal welfare can be addressed by on the basis of the World Organization for Animal Health (OIE) “Five Freedoms Framework”, including regulation to ensure a comfortable physical environment, access to sufficient feed and water, minimizing fear, pain and injury and using appropriate breeding techniques (IFC, 2014). The use of pesticides, fertilizers and other hazardous agricultural inputs can be regulated to address specific environmental and occupational health hazards and with particular attention to women, children and other vulnerable groups who may be involved in or affected by agricultural production systems. Regulating access to safe and quality agricultural inputs, including feed and seeds, can also ensure the sustainability of agricultural production and food systems over the long-term (ILO, 2014).

Among the many international instruments that address CFS-RAI Principle 8 (see Table 8, Annex I), the ICESCR is noteworthy. The Committee on Economic, Social and Cultural Rights interprets the right to health under Article 12 of the ICESCR as *“an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information.”* State parties to ICESCR have an obligation to respect, protect and fulfill this right within their jurisdiction and enterprises also have an important role to play, by observing international food safety and animal health standards, such as the Codex Alimentarius and OIE standards, respectively. The SPS and TBT Agreements also aim to regulate and harmonize the use of food standards so that they do not become barriers to trade, balancing legitimate market access concerns with public and private interests in food control (Bürgi Bonanomi, 2015).

Suitable policies, appropriate legislation need to be in place to allow preventive measures and ensure appropriate control. States may need to review their legislative base to ensure they are up to date, adequate and meet international obligations including the WTO SPS and TBT Agreements. As indicated elsewhere in this Guide, clear legislation will have little success in ensure safe and healthy agriculture and food systems if it is not implemented and a system in place to check compliance. Legal requirements can be established for businesses to reduce food and feed loss and waste as well as ensuring food safety by adhering to scientifically-based food safety standards. These include the good hygiene and HACCP principles that are part of the Codex Alimentarius and provide a systematic preventive

approach to food safety and biological, chemical, and physical hazards in production processes. Appropriate production, processing, storage, transport and handling requirements to avoid contamination in the food system can be made applicable to businesses that invest in any part of the food chain. In addition, traceability tools can promote food safety as well as facilitate social and environmental management and increase consumer trust among all actors along the supply chain from producers to end consumers.

Furthermore, multiple government agencies can play a role in ensuring safe and healthy systems. Public and private actors need to act along the “farm to fork” continuum to prevent risks to human, animal and plant health, and in the event that there is a disease outbreak or unsafe food or practices be prepared to take immediate action. Controls should be applied to foods produced and consumed on the domestic market as well as for export, with due regard to support smallholders’ production and SMEs. Coordination mechanisms among the different authorities with a role in food and agricultural health should also pay attention to food security and to rural livelihoods.

Safeguards and incentives

- ✓ Robust laws and regulations which set out clear requirements, roles and responsibilities of public and private stakeholders.
- ✓ National legislation that is based on and takes account of international standards and recommendations, e.g. WTO Agreements, Codex Alimentarius, IPPC and OIE standards.
- ✓ Evidence-informed decisions by food safety authorities based on the food safety risk analysis paradigm.
- ✓ Appropriate controls and inspections of sanitary and phytosanitary conditions, environmental health, occupational health, as well as agricultural, forestry and fisheries practices.
- ✓ Regulation of chemical inputs (e.g. pesticides, fertilizers, veterinary drugs) in agriculture, fisheries and forestry.
- ✓ Scientific risk assessments prior to the release of living modified organisms into the environment to minimize risks to the environment and foods.
- ✓ Effective food and feed safety regulation, including management of feed and food safety hazards along the chain through Good Agricultural Practices (GAPs), Good Hygienic Practices (GHPs), and the Hazard Analysis/ Critical Control Point (HACCP) systems.
- ✓ Origin-linked quality requirements and information systems.
- ✓ Safety assessments of food/feed derived from biotechnology (and labeling as required).
- ✓ Measures aimed protect animal health and welfare, such as measures aimed to improve hygiene, animal nutrition and reduce the risk of disease transmission and suffering to animals on farms, at slaughterhouses or during transport or trade.
- ✓ Food and feed safety standards, traceability tools, public health nutrition information and education initiatives as well as food and feed loss and waste reduction requirements and incentives targeted to apply to investments all the way along the food chain from production, processing, storage, transportation and distribution, including retail, food services and end consumers.

CONCLUSION

This guide has provided a methodology for assessing existing national regulatory frameworks by identifying, classifying and evaluating relevant policies, laws and institutions. The choice of a national strategy to promote responsible investment in agriculture and food systems will undoubtedly depend on the particular circumstances of each country. In many cases, existing policies and legislation may be sufficient but the enforcement capacity of institutions may need to be strengthened. In some cases, additional regulatory provisions may be needed, while in others, it may be a question of ensuring policy coherence. To maximize impact, the national regulatory framework for promoting responsible investment in agriculture and food systems should be incorporated into broader sustainable development frameworks at the local, regional and international level.

Some of the main areas for improving the regulatory system have been highlighted in the guide. These include promoting transparency, pre-screening and due diligence for investments, increasing stakeholder consultation and participation, ensuring effective decision-making and accountability, strengthening grievance and dispute resolution mechanisms and enhancing coordination mechanisms. A key advantage of ensuring all affected stakeholders are included in the analysis is that it provides much greater legitimacy to the process and ultimately the laws and institutions required to further responsible investment in agriculture and food systems. Stakeholders, including individuals, communities and investors at the local, national, regional and international level can also play a key role in holding governments accountable to their commitments, while at the same time generating debate and ideas about emerging issues affecting investments in agriculture and food systems.

Based on the particular mix of national circumstances and available resources, each country will decide whether additional policy, legal or institutional measures are needed. Whatever the preferred approach, national governments will need to ensure that they meet their obligations under relevant international commitments in respect of food security and nutrition, human rights, tenure rights, natural resource management, the environment and trade, among others. National stakeholders can draw on the information in this guide as well as well as a growing body of research from around the world on ways to further incorporate responsible investment in agriculture and food systems considerations into their national regulatory frameworks.

ANNEX 1 – RELEVANT SOURCES OF LAW, INSTITUTIONS AND INTERNATIONAL GUIDANCE FOR CFS-RAI PRINCIPLES 1-8

Table 1: CFS-RAI Principle 1 – Contribute to food security and nutrition

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws, including constitutions, civil and criminal codes, with provisions related to the right to food and water. • Laws to improve financing for smallholders and local supply chains. • Laws relating to procurement, imports, exports and market access. • Laws requiring environmental, social and economic impact assessments. • Laws relating to food supply in emergency and disaster situations. 	<ul style="list-style-type: none"> • National ministries and other agencies at the sub-national level responsible for food and agriculture, water and sanitation, environment, health, industry, transport, energy, commerce, trade, tax, finance and investment, economic development, education, women, youth and other vulnerable groups. • Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations, and funds. • Bilateral and multilateral agencies involved in development cooperation. • Non-governmental organizations, community-based organizations, associations/co-operatives of farmers, other producers and water-users, women, youth and other vulnerable groups, consumer groups, donor agencies. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • CFS Global Strategic Framework for Food Security. • Rome Declaration on Nutrition and its companion Framework for Action 2014. • Rome Declaration on Food Security and World Food Summit Plan of Action, 1996. • Declaration of the World Food Summit: five years later 2002. • Declaration of the World Summit on Food Security 2009. • Declaration on Human Rights Defenders. • Declaration on the Right to Development. • RTFG • SSFG • 2030 Agenda for Sustainable Development and Sustainable Development Goals. • Addis Ababa Action Agenda • Rio+20 “The Future We Want” Outcome Document. • Rio Declaration on Environment and Development and Agenda 21. • Vienna Declaration and Programme of Action.

Table 2: CFS-RAI Principle 2 – Contribute to sustainable and inclusive economic development and the eradication of poverty

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws, including constitutions, civil and criminal codes with provisions protecting the exercise of basic human rights and freedoms. • Laws related to employment, freedom of association, collective bargaining and worker’s rights. • Laws eliminating all forms of forced or compulsory labour and abolishing child labour. • Elimination of discrimination in respect of employment and occupation laws. • Occupational health and safety laws. • Minimum wage laws. • Migration laws. • Laws related to rural and agricultural development, financing and infrastructure. • Laws relating to farmer, fishing and forestry co-operatives. 	<ul style="list-style-type: none"> • National ministries and other agencies at the sub-national level responsible for agriculture, forestry, fisheries and other natural resources, commerce, trade, tax, finance and investment, industry, labour and employment, economic and rural development, health, migration, social services, welfare, the status of women and youth, indigenous peoples and other vulnerable groups. • National or sub-national human rights institutions such as human rights commissions or ombudspersons. • Non-governmental organizations, community based organizations, associations/ co-operatives of farmers, fishers, foresters, producers and water-users, women’s and youth’s groups, workers’ organizations (also in the informal economy), employers’ associations. • Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations and funds. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. • ICCPR and Optional Protocols. • 8 ILO Fundamental Conventions on freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. • Convention on the Elimination of All Forms of Discrimination against Women. • ILO Convention (99) Minimum Wage Fixing Machinery in Agriculture. • ILO Convention (110) Conditions of Employment of Plantation Workers and Protocol of 1982. • ILO Convention (129) Labour Inspection in Agriculture. • ILO Convention (141) Organisations of Rural Workers and their role in Economic and Social Development. • ILO Convention (184) Safety and Health in Agriculture. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • ILO Declaration on Fundamental Principles and Rights at Work. • UN Guiding Principles on Business and Human Rights. • 2030 Agenda for Sustainable Development and Sustainable Development Goals. • Addis Ababa Action Agenda

		<ul style="list-style-type: none"> • Rio+20 “The Future We Want” Outcome Document. • Rio Declaration on Environment and Development and Agenda 21. • Declaration on the Right to Development. • Declaration of ICCARD 2006. • UN Principles for Responsible Contracts. • OECD Guidelines for Multinational Enterprises. • Vienna Declaration and Programme of Action.
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Table 3: CFS-RAI Principle 3 – Foster gender equality and women’s empowerment

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws, including constitutions, civil and criminal codes with provisions protecting the exercise of basic human rights and freedoms. • Elimination of discrimination in respect of employment and occupation as well as laws relating to discrimination against women specifically. • Family laws relating to marriage, divorce, property, inheritance. • Laws relating to maternity, paternity and childcare. • Laws related to rural and agricultural development, financing, technology transfer and women’s entrepreneurship. 	<ul style="list-style-type: none"> • National ministries and other agencies at the sub-national level responsible for agriculture, forestry, fisheries and other natural resources, commerce, trade, tax, industry, labour and employment, economic development, health, migration, social services, welfare, women and youth, indigenous peoples and other marginalized/vulnerable groups • National or sub-national human rights institutions such as human rights commissions or ombudspersons. • Non-governmental organizations, inter-governmental and regional organizations, community based organizations, associations/ co-operatives of farmers, fishers, foresters, producers and water-users, women’s groups, workers’ organizations (also in the informal economy) and employers’ associations, research organizations, 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. • ICCPR and Optional Protocols. • ILO Fundamental Conventions, in particular on elimination of discrimination in respect of employment and occupation. • Convention on the Elimination of All Forms of Discrimination against Women and Optional Protocol. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • Declaration of Fundamental Principles and Rights at Work. • 2030 Agenda for Sustainable Development and Sustainable Development Goals. • Addis Ababa Action Agenda • Rio+20 “The Future We Want” Outcome Document. • Rio Declaration on Environment and Development and Agenda 21. • UN Guiding Principles on Business and Human Rights. • Declaration of the World

	<p>universities and extension organizations.</p> <ul style="list-style-type: none"> Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations and funds. 	<p>Conference on Human Rights.</p> <ul style="list-style-type: none"> Beijing Declaration and Platform for Action.
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Table 4: CFS-RAI Principle 4 – Engage and empower youth

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> General laws, including constitutions, civil and criminal codes with provisions protecting the exercise of basic human rights and freedoms. Laws related to employment, freedom of association, collective bargaining and worker's rights. Laws eliminating all forms of forced or compulsory labour and abolishing child labour. Elimination of discrimination in respect of employment and occupation laws. Age discrimination laws. Laws related to rural and agricultural development, financing and infrastructure. Laws relating to market access, technology transfer and youth entrepreneurship. 	<ul style="list-style-type: none"> National ministries and other agencies at the sub-national level responsible for agriculture, forestry, fisheries and other natural resources, commerce, trade, tax, industry, labour and employment, economic development, health, migration, social services, welfare and youth. National or sub-national human rights institutions such as human rights commissions or ombudspersons. Non-governmental organizations, inter-governmental and regional organizations, community based organizations, associations/ co-operatives of farmers, fishers, foresters, producers and water-users, youth's groups, workers' organizations (also in the informal economy), employers' associations. Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations and funds. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> ICESCR and Optional Protocol. ICCPR and Optional Protocols. ILO Fundamental Conventions, in particular on abolition of child labour; and elimination of discrimination in respect of employment and occupation. Convention on the Rights of the Child. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> Universal Declaration of Human Rights. Declaration of Fundamental Principles and Rights at Work. Declaration on the Promotion Among Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples. Vienna Declaration and Programme of Action. 2030 Agenda for Sustainable Development and Sustainable Development Goals. Addis Ababa Action Agenda Rio+20 "The Future We Want" Outcome Document. World Programme of Action for Youth. Amman Youth Declaration.

Table 5: CFS-RAI Principle 5 – Respect tenure of land, fisheries, and forests, and access to water

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws, including constitutions, civil and criminal codes with provisions related to rights to land, water and other natural resources, and specific laws related to the acquisition, transfer, taxation and concession of land, water, fisheries and forests including laws governing property, ownership, tenancy, housing and resettlement, land registration and administration, expropriation and compensation. • Laws specific to relevant categories of land, including rural, agricultural and marginal lands, forests and water laws, including fisheries laws and laws relating to water access. • Land and water use planning, participatory mapping, zoning and development laws and laws relating to the management of natural resources. • Customary law affecting land, water and other resource rights. • Laws requiring environmental, social and economic impact assessments. • Family laws governing marriage, divorce inheritance and succession. • Laws relating to the rights of indigenous peoples, women and vulnerable groups. • Anti-corruption and anti-bribery laws. • Access to information and 	<ul style="list-style-type: none"> • National ministries and other agencies at the subnational level responsible for the management and use of land, water and other natural resources, agriculture, forestry and fisheries, commerce, trade, investment, economic and rural development, indigenous peoples, women, youth and other vulnerable groups. • Land administration implementing bodies at the local, regional and national levels of government, including registration and cadastre agencies, valuation agencies, taxation agencies and spatial planning agencies. • Customary/traditional authorities formally or informally involved in land tenure and administration. • Non-governmental organizations, inter-governmental and regional organizations, community-based organizations, associations/co-operatives of farmers, fishers, foresters, producers and water-users, indigenous peoples, women, youth and other vulnerable groups. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. • ICCPR and Optional Protocols. • ILO Convention (169) concerning Indigenous and Tribal Peoples in Independent Countries. • UN Convention Against Corruption. • UN Convention Against Transnational Organized Crime. • OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • VGGT • SSFG • RTFG • UN Declaration on the Rights of Indigenous Peoples. • Pinheiro Principles. • UN Basic Principles and Guidelines on Development-based Evictions and Displacement. • Guiding Principles on Business and Human Rights. • OECD Guidelines for Multinational Enterprises. • Large-scale land acquisitions and leases: a set of core principles and measures to address the human rights challenge. • UNIDROIT, FAO and IFAD Legal Guide on Contract Farming. • Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental, and Social Impact Assessments regarding Developments Proposed to Take Place on, or which are likely to Impact on, Sacred Sites and on Lands and Waters traditionally

<p>privacy laws.</p> <ul style="list-style-type: none"> • Laws relating to tenure dispute resolution. 		<p>occupied or Used by Indigenous and Local Communities.</p>
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Table 6: CFS-RAI Principle 6 – Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks

Sources of domestic law	Relevant institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws, including constitutions, civil and criminal codes with provisions related to national resource and the environment. • Specific land, water and other natural resources conservation laws, including laws governing protected areas, wildlife and biodiversity, laws to combat desertification and deforestation, plant protection laws and genetic resource conservation laws. • Land and water use planning, zoning, and construction laws. • Customary law affecting land, water and other resources. • Laws relating to environmental, social and economic impact assessments. • Laws relating to the rights of indigenous peoples, women and other vulnerable groups. • Laws relating to traditional and scientific knowledge. • Laws to combat negative health effects and regulate hazardous materials, chemicals, pollutants, pesticides and fertilizers, waste, water, soil and air quality. • Laws to address disaster 	<ul style="list-style-type: none"> • National ministries and other sub-national agencies responsible for management of the environment and other natural resources, as well as agriculture, forestry, fisheries and aquaculture industries, genetic resources and the ecosystem, indigenous peoples, rural development, housing and livelihoods, trade, energy, health, climate change and disaster risks. • Non-governmental organizations, intergovernmental and regional organizations, community-based organizations, associations/co-operatives of farmers, fishers, foresters, producers and water-users, indigenous peoples, women and other vulnerable groups, consumer organizations, humanitarian aid agencies. • Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations and funds. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • CBD, Cartagena Protocol on Biosafety and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. • ITPGRFA • International Plant Protection Convention. • International Convention for the Protection of New Varieties of Plants. • Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. • Stockholm Convention on Persistent Organic Pollutants. • Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal. • Ramsar Convention on Wetlands of International Importance, especially as Waterfowl Habitat. • Convention on the International Trade in Endangered Species of Wild Flora and Fauna. • Convention on the Conservation of Migratory Species of Wild Animals. • International Tropical Timber Agreement. • UN Convention to Combat Desertification. • UNFCCC and Kyoto Protocol. • Vienna Convention for the Protection of the Ozone Layer and

<p>risks and climate change, including insurance laws and community financing laws.</p>		<p>Montreal Protocol on Substances that deplete the Ozone Layer.</p> <ul style="list-style-type: none"> ● UN Convention on the Law of the Sea and UN Agreement for its Implementation relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. ● Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> ● 2030 Agenda for Sustainable Development and Sustainable Development Goals. ● Addis Ababa Action Agenda ● Rio+20 “The Future We Want” Outcome Document. ● Rio Declaration on Environment and Development and Agenda 21. ● UN Declaration on the Rights of Indigenous Peoples. ● SSFG ● Code of Conduct for Responsible Fisheries. ● Global Plan of Action for Animal Genetic Resources. ● OIE Terrestrial Animal Health Code and Aquatic Animal Health Code. ● International Code of Conduct on Pesticide Management. ● The Globally Harmonized System of Classification and Labelling of Chemicals. ● UN Principles on Housing and Property Restitution for Refugees and Displaced Persons. ● Humanitarian Charter and Minimum Standards in Disaster Responses. ● Sendai Framework for Disaster Risk Reduction.
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Table 7: CFS-RAI Principle 7 – Respect cultural heritage and traditional knowledge, and support diversity and innovation

Sources of domestic law	Implementing institutions	International instruments and guidance
<ul style="list-style-type: none"> • Laws protecting cultural heritage, and traditional knowledge. • Laws relating to indigenous peoples. • Laws protecting farmer’s rights and the interests of breeders. • Laws relating to biodiversity and genetic resources. • Laws relating to intellectual property rights. • Laws related to financing for rural development. • Laws relating to market access, technology transfer and research and development. • Laws relating to the marketing and trade of agricultural products. 	<ul style="list-style-type: none"> • National ministries and other agencies at the sub-national level responsible for agriculture, forestry, fisheries and other natural resources, commerce, trade, tax, industry, labour and employment, economic development, health, migration, social services, welfare, the status of women and youth, indigenous peoples and other vulnerable groups. • National or sub-national human rights institutions such as human rights commissions or ombudspersons. • Non-governmental organizations, inter-governmental and regional organizations, community based organizations, associations/ co-operatives of farmers, fishers, foresters and producers. • Financing and lending institutions, including small-scale finance providers and rural development banks, donors, foundations and funds. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. • Convention Concerning the Protection of World Cultural and Natural Heritage. • UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression. • UNESCO Convention for the Safeguarding of Intangible Cultural Heritage. • ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. • ITPGRFA • CBD and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization. • TRIPS <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • UN Declaration on the Rights of Indigenous Peoples. • Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity. • Akwé Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments. • 2030 Agenda for Sustainable Development and Sustainable Development Goals. • Addis Ababa Action Agenda • Rio+20 “The Future We Want” Outcome Document. • Rio Declaration on Environment and Development and Agenda 21.

Table 8: CFS-RAI Principle 8 – Promote safe and healthy agriculture and food systems

Sources of domestic law	Implementing institutions	International instruments and guidance
<ul style="list-style-type: none"> • General laws regulating the agricultural sector and rural areas, including constitutions, civil and criminal codes, including provisions related to public health and environmental protection and impact assessments. • Specific laws related to human, animal, and plant health, including: <ul style="list-style-type: none"> i) Food safety and quality legislation, covering food safety in all stages of the production chain, food hygiene, food safety emergencies, contaminants and residues in food and genetically modified food; ii) Veterinary legislation, including animal health and the control of animal diseases, animal production and welfare, veterinary pharmaceuticals and antimicrobial resistance, feed safety and quality legislation (including medicated feed); iii) Phytosanitary legislation, including invasive alien species, biosafety legislation, including living modified organisms; iv) Consumer protection laws; v) Occupational health and safety and labour laws; vi) Pesticide and chemical legislation, including pesticide waste, disposal and trade, fertilizer seed and other agricultural input laws; vii) Agricultural product marketing, labelling, transport, storage distribution and retailing laws. 	<ul style="list-style-type: none"> • National ministries and other agencies at the sub-national level responsible for agriculture, forestry, fisheries, health, labour, the environment and trade. • Non-governmental organizations, inter-governmental and regional organizations, community based organizations, associations/co-operatives of farmers, fishers, foresters and producers and consumer organizations. 	<p><u>Legally binding:</u></p> <ul style="list-style-type: none"> • ICESCR and Optional Protocol. • ILO Convention (110) Concerning Conditions of Employment of Plantation Workers (1958) and 1982 Protocol. • ILO Convention (184) concerning Safety and Health in Agriculture. • CBD, Cartagena Protocol on Biosafety and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization. • WTO SPS and TBT Agreements. • ITPGRFA • International Plant Protection Convention. • International Convention for the Protection of New Varieties of Plants. • Ramsar Convention on Wetlands of International Importance, especially as Waterfowl Habitat. • Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. • Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal. • Stockholm Convention on Persistent Organic Pollutants. <p><u>Non-legally binding:</u></p> <ul style="list-style-type: none"> • Universal Declaration of Human Rights. • Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity. • Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact

<ul style="list-style-type: none">• Organic agriculture and other quality-related certification systems.		<p>Assessments.</p> <ul style="list-style-type: none">• 2030 Agenda for Sustainable Development and Sustainable Development Goals.• Addis Ababa Action Agenda• Rio+20 “The Future We Want” Outcome Document.• Rio Declaration on Environment and Development and Agenda 21.• Codex Alimentarius.• OIE Terrestrial Animal Health Code.• OIE Aquatic Animal Health Code.• International Code of Conduct on Pesticide Management.• Code of Conduct for Responsible Fisheries.• SSFG
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ANNEX 2 — SAMPLE OUTLINE FOR NATIONAL SCREENING REPORT

Part 1: Regulatory review for responsible investments in agriculture and food systems

1. Preliminary considerations

a. Priorities and responsibilities for review

	GUIDING QUESTIONS
Set objectives and scope	Is the review for existing or future legislation?
	Is it a stand-alone review or will it be incorporated into an existing process?
Identify who will be involved	Will the review be carried out by a parliamentary committee, by a coordinating unit among government ministries or by an independent research institution?
	What will be the composition of the review team and how will it address technical, multi-disciplinary and gender aspects?
Provide process overview	What is the anticipated timeframe for the review?
	What human and financial resources are required and how will they be obtained?

b. Legal and institutional context

	GUIDING QUESTIONS
Legal traditions	What are the legal traditions, including the recognition of customary rules and practices and the role of the courts?
Constitutional provisions	Are rights related to the principles of responsible investment in agriculture and food systems explicitly protected and justiciable under the constitution or bill of rights?
	If these rights not explicitly protected are there other relevant principles or directives?
Institutional framework	How are legislative, executive and judicial functions and responsibility distributed within government?
	How does the overall institutional framework facilitate access to justice and accountability?

2. Identification and classification of policies, laws and institutions

	GUIDING QUESTIONS
By subject matter	How does the policy, law or institution fit within the thematic areas covered by responsible investment in agriculture and food systems?
	What other related policies, laws and institutions should be reviewed within the multi-sector context?
By status	What is the status or rank of the policy, law or institution and its position within the overall policy framework?
	What relevant international agreements and voluntary commitments have been adopted at the national level?

3. Evaluation of the policy and legal framework

ELEMENTS	GUIDING QUESTIONS
Objective and context	How does the policy or law apply to responsible investment in agriculture and food systems?
	Does the policy or law adequately address the relevant thematic area, taking into account the multi-disciplinary context?
	Are relevant international obligations adequately addressed under the policy or law?
	Is the overarching objective of the policy or law, including rights and obligations, defined in a clear and consistent manner?
Status and operational capacity	How does the policy or law fit into the hierarchy of other relevant policies, laws and institutions?
	Are additional regulations needed to implement the policy or law or is it operational on its own?
	Are there institutional constraints (ie. human and financial) to effective implementation of the policy or law?
Regulatory constraints	Does the overall regulatory framework lead to gaps or inconsistencies in the application of the policy or law?
	Does the policy or law introduce indirect regulatory obstacles that increase transaction costs and time requirements, without providing a corresponding benefit?
	Are existing inconsistencies, gaps or obstacles justified to achieve a pressing public interest, and are there accompanying measures to counterbalance negative effects?
Oversight, enforcement and legal recourse	Are there provisions for investment oversight, including pre-screening, impact assessments and other monitoring and evaluation mechanisms?
	Are there provisions for effective grievance and dispute resolution mechanisms and remedies, as well as the right to appeal?
	Are there effective deterrence and law enforcement measures in place, including legal remedies, as well as measures to impose administrative penalties and fines?
	Are there provisions for capacity development, including training on methods and tools for effective oversight, enforcement and dispute resolution?

4. Evaluation of Institutional arrangements

AREA	GUIDING QUESTIONS
Mandate	What is the role of the institution in regulating or promoting responsible investment in agriculture and food systems?
	Is the mandate defined in a clear, transparent and coordinated manner?
	Are all relevant stakeholders aware and involved in an appropriate way in the implementation of the mandate?
	How is the institution held accountable for actions taken in performing its mandate?
Authority	Does the institution have the necessary authority to perform the tasks foreseen and if not, who is filling the gap?
	Are there overlapping authorities involved?
	Are there opportunities for delegating authority from the central to the local level and for independent monitoring and evaluation?
Access and control of	Does the institution have sufficient human and financial resources to perform its functions?

resources	How does the institution interact and coordinate with other institutions to manage resources?
Capacity	Does the institution have the effective capacity, including technical knowledge and training on methods and tools, to perform its tasks?
	Are there any other limiting factors that prevent the institution from fulfilling its mandate?
	What kind of institutional capacity development is needed and how should it be targeted?

5. Assessment of investment project criteria, safeguards and incentives

AREA	GUIDING QUESTIONS
Investment project pre-screening, promotion and impact assessment	Do procedures for investment project registration, business licencing and due diligence effectively promote economic, social and environmental sustainability?
	Are investment promotion and impact assessment criteria appropriately targeted and implemented to meet specific development objectives or priorities, such as food security and employment for local communities?
	Are there requirements to disclose the purpose and location of the investment, the investor's experience and financial capacity and the scope of local involvement in equity, operations and processes before investment project approval?
	Are there other criteria to promote responsible agricultural investment projects, address negative impacts and ensure positive outcomes and are there any gaps or inconsistencies in their application?
Additional incentives and safeguards	Is there an appropriate framework for taxation and subsidies to ensure economic viability and avoid speculative investments/inequitable concentrations of ownership?
	Are there requirements for registering transactions and declaring the full sale value of assets acquired under an investment project?
	Are there requirements for royalties to be based on production value to ensure the government receives revenues before the project starts generating profits?
	Are there other relevant investment incentives and safeguards, and if so, are they consistently applied and enforced?
Compliance mechanisms	Are there adequate provisions for transparency, stakeholder involvement and accountability in investment project design, approval, monitoring, evaluation, grievance and dispute resolution processes?
	Are there additional incentives for compliance, including international initiatives for economic, social and environmental corporate responsibility?
	Is additional capacity development needed to ensure effective compliance, including awareness raising and technical assistance on investment project criteria, safeguards and incentives?

PART 2: Strengthening governance of investment appraisal and management

MEASURES	GUIDING QUESTIONS
Improving regulatory structures and processes	Can targeted interventions in the existing regulatory framework ensure adequate enforcement of responsible agricultural investment initiatives or are new legal and institutional mechanisms needed?
	Who should be involved, what resources are needed and what timeframe should be expected to improve the regulatory framework?
Improving transparency	Are policies, laws, procedures and decisions related to investment well publicized and accessible to in all applicable languages?
	Is reliable and gender-disaggregated statistical data available for independent analysis?
	Are there requirements for regular reporting on costs and benefits of investments?
	Is accurate and objective information on proposed investments available for public consultation before decisions are taken?
	Are there investigative or disciplinary measures to combat corruption and abuse of authority in transactions involving agricultural and food system investments?
Increasing equitable stakeholder participation	Are all those who may be affected by decisions consulted before making decisions relating to investments in agriculture and food systems?
	Are there specific measures in place to ensure consultation with both women and men, youth, indigenous communities, vulnerable and marginalized groups?
	How is fair and equitable involvement of stakeholders in decision-making processes affecting agricultural and food system investments ensured?
Ensuring effective decision-making and accountability	Is there adequate training of those involved in investment decision-making processes?
	Do decision-makers have the necessary qualifications to ensure adequate representation and avoid conflicts of interest?
	Are appropriate monitoring and evaluation measures in place to ensure accountability of decision-making?
Strengthening grievance and dispute resolution mechanisms	Are there effective grievance mechanisms for individuals and groups to assert rights and report violations related to responsible agricultural and food system investments, as well as effective dispute resolution mechanisms to obtain legal or administrative redress?
	Are alternative dispute resolution mechanisms available and effective, including conciliatory processes, mediation processes, and arbitration?
	Are low-cost grievance and dispute resolution mechanisms widely available and do they ensure fair and timely decision-making based on objective reasoning by impartial and independent adjudicators?
	What mechanisms are in place to ensure effective enforcement of judicial decisions?
Enhancing coordination mechanisms	Is there a national authority or other entity to coordinate activities related to responsible investment in agriculture and food systems and does it have sufficient resources and support to ensure effectiveness?
Other proposed measures and conclusions	

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International Bill of Human Rights:

Universal Declaration of Human Rights adopted by the General Assembly in New York, Resolution 217 A (III) of 10 December 1948.

International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted and opened for signature, ratification and accession by the General Assembly in New York, Resolution 2200A (XXI) of 16 December 1966. Entry into force: 3 January 1976.

- Optional Protocol adopted by the General Assembly in New York, Resolution A/RES/63/117 of 10 December 2008. Opened for signature by any State that has signed, ratified or acceded to the ICESCR on 24 September 2009 at the UN Headquarters in New York. Entry into force: 5 May 2013.

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- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), adopted by the 31st ILC session on 9 Jul 1948. Entry into force: 04 Jul 1950.
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Adopted by the 32nd ILC session on 1 Jul 1949. Entry into force: 18 Jul 1951.
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Treaty bodies (CERD) General Recommendation No XXIII on indigenous peoples.

C. Other legally-binding international instruments relevant to the CFS-RAI Principles

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted in Basel on 22 March 1989 by the Conference of Plenipotentiaries. Entry into force: 5 May 1992.

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) (1998) adopted in Aarhus on 25 June 1998 at the United Nations Economic Commission for Europe (UNECE) 4th Ministerial Conference as part of the "Environment for Europe" process. Entry into force: 30 October 2001.

Convention concerning the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of UNESCO in Paris at its 17th session on 21 November 1972. Entry into force: 17 December 1975.

Convention for the Safeguarding of Intangible Cultural Heritage adopted by the General Conference of UNESCO in Paris at its 32nd session on 17 October 2003. Entry into force: 20 April 2006.

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- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD was adopted at the 10th meeting of the Conference of the Parties on 29 October 2010. Entry into force: 12 October 2014.

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions Adopted by the Negotiating Conference of the OECD in Paris on 21 November 1997. Entry into force: 15 February 1999.

Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) (1973) adopted by the Parties in Washington on 3 March 1973. Entry into force: 1 July 1975. Bonn amendment adopted by the Conference of the Parties on 22 June 1979. Entry into

force: 13 April 1987. Gaborone amendment adopted by the Conference of the Parties on 30 April 1983. Entry into force: 29 November 2013.

Convention on the Conservation of Migratory Species of Wild Animals (CMS) adopted by the Parties in Bonn on 23 June 1979. Entry into force: 1 November 1983. Appendices I and II amended by the Conference of the Parties in 1985, 1988, 1991, 1994, 1997, 1999, 2002, 2005, 2008, 2011 and 2014.

Convention on the Protection and Promotion of the Diversity of Cultural Expression, adopted at the General Conference of UNESCO at its 33rd session on 20 October 2005 in Paris. Entry into force: 18 March 2007.

Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Ramsar Convention), adopted by the Parties in Ramsar on 3 February 1971. Entry into force: 21 December 1975.

- The Paris Protocol to the Ramsar Convention, adopted by an Extraordinary Conference of the Contracting Parties in 1982, Entry into force: 1 October 1986. Regina amendments adopted in 1987. Entry into force: 1 May 1994.

ILO Convention (110) concerning Conditions of Employment of Plantation Workers, adopted by the 42nd ILC session on 24 June 1958, Entry into force: 22 Jan 1960.

- Protocol of 1982 to ILO Convention (110) adopted by the 68th ILC session in Geneva on 18 June 1982. Entry into force: 18 June 1982.

ILO Convention (99) concerning Minimum Wage Fixing Machinery in Agriculture, adopted by the 34th ILCO session in Geneva on 28 June 1951. Entry into force: 23 August 1953.

ILO Convention (129) concerning Labour Inspection in Agriculture, adopted by the 53rd ILC session in Geneva on 25 June 1969. Entry into force: 19 Jan 1972.

ILO Convention (141) concerning Organisations of Rural Workers and their role in Economic and Social Development, adopted by the 60th ILC session in Geneva on 23 June 1975. Entry into force: 24 Nov 1977.

ILO Convention (169) concerning Indigenous and Tribal Peoples, adopted by the 76th ILC session in Geneva on 27 June 1989. Entry into force: 5 September 1991.

ILO Convention (184) concerning Safety and Health in Agriculture, adopted by the 89th ILC session in Geneva on 21 June 2001. Entry into force: 20 September 2003.

International Convention for the Protection of New Varieties of Plants (UPOV), first adopted by a Diplomatic Conference in Paris on 2 December 1961. Entry into force on 10 August 1968, subsequently revised on 10 November 1972, 23 October 1978, and 19 March 1991.

International Plant Protection Convention (IPPC), first adopted by members of the FAO in Rome on 6 December 1951, amended on 28 November 1979. Revised text adopted by the 29th FAO Conference in Rome on 17 November 1997. Entry into force: 2 October 2005.

International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA), adopted by members of the FAO in 2001. Entry into force: July 2004.

International Tropical Timber Agreement, adopted by the UN Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994 in Geneva on 27 January 2006. Entry into force: 7 December 2011.

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention), adopted by a Conference of Plenipotentiaries in Rotterdam on 10 September 1998. Entry into force: 24 February 2004.

Stockholm Convention on Persistent Organic Pollutants Stockholm (POPs), adopted by the Conference of Plenipotentiaries in Stockholm on 22 May 2001. Entry into force: 17 May 2004. Amendments to the Annexes adopted by the Conference of the Parties in 2009, 2011, 2013 and 2015.

United Nations Convention Against Corruption, adopted by the General Assembly in New York, Resolution 58/4 of 31 October 2003. Opened to all States and regional economic integration organizations for signature in Merida from 9 to 11 December 2003 and thereafter at UN Headquarters in New York until 9 December 2005. Entry into force: 14 December 2005.

United Nations Convention Against Transnational Organized Crime, adopted by the General Assembly, Resolution 55/25 in New York of 15 November 2000. Entry into force: 29 September 2003.

United Nations Convention on Law of the Sea (UNCLOS) adopted by the Parties to the 3rd UN Conference on the Law of the Sea on 10 December 1982 and opened for signature, together with the Final Act of the Conference, at Montego Bay on 10 December 1982. Entry into force: 16 November 1994. Agreement relating to the Implementation of Part XI of UNCLOS adopted by Resolution 48/263, on 28 July 1994, by the General Assembly during its resumed 48th session in New York from 27 to 29 July 1994. Entry into force: 28 July 1996.

- United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) adopted by the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks at its 6th session in New York on 4 August 1995. Entry into force: 11 December 2001.

United Nations Framework Convention on Climate Change (UNFCCC) agreed upon and adopted by the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, during its 5th session, second part, held at New York from 30 April to 9 May 1992. Open for signature by States Members of the UN or of any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations, at Rio de Janeiro during the United Nations Conference on Environment and Development, from 4 to 14 June 1992, and remained thereafter open at the UN Headquarters in New York until 19 June 1993. Entry into force: 21 March 1994.

- Kyoto Protocol, adopted by the Conference of the Parties in Kyoto on 11 December 1997. Entry into force: 16 February 2005. The Doha Amendment to the Kyoto Protocol adopted in Doha on 8 December 2012 launched a second commitment period, starting on 1 January 2013 until 2020.
- Paris Agreement, adopted by the Conference of the Parties in Paris on 12 December 2015, and open for signature by States and regional economic integration organizations that are Parties to the UNFCCC from 22 April 2016 to 21 April 2017

at the UN Headquarters in New York. Paris Agreement Entry into force:
4 November 2016

United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD), drafted by an Intergovernmental Negotiating Committee, created by the UN General Assembly in response to the request made by the UN Conference on Environment and Development (Rio de Janeiro, 1992), adopted by the Parties in Paris on 17 June 1994, and opened for signature on 14 October 1994. Entry into force: 26 December 1996.

Vienna Convention for the Protection of the Ozone Layer adopted by the Conference on the Protection of the Ozone Layer and open for signature at Vienna from 22 March 1985 to 21 September 1985, and UN Headquarters in New York from 22 September 1985 until 21 March 1986. Entry into force: 22 September 1988.

- Montreal Protocol on Substances that deplete the Ozone agreed by the Parties on 16 September 1987. Entry into force: 1 January 1989. Adjustments entered into force for all Parties, on 7 March 1991, 23 September 1993, 5 August 1996, 4 June 1998, 28 July 2000 and 14 May 2008. London Amendment (1990), Entry into Force: 10 August 1992, Copenhagen Amendment (1992) Entry into Force: 14 June 1994, Montreal Amendment (1997) Entry into Force: 10 November 1999 and Beijing Amendment (1999), Entry into force 25 February 2002, only for those Parties which ratified respective amendments.

World Trade Organization (WTO) Agreements adopted by member countries as part of the Final Act of the Uruguay Round of Multilateral Trade Negotiations on the occasion of the final session of the Trade Negotiations Committee at Ministerial level on 15 April 1994 at Marrakesh, along with the General Agreement on Tariffs and Trade (GATT) as amended. Entry into force: 1 January 1995, with the establishment of the WTO Organization.

- Agreement on Agriculture (AoA)
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)
- Agreement on Technical Barriers to Trade (TBT)
- Agreement on Trade-Related Investment Measures (TRIMs)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Agreement on Subsidies and Countervailing Measures (SCM)

D. Other non-legally-binding instruments relevant to the CFS-RAI Principles

i) Key international declarations and policy frameworks (referenced in alphabetical order)

- 2030 Agenda for Sustainable Development and Sustainable Development Goals, adopted by the General Assembly at the UN Sustainable Development Summit in New York on 25 September 2015.
- Addis Ababa Action Agenda adopted at the 3rd International Conference on Financing for Development in Addis Ababa on 15 July 2015
- Amman Youth Declaration adopted at the Global Forum on Youth, Peace and Security in Amman on 22 August 2015.
- Beijing Declaration and Platform for Action adopted at the 4th World Conference on Women in Beijing on 15 September 1995.
- CFS Global Strategic Framework for Food Security, Third Version adopted and updated by the CFS Plenary on the basis of regular CFS processes and policy debates in Rome, 2014.
- Declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD) adopted by ICCARD of FAO in Porto Alegre on 10 March 2006.
- Declaration of the World Summit on Food Security, adopted at the World Summit on Food Security in Rome of 16-18 November 2009.
- Declaration of the World Food Summit: five years later, adopted at the World Food Summit in Rome 10–13 June 2002.
- Declaration on the Promotion Among Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples, adopted by the General Assembly in New York, Resolution 2037 (XX) of 7 December 1965.
- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) adopted by the General Assembly in New York, Resolution 53/144 in New York of 8 March 1999.
- Declaration on the Right to Development, adopted by the General Assembly in New York, Resolution 41/128 in New York of 4 December 1986.
- Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in New York, Resolution 61/295 of 13 September 2007.
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in New York, Resolution 47/135 of 18 December 1992.
- Durban Declaration and Programme of Action adopted at the World Conference on Racism in Durban from 31 August to 8 September 2001.
- ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference at its 86th Session in Geneva on 18 June 1998 (Annex revised on 15 June 2010).
- Rio +20 “The Future We Want” Outcome Document, adopted at the United Nations Conference on Sustainable Development in Rio de Janeiro from 20–22 June 2012 and endorsed by the General Assembly in New York, Resolution 66/288 of 27 July 2012.
- Rio Declaration on Environment and Development and Agenda 21, adopted at the United Nations Conference on Environment and Development (UNCED) Earth Summit in Rio de Janeiro on June 13, 1992.
- Rome Declaration on Food Security and World Food Summit Plan of Action adopted at the World Food Summit in Rome 13-17 November 1996.

- Rome Declaration on Nutrition and its companion Framework for Action, adopted at the FAO/WHO 2nd International Conference on Nutrition in Rome from 19 to 21 November 2014.
- United Nations Millennium Declaration, adopted by the General Assembly in New York, Resolution 55/2 of 8 September 2000
- Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna on 25 June 1993
- World Programme of Action for Youth to the Year 2000 and beyond, adopted by the General Assembly in New York, Resolution 50/81 of 13 March 1996.

ii) International guidelines, principles codes and standards

- Addis Ababa Principles and Guidelines for the Sustainable use of Biodiversity, adopted by the Conference of the Parties to the CBD at its 7th session in Montreal in February 2004, decision VII/12.
- Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments regarding Developments Proposed to Take Place on, or which are likely to Impact on, Sacred Sites and on Lands and Waters traditionally occupied or used by Indigenous and Local Communities, adopted by the Conference of the Parties to the CBD at its 7th session in Montreal in February 2004, decision VII/16 F.
- Code of Conduct of Responsible Fisheries, adopted by the FAO Conference at its 28th session on 31 October 1995, Resolution 4/95.
- Codex Alimentarius, FAO/WHO commission established by the 16th World Health Assembly in Geneva in May 1963, responsible for the continuous updating of international food standards.
- International Code of Conduct on Pesticide Management, 4th version, developed jointly by FAO/WHO and approved by the 38th FAO Conference in Rome in June 2013.
- Globally Harmonized System of Classification and Labelling of Chemicals and Plan of Implementation adopted at the World Summit on Sustainable Development in Johannesburg on 4 September 2002 and updated, revised and improved every two years.
- International Federation of Red Cross and Red Crescent Societies Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted by the State parties to the Geneva Conventions and the International Red Cross Red Crescent Movement on 30 November 2007.
- OIE Aquatic Animal Health Code, 18th edition adopted by the World Assembly of OIE Delegates, at its 83rd General Session in May 2015.
- OIE Terrestrial Animal Health Code, 24th edition adopted by the World Assembly of OIE Delegates at its 83rd General Session in May 2015.
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security (VGGT), endorsed by the CFS at its 38th (Special) Session in Rome on 11 May 2012.
- Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (RTFG), adopted by the FAO Council at its 127th session in Rome in November 2004.
- Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF), endorsed by the FAO Committee on Fisheries at its 31st session in Rome in June 2014.
- UNIDROIT/FAO/IFAD Legal Guide on Contract Farming, adopted by the UNIDROIT Governing Council at its 94th session in Rome in May 2015.

E. Examples of multi-stakeholder and private sector guidelines, standards and initiatives relevant to the CFS-RAI Principles:

- Equator Principles III (2013)
- Global Reporting Initiative (GRI) G4 Guidelines (2013)
- IFC Performance Standards on Environmental and Social Sustainability (2012)
- OECD Guidelines for Multinational Enterprises (2011)
- PRI Guidance for Responsible Investment in Farmland (2014)
- UN Global Compact Food and Agriculture Business Principles (2014)

F. Literature

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