

Alignment Assessment Tool for the ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry

Guidance document for government officials

This guidance document is designed to help government officials from ASEAN Member States to complete the Alignment Assessment Tool for the **ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry** (ASEAN-RAI). Completing the Alignment Assessment Tool can help AMS officials determine the extent to which their country's legal, policy, and institutional frameworks are aligned with the ASEAN-RAI. This guidance document should be read before starting the assessment. The assessment starts with a self-assessment, followed by an independent review by two ASEAN Member States. A scoring system provides a simple measure to assess the degree of alignment of a country's legal, policy and institutional framework to the ASEAN-RAI. Further instructions on the use of the Alignment Assessment Tool are found in the Excel spreadsheet containing the Tool (Appendix 1).

How to use this guidance document

This guidance document is designed to assist government officials from ASEAN Member State (AMS) to complete the **Alignment Assessment Tool for the ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry** (the ASEAN-RAI). Completing the Alignment Assessment Tool can help AMS officials determine the extent to which their country's legal, policy, and institutional frameworks are aligned with the ASEAN-RAI. It can also help to identify gaps where reforms may be needed, or new policy actions could be prioritized, to better implement the ASEAN-RAI.

The Alignment Assessment Tool focuses on actions to be taken by AMS, as set out in the ASEAN-RAI under the heading '*To achieve this, AMS may consider...*' (and which we refer to as the 'sub-guidelines'). In this document, under each sub-guideline is a set of explanations, prompt questions, and examples to help clarify and unpack the substance of each sub-guideline, and help users determine whether it has been implemented by an AMS through its legal, policy and institutional frameworks.

Because of the nature of the ASEAN-RAI as voluntary guiding principles with practical examples, each guideline could be implemented in several different ways.¹ As such, this guidance is intended to be illustrative and not exhaustive in nature, showing just some of the ways in which a guideline could be aligned to with a national legal, policy or institutional

¹ The ASEAN-RAI are explicit about the fact that implementation may be varied and take different forms based on a country's domestic laws and policies and legal traditions, as well as its regional and international legal commitments: See for example, '*The Guidelines are voluntary in nature and do not conflict with existing national laws and regulations or with binding international treaties. Nor do they replace the need for improved legal and policy frameworks at the national level. Indeed, a stronger and more equitable regulatory environment at the national level is the best guarantee to achieve social, economic and environmental benefits from investment.*' (p.6).

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framework. By providing these questions and examples, this guidance is intended to prompt the user to consider other ways in which a guideline may be implemented in their country.

How to carry out the Alignment Assessment Tool process

The ASEAN-RAI are a comprehensive and cross-cutting instrument which touches on most aspects of government and relates to the work of a wide range of government agencies, departments, and ministries within AMS. As such, to complete the assessment process may take several days and may be carried most efficiently through a cross-government workshop. In some instances, the information required may be published by sources outside of the government who track and map policies, such as those set out in Annex I.

Guideline 1: Contribute to food security, food safety and better nutrition

1.1 Providing a safe, enabling environment for responsible investment in food and nutrition security.

- 1.1.1. This sub-guideline is somewhat all encompassing. Legal and policy provisions aligned to it could take a wide variety of forms across many laws, policies and institutional arrangements.
- 1.1.2. For example, it could include secure water rights and timely processes for registering agricultural machinery. It could include warehouse receipt systems enabling farmers to use harvested crops as collateral or streamlined regulatory processes to trade agricultural goods.² It could also include laws ensuring land tenure rights, safeguards against land expropriation and the recognition and protection of customary tenure systems on land, fisheries and forests.³
- 1.1.3. In this sense, this sub-guideline cuts across and incorporates elements of the other guidelines. As such, users may wish to score this sub-guideline after completing the rest of the scoring process.

1.2 Developing a coherent national FAF sector plan incorporating a strategy to achieve food security, food safety and better nutrition.

- 1.2.1 Does the country have a national FAF sector plan, with a dedicated ministry, department, or agency responsible for overseeing and delivering that plan?
- 1.2.2 Does the plan specify the types of investments and business models that are most needed to achieve the country's food security objectives? Does it identify high priority geographic areas for investment, such as food-insecure areas?⁴
- 1.2.3 Does the plan define goals related to the achievement of food security and nutrition, food safety, and identify a strategy for how to achieve these?
- 1.2.4 Does the plan identify indicators to measure the achievement of food security, food safety and better nutrition?
- 1.2.5 Is the importance of responsible private sector investment in FAF reflected in that strategy?

1.3 Supporting food fortification programmes, including through partnerships with the private sector, to help enhance nutrition security.

- 1.3.1 Does the country's agriculture sector investment strategy, FAF sector plan, public health strategic plan or other relevant law and policy include references to micronutrient deficiencies, malnutrition, and the role of food fortification programmes to address this challenge?
- 1.3.2 Does the country have an enabling environment for food fortification? For instance, with laws requiring mandatory fortification, regulations ensuring industrially fortified

² World Bank Group (2019). *Enabling the Business of Agriculture 2019*.
<https://openknowledge.worldbank.org/bitstream/handle/10986/31804/9781464813870.pdf?sequence=7&isAllowed=y>

³ FAO. (2013) *Enabling environments for agribusiness and agro-industries development - Regional and country perspectives*. Rome. <http://www.fao.org/3/i3121e/i3121e00.pdf>

⁴ UNCTAD and World Bank. (2018). *Food Security and Nutrition. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 22*. World Bank, Washington, DC.
<https://openknowledge.worldbank.org/handle/10986/29486>

foods are safe for consumption and do not reduce nutritional diversity by overemphasizing staple crops, or incentives for voluntary fortification?⁵

- 1.3.3 Does the country have food fortification programmes or purchasing policies? For example, procurement of fortified food products from local producers for school feeding programmes.⁶
- 1.3.4 Is the country engaged in any public-private partnerships (PPPs), for example in industrial fortified food production, or research and development for new fortified food products?

1.4 Developing innovative rural financing mechanisms, including public-private partnerships (PPPs), to improve access to markets and expand rural infrastructure in food insecure areas, particularly roads, transport, energy, irrigation, and storage networks needed to increase food production and purchasing power.

- 1.4.1 Does the legal, policy and institutional framework provide for or establish a rural financing mechanism, institution or agency?
- 1.4.2 Does the country's agriculture sector investment strategy, FAF sector plan, infrastructure plan or budget, or other relevant law and policy, recognize the importance of rural infrastructure to improved market access and enhanced food security and nutrition?⁷
- 1.4.3 Does the government (at the national or regional/provincial level) have a strategy or policy specifically designed to increase financing for rural infrastructure?
- 1.4.4 Does this strategy or policy include innovative elements or new financial instruments for rural infrastructure? This could include for example, tax incentives or concessional loans for decentralized renewable energy like local grids or wind turbines, co-financing for road projects between central and local governments, or PPPs in water distribution for rural areas.⁸

1.5 Monitoring the impact of investment on food and nutrition security, and food safety and diversity.

- 1.5.1 This sub-guideline has some overlap with guideline 9 (*assess and address impacts and promote accountability*), so users may wish to score this sub-guideline in conjunction with, or after, scoring guideline 9.
- 1.5.2 Does the country screen FAF investments for food security, food safety and diversity impacts?⁹
- 1.5.3 Does the country have a practice or legal requirement of ensuring that food security, food safety and diversity commitments are included in investment agreements?¹⁰

⁵ World Health Organization and FAO. (2006). *Guidelines on food fortification with micronutrients*. https://www.who.int/nutrition/publications/guide_food_fortification_micronutrients.pdf

⁶ Ibid.

⁷ FAO. (2009). *Investing in Food Security*. Rome.

http://www.fao.org/fileadmin/templates/ag_portal/docs/i1230e00.pdf

⁸ Turley, L. and Uzsoki, D. (2018) *Financing Rural Infrastructure: Priorities and pathways for ending hunger*. International Institute for Sustainable Development [IISD]. Winnipeg, Canada.

<https://www.iisd.org/system/files/publications/financing-rural-infrastructure.pdf>

⁹ UNCTAD and World Bank. *Food Security and Nutrition. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 22*.

¹⁰ Ibid.

- 1.5.4 Does the country collect data on private sector investment? If so, does the data capture any impacts of private sector investment on food and nutrition security, food safety and diversity?
- 1.5.5 Does the country's ministry for agriculture, or health, or other relevant institution, have a process to capture age, gender and ethnicity disaggregated data on food and nutritional diversity and food security,¹¹ and to cross-reference it with data on private sector investment?
- 1.5.6 Does the agency responsible for overseeing private sector investment in FAF put in place monitoring, evaluation, reporting and/or grievance mechanisms to allow the impacts of an investment project on local food security, food safety and diversity, to be ascertained? This may include, for example, conducting impartial site visits and recording outcomes and observations in robust data collection systems.¹²

Guideline 2: Equitable, sustainable & inclusive economic development and poverty eradication

2.1 Inserting specific, measurable commitments into investor-state contracts, and encouraging business development and training programs to facilitate engagement of local businesses.

- 2.1.1 Does the country ensure (for instance through a law, ministerial directive, model contract, or established practice) that clear commitments are included in investor-state contracts with regards to local business development and engagement, jobs, and livelihood creation? This could include, for example, contractual provisions:
 - (a) Encouraging investors to create local business development plans, or local sourcing or SME development plans detailing how they will engage with, and procure goods and services from, the local economy;
 - (b) Promoting the pursuit of clear targets, such as value of locally sourced contracts for goods and services; numbers of permanent jobs and seasonal jobs, numbers of outgrowers contracted;
 - (c) Establishing mechanisms for measuring the achievement of those targets, for example, reporting, inspection and documentation requirements;¹³
- 2.1.2 Does the country have policies in place designed to increase linkages between FAF investments and the local economy? This could include policies implemented through immigration or taxation laws. For example, requiring FAF investors to carry out labour market tests before being permitted to hire foreign management staff, or refraining

¹¹ Committee on World Food Security [CFS]. (2017). *Global Strategic Framework for Food Security and Nutrition (GSF)*. FAO. <http://www.fao.org/3/MR173EN/mr173en.pdf>

¹² UNCTAD and World Bank. (2018). *Monitoring Investments. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 9*. World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/29484>

¹³ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J. (2014). *The IISD Guide to Negotiating Investment Contracts for Farmland and Water*. IISD. Winnipeg, Canada. https://www.iisd.org/system/files/publications/iisd-guide-negotiating-investment-contracts-farmland-water_1.pdf

from granting permission for investors to import duty-free goods when local versions are available.¹⁴

- 2.1.3 Does the country have policies in place to support investors in FAF to provide opportunities for training and upskilling of local businesses, employees and/or outgrowers? This could include, for example:
- (a) subsidies to facilitate investors to deliver regular training programmes;
 - (b) comprehensive contractual commitments regarding training and upskilling, including details such as the training content, schedule and timetable;¹⁵
 - (c) targets or incentives for investors to encourage the promotion of local people to key management positions.¹⁶

2.2 Exploring alternatives to large-scale land concessions, and encouraging investors to commit to equitable and inclusive contract farming and outgrower schemes allowing small farmers to stay on their land, where appropriate for the investor, the project and local conditions. Contract farming schemes should ideally benefit the whole community and not just the wealthiest individual farmers.

- 2.2.1 Does the country have in place laws and policies that create an enabling environment to promote and support inclusive FAF business models such as contract farming? This could include, for example:
- (a) a dedicated contract farming law;
 - (b) laws which make it easier for farmers to do business on an equitable basis with larger FAF investors, such as competition and fair-trading laws protecting small businesses;¹⁷
 - (c) small claims procedures which make it easier to enforce contracts;
 - (d) simplified processes for groups of local farmers to organize and incorporate, so they can engage in other inclusive business models such as joint ventures with FAF investors.¹⁸
- 2.2.2 Does the country require or incentivize FAF investors to commit to the use of inclusive business models? This may include, for example, seeking enforceable contractual commitments from investors that they will establish an outgrower model, where appropriate.¹⁹ It may also include providing flexible model contracts to guide the use of more complex inclusive business models, such as community-investor joint ventures.²⁰

¹⁴ Cordes, K., Östensson, O., and Toledano, P. (2016). *Employment from Mining and Agricultural Investments: How Much Myth, How Much Reality?* Columbia Center on Sustainable Investment, Columbia University <http://ccsi.columbia.edu/files/2016/07/Jobs-Paper-Aug-2.pdf>

¹⁵ UNCTAD and World Bank. (2018). *Training and Integrating Local People into the Workforce. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 17.* World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/29476>

¹⁶ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

¹⁷ FAO, UNIDROIT and IFAD. (2017). *Contract farming and the law: What do regulators need to know?* <http://www.fao.org/3/a-i7580e.pdf>

¹⁸ Vermeulen, S. and Cotula, L. (2010). *Making the most of agricultural investment: a survey of business models that provide opportunities for smallholders.* IIED, FAO, IFAD, SDC. London, Rome, Bern. <https://pubs.iied.org/pdfs/12566IIED.pdf>

¹⁹ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

²⁰ Vermeulen, S. and Cotula, L.

- 2.2.3 Do the country's land laws or land use policies incentivize less-land intensive FAF investments, for example by the use of phased leasing or time limits for land development?²¹
- 2.2.4 Does the country have transparent rules that regulate and limit large-scale land transactions? This may include, for example, upper limits (i.e. ceilings) on the acreage of agricultural land which can be leased by an investor or checks and balances on the granting of leases of agricultural land above a certain acreage, for instance by requiring parliamentary approval.²²
- 2.2.5 Does the country require FAF investors to develop outgrower engagement strategies when developing business plans or feasibility studies, including a plan for engagement of women farmers, young farmers, and farmers belonging to marginalized groups?²³

2.3 Introducing a community engagement strategy in investor-state contracts, including a community development agreement, in line with the Free Prior Informed Consent (FPIC) principle and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT), CFS RAI and the UN Office of the High Commissioner for Human Rights Principles for Responsible Contracting (Ruggie, 2011xxiv). In the case of indigenous peoples, introducing a FPIC agreement, in line with the United Nations Declarations on the Rights of Indigenous Peoples and FAO's FPIC manual.

- 2.3.1 Does the country ensure (through a law, ministerial directive, model FAF investment contract, or an established negotiating practice) that FAF investment contracts include:²⁴
 - (a) A recognition of the legitimacy of customary and other local rights to land and forest resources even if they are not registered or recognized in statutory law;
 - (b) A requirement to develop, as soon as practicably possible, a community engagement strategy that is inclusive and which clearly defines the responsibility and accountability of the investor and other stakeholders;²⁵
 - (c) A requirement to negotiate, in a consultative and inclusive way, a community development agreement (CDA) detailing how benefits of the investment will be shared with the community, and providing that a breach of the CDA is deemed a material breach of the investment contract.²⁶

²¹ FAO. (2015). *Safeguarding land tenure rights in the context of agricultural investment*. Governance of Tenure Technical Guide No. 4. Rome. <http://www.fao.org/3/a-i4998e.pdf>

²² FAO. (2012). *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome. <http://www.fao.org/3/a-i2801e.pdf>

²³ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

²⁴ Ibid.; International Senior Lawyers Project (ISLP) and Columbia Center on Sustainable Investment (CCSI). (2016). *Guide to Land Contracts: Agricultural Projects*. <http://ccsi.columbia.edu/files/2017/03/Ag-Guide-v17-FINAL-11-Mar-2016.pdf>

²⁵ United Nations Human Rights Office of the High Commissioner. (2015). *Principles for Responsible Contracts Integrating the Management of Human Rights Risks into State—Investor Contract Negotiations*. HR/PUB/15/1 United Nations.

https://www.ohchr.org/Documents/Publications/Principles_ResponsableContracts_HR_PUB_15_1_EN.pdf

²⁶ Loutit, J., Mandelbaum, J., and Szoke-Burke, S. (2016). *Emerging Practices in Community Development Agreements*. Columbia Center on Sustainable Investment. <http://ccsi.columbia.edu/files/2016/02/Emerging-practices-in-CDAs-Feb-2016-sml.pdf>

- (d) A requirement to undertake a free prior and informed consent (FPIC) process, noting that under the UN Declaration on the Rights of Indigenous Peoples, FPIC is an obligation in respect of indigenous peoples, but is considered a good practice for other people affected by FAF investment projects.²⁷
- (e) Clear, precise and enforceable provisions for monitoring and assessing the investor's compliance with the above requirements, including clauses on periodic reporting, site inspection, transparency provisions to facilitate community monitoring (such as requiring that CDAs and FPIC agreements be published in local languages).²⁸

NB This sub-guideline has some overlap with guideline 9 (assess and address impacts and promote accountability), so users may wish to score this sub-guideline in conjunction with, or after, scoring guideline 9.

2.4 Drawing on existing guidance documents (such as the UNIDROIT-FAO-IFAD Legal Guide to Contract Farming 2015; and the Model Agreement for Responsible Contract Farming, forthcoming 2018xxv) to develop fair contracts with outgrowers, and work with farmers, cooperatives and farmers organizations to enhance awareness of contractual rights and obligations.

- 2.4.1 Does the country play an active role in supporting fairer and more transparent contracts between buyers and small-scale producers? This may include, for example:²⁹
 - (a) a dedicated contract farming law setting out key legal clauses which must be included in any contract farming agreement;
 - (b) allowing (or mandating) written contracts to be registered with a government agency to help with oversight and enforcement;
 - (c) competition or fair-trading laws protecting farmers in their dealings with buyers;
 - (d) small claims procedures which make it easier to enforce contracts;
 - (e) a small business ombudsperson or other alternative dispute resolution processes;
 - (f) sharing information with investors on good contracting practices and fair pricing.³⁰
- 2.4.2 Does the country issue model contracts, like the Model Agreement for Responsible Contract Farming, which can provide a flexible template for parties to better understand and implement fair, balanced and transparent contracting practices? Does the country annex such model contracts to investor-state contracts, where appropriate?³¹
- 2.4.3 Does the country support small-scale producers to better understand their rights, for example conducting rights awareness campaigns, contributing funding for local legal

²⁷ FAO. (2016). *Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities – Manual for Project Practitioners*. <http://www.fao.org/3/a-i6190e.pdf>

²⁸ Otto, J. (2010). *Community development agreement model regulations & example guidelines*. World Bank. <http://documents1.worldbank.org/curated/en/278161468009022969/pdf/614820WP0P11781nal0Report0June02010.pdf>

²⁹ Viinikainen, T., and Caro, B C. (2018). *Enabling regulatory frameworks for contract farming*. FAO legislative study 111. FAO <http://www.fao.org/3/l8595EN/i8595en.pdf>

³⁰ Burnod, P., and Colin, J-P. (2012). *Large agricultural investments and inclusion of small farmers: lessons of case studies in 7 countries - Executive summary*. Land Tenure Working Paper 23. Cirad and FAO. http://www.fao.org/fileadmin/user_upload/nr/land_tenure/pdf/LTWP_23_Executive_Summary_En.pdf

³¹ FAO and IISD. 2018. *Model agreement for responsible contract farming: with commentary*. Rome, FAO. 68 pp. <http://www.fao.org/3/ca1772en/CA1772EN.pdf>

aid services, capacity development programmes on fair contracting practices, or the secondment of paralegal or legal officers to farmers' organizations or cooperatives?³²

2.5 Involving cooperatives and representative organizations of small-scale food producers and consumers in investment related policy and decision-making fora.

- 2.5.1 Does the country have laws, policies, and regulations that mandate, incentivize, or support participation by cooperatives and representative organizations in FAF-related decisions made by the government? This could include, for example, holding public consultations or information sessions on major FAF investment projects before key decisions are made.
- 2.5.2 Does the country have in place laws, policies, and regulations that mandate, incentivize or support participation in FAF-related decisions made by the investor? This could include, for example, laws requiring investors to publish relevant documents (such as contracts or environmental and social impact assessments) so that involvement in decision-making can be well-informed.³³

2.6 Developing strategies to ensure the inclusion of women and marginalized groups in investment projects and outgrower schemes, taking into due account existing power imbalances.

- 2.6.1 Note to user: the ASEAN Socio-Cultural Community Blueprint³⁴ refers to marginalized groups as including 'women, children, the elderly, persons with disabilities and migrant workers.' The ASEAN Strategic Framework on Social Welfare and Development³⁵ refers to 'women, children, youths, the elderly/older persons, persons with disabilities, migrant workers, ethnic minority groups, and vulnerable and marginalised groups.'
- 2.6.2 Does the country require FAF investors to include women and marginalized groups, for example through requiring investors to recruit, engage as outgrowers, and/or train specific ratios of women or members of marginalized groups? Does the country include these targets in investment contracts, with legal repercussions if they are not met?³⁶
- 2.6.3 Does the country incentivize and prioritize FAF investors who include women and members of marginalized groups in their operations? This could include for instance affording preferential tax incentives to investors using business models where women and members of marginalized groups are more likely to be hired, such as processing facilities.³⁷

³² FAO. *Safeguarding land tenure rights in the context of agricultural investment*.

³³ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.; International Senior Lawyers Project (ISLP) and Columbia Center on Sustainable Investment (CCSI).

³⁴ ASEAN. (2016). *ASEAN Socio-Cultural Community Blueprint 2025*. ASEAN Secretariat. Jakarta. <https://asean.org/storage/2016/01/ASCC-Blueprint-2025.pdf>

³⁵ ASEAN. (2018). *ASEAN strategic framework on social welfare and development 2016-2020*. ASEAN Secretariat. Jakarta. <https://asean.org/storage/2012/05/11-ASEAN-Strategic-Framework-on-Social-Welfare.pdf>

³⁶ UNCTAD and World Bank. (2018). *Empowering Women. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 20*. World Bank, Washington, DC.

<https://openknowledge.worldbank.org/handle/10986/29474>

³⁷ Ibid.

- 2.6.4 Does the country have in place laws, policies or regulations that require or encourage the involvement of women, young people, indigenous peoples, or marginalized groups in leadership roles within FAF investments? This could include, for example, mandatory or voluntary quotas for women, youth, or indigenous representation on the boards of government or privately owned FAF companies, or government partnerships with private FAF investors to develop mentoring programmes.
- 2.6.5 Does the country have strategies in place to encourage FAF investors to help address women's unpaid care work burden and help to encourage their inclusion in investment projects and outgrower schemes? This may include, for example, incentives for FAF investors to provide childcare facilities or flexible working arrangements for women employees,³⁸ or requirements on investors to ensure that women performing work under contract farming agreements are signatories to, and can receive payments under, the contract.³⁹
- 2.6.6 Does the country have in place laws, policies, regulations and practices designed to ensure that women, young people, indigenous peoples, and marginalized groups, can meaningfully engage in investment negotiations? For example, are indigenous peoples entitled to choose their own representatives? Are there measures in place to ensure women are equitably represented in consultation meetings, or is there a policy of organizing separate consultations with women only?

2.7 Allocating public funds to support smallholder farmers, cooperatives, forest harvesters and SMEs, through long term programmes and instruments such as microfinance, rural credit, and market linkage and small enterprise development programmes, especially in poor and marginalized communities.

- 2.7.1 Does the country dedicate funding to support the development of financial products designed for smallholder farmers and SMEs etc., such as microfinance, rural credit and working capital? This could include, for example, providing program funding, wholesale credit, smart subsidies, and guarantee funds.⁴⁰
- 2.7.2 Does the country have institutions in place to provide publicly-funded finance or access to credit for smallholder farmers, cooperatives, forest harvesters and SMEs?
- 2.7.3 Does the country have laws, regulations and policies in place which create an enabling environment for financial institutions to develop financial products designed for small-scale producers, such as microfinance, rural credit and working capital? For example, this may include blended finance mechanisms, or guarantee funds for financial service providers that provide credit/loans to small-scale farmers.⁴¹
- 2.7.4 Does the country have a strategy in place for helping small-scale producers to improve the quality of their produce and access new markets? This may include, for

³⁸ Ibid.

³⁹ Brewin, S. and Murphy, S. (2019). *The Farmer and Her Husband: Legal innovations for women in contract farming*. IISD. <https://www.iisd.org/publications/farmer-and-her-husband-legal-innovations-women-contract-farming>

⁴⁰ Grace, L., van Anrooy, R. 2019. *Guidelines for micro-finance and credit services in support of small-scale fisheries in Asia - A handbook for finance and fisheries stakeholders. In support of the implementation of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*. Rome, FAO. <http://www.fao.org/3/ca5128en/CA5128EN.pdf>

⁴¹ Nugnes, F., and Larrea, C. (2020). *Expert Consultation with Financial Service Providers: Understanding the sustainability issues agricultural producers need to consider to be investment-ready and access finance - SSI Report*. IISD. <https://www.iisd.org/system/files/publications/financial-service-providers-agricultural-producers.pdf>

example, providing (directly, or through partnerships with the private and NGO sectors) high quality extension services, rural business consultancy services, management training, and market information services.

- 2.7.5 Does the country have in place a strategy or policy to help link small-scale producers to access new and more lucrative markets? This may include, for example, embedding the requirements of an international voluntary sustainability standard into domestic commodity laws or policies.⁴²

Guideline 3: Women, youths, indigenous peoples and marginalized groups.

3.1 Improving women's access to education and legal redress mechanisms, and women's ability to collectively mobilize and claim political rights. In some cases, this role might involve improving legal systems but more often it relates to enforcing existing laws.

- 3.1.1 Like sub-guideline 1.1, this sub-guideline is somewhat all encompassing. Legal and policy provisions implementing it could take a wide variety of forms across several laws, policies and institutional arrangements designed to ensure that women have access to justice and education and can thereby be empowered to benefit from new opportunities generated by FAF investments.
- 3.1.2 For example, policy measures designed to improve women and girls' access to education could include targeted measures, such as the provision of scholarships and stipends, engaging well-qualified female teachers and instructors, providing security, school feeding programmes, sanitation measures at schools, and developing gender sensitive curricula and teaching methodologies in schools and training programmes for women.⁴³
- 3.1.3 It could also include broader policy interventions not directly linked to education, such as ending child or early marriage, preventing violence against girls and women, and targeted education for boys and men about cultural and social practices that impede girls' and women's access to education.⁴⁴
- 3.1.4 Policy actions designed to improve women's access to legal redress, particularly in the FAF investment context, could include:
- (a) Identifying and seeking to address gender inequalities embedded in and reproduced by the legal systems governing the ownership, use and arbitration of agricultural ventures and land disputes.

⁴² Lernoud, J., Potts, J., Sampson, G., Schlatter, B., Hupper, G., Voora, V., Willer, G., Wozniak, J. and Dang, D. (2018). *The State of Sustainable Markets: Statistics and emerging trends 2018*. ITC. Geneva.

<https://www.iisd.org/ssi/publications/the-state-of-sustainable-markets-statistics-and-emerging-trends-2018/>

⁴³ UNESCO. (2006). *Getting Girls Out of Work and Into School: policy brief*. Bangkok. <https://files.eric.ed.gov/fulltext/ED494206.pdf>

⁴⁴ World Bank. (n.d.) Girls' education. *The World Bank*. <https://www.worldbank.org/en/topic/girlseducation> [Date accessed 3 December 2020]

- (b) Developing non-discriminatory land dispute resolution procedures, for example by involving women in the development and implementation of judicial alternatives to customary mechanisms.⁴⁵

3.2 Recruiting more woman extension officers and training all extension officers to provide gender-sensitive support to small holders and SMEs.

- 3.2.1 Does the country set quotas or targets for the recruitment of woman extension officers, and ensure that its recruitment practices for extension officers are gender sensitive?
- 3.2.2 Does the country have training programmes for all extension officers to ensure that the support they provide to smallholders and SMEs is gender sensitive?

3.3 Facilitating partnerships and networks amongst civil society organizations, farmers' groups, indigenous peoples' groups and women's cooperatives to support women's economic empowerment.

- 3.3.1 Does the country have a policy, strategy, or practice of supporting and facilitating multisectoral partnerships to support women's economic empowerment? This may include, for example, providing funding for, and/or hosting training programmes, networking and knowledge exchange events and platforms bringing together different organizations working in women's economic empowerment.

3.4 Promoting the youth's participation in the FAF sector through policies that facilitate their meaningful access to resources, markets, and opportunities, including:

- (a) Establishing FAF educational and training institutions, including onfarm and technical, and including entrepreneurship in agriculture curriculums.**
- (b) Supporting investors that seek to integrate youth into decision-making processes.**
- (c) Supporting producer groups representing women, youths and indigenous peoples to enhance their advocacy and bargaining power.**

- 3.4.1 Items (a) to (c) of this sub-guideline provide several examples of policy actions which could help promote young people's involvement in FAF investment. The other sub-guidelines under guideline 3 provide further examples, such as programmes to change young people's perceptions of FAF, promoting the use of ICT in FAF, and requiring investors to develop youth engagement strategies.
- 3.4.2 As such, users of this guidance may prefer to score the other sub-guidelines below before returning to score this one on the basis of those results.

3.5 Developing programs to change youth's perception of the FAF sector and encourage more young people to choose FAF career paths.

- 3.5.1 Does the country have programmes in place to change young people's perception of the FAF sector and the career paths it offers? This may include, for example:⁴⁶

⁴⁵ Sexsmith, K. (2017). *Promoting Gender Equality in Foreign Agricultural Investments: Lessons from voluntary sustainability standards*. IISD. <https://www.iisd.org/system/files/publications/promoting-gender-equality-foreign-agricultural-investments.pdf>

⁴⁶ International Youth Foundation. (2014). Promoting Agricultural Entrepreneurship Among Rural Youth. *Global Partnership for Youth Employment*. 2. https://www.iyfnet.org/sites/default/files/library/GPYE_RuralEntrepreneurship.pdf

- (a) Farming apprentice-placement programmes for school leavers;
- (b) Innovation funds and grants facilities for young entrepreneurs and youth-led start-ups in FAF, particularly those geared at supporting technological innovation and development;
- (c) Youth-oriented agri-business incubators;
- (d) Embedding FAF topics in national school curricula, and taking a value-chain approach to exposing young people to a variety of jobs in the FAF sector beyond production;
- (e) Preferential government procurement policies to promote FAF goods and services produced by young people.

3.6 Requiring investors to establish a youth engagement strategy as part of their business plan, including internships and scholarships

- 3.6.1 Does the country require that FAF investors develop a youth engagement strategy as part of their business plan?
- 3.6.2 Does the country otherwise encourage FAF investors to develop, ideally in a consultative and inclusive way, youth engagement strategies? This could include, for example making publicly available other FAF investors' youth engagement strategies as an example of good practice and to illustrate possible elements to include in such strategies. It could also include developing case studies which illustrate successful elements of youth engagement strategies, such as internships, scholarships, youth savings groups, and ICT training centres co-located at processing facilities.⁴⁷

3.7 Promoting the use of ICT in FAF such as mobile phones, internet services, apps and social media, to both improve access to information, and attract young people to be the next generation of farmers.

- 3.7.1 Does the country have a strategy for promoting the use of ICT in FAF to attract youth to the sector? This could include, for example:
 - (a) Establishing innovation funds to support the development of new ICT-based services and applications in FAF.
 - (b) Ensuring an enabling regulatory environment for new forms of ICT in FAF, for example those that make use of e-payments, big data, and drone technology.
 - (c) Encouraging young producers' networks and farmers' organizations representing young people to use of online platforms.⁴⁸
 - (d) Partnering with private sector ICT actors, such as telecommunications companies, to develop digital services for producers such as interactive SMS chat advisory services or quick codes (USSD) information platforms.⁴⁹

3.8 Supporting the establishment of youth savings groups within the community and/or encourage community savings groups to incorporate young people.

⁴⁷ UNCTAD and World Bank. (2018). *Participation of Youth. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 21*. World Bank, Washington, DC.
<https://openknowledge.worldbank.org/handle/10986/29472>

⁴⁸ Ibid.

⁴⁹ Shrader, L., Karlyn A., and Makau, E. (2019). Building the DigiFarm Innovation Platform – The Journey to One Million Farmers. *Mercy Corps AgriFin*. <https://www.mercycorpsagrifin.org/2019/05/27/building-the-digifarm-innovation-platform-the-journey-to-one-million-farmers/> [Date accessed 2 December 2020]

- 3.8.1 Does the country have a strategy or policy for encouraging investors to support the establishment of youth savings groups, or for encouraging other community savings groups to incorporate young people?⁵⁰ This could include, for example, sharing best practices and case studies in the manner described in 3.6.2 above.

3.9 Recognizing the unique role and influence of women in respect of family and community level food security and nutrition, and supporting women to translate investments in FAF into positive nutritional and food security outcomes for their family and the communities they live in.

- 3.9.1 Does the country acknowledge the pivotal role of woman in family and community food and nutrition security? This may include, for example, references to this unique role in the country's FAF sector plan referred to in sub-guideline 1.2 above.
- 3.9.2 Does the country have strategies, programmes, policies and practices in place to support women to harness investment in FAF for positive food and nutrition security outcomes? This could encompass a broad range of policy actions, including:
- (a) Prioritizing inclusive and gender-sensitive outcomes in rural and/or agricultural development strategies.
 - (b) Considering the likely gender impact of investments as part of the process of screening prospective investors. This could include requesting a gender statement from investors, which should include an explanation of how the project will generate opportunities for women.
 - (c) Working with investors and independent researchers to devise a gender impact assessment study, or a broader social impact assessment that includes particular attention to gender equality.
 - (d) Gathering gender-disaggregated data before, during and after the implementation of the investment project.
 - (e) Including both independent researchers and women in the design, implementation and analysis of the research. This data can be used to monitor and enforce gender-equal outcomes from the project.
 - (f) Enshrining commitments for positive gender outcomes in contracts with investors.
 - (g) Monitoring gender impacts of investments on an ongoing basis and holding investors accountable for adherence to gender commitments made.⁵¹
 - (h) Educating men, as the colleagues and employers of women, but also as their relatives who can interfere with women's access to productive resources.⁵²

Guideline 4: Tenure of land, fisheries, and forests

Note to users: Guideline 4 draws heavily on the principles and good practices outlined in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), endorsed by the Committee on World Food Security in 2012⁵³. The VGGT represent the international negotiated consensus

⁵⁰ UNCTAD and World Bank. *Participation of Youth. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 2.*

⁵¹ Sexsmith, K.

⁵² UNCTAD and World Bank. *Empowering Women. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 20.*

⁵³ FAO. (2012).

and good practices on the governance of tenure of land, fisheries, and forestry. As such, users may wish to familiarize themselves with the VGGT before scoring this guideline.

4.1 Strengthening land laws and land use policies, as well as administrative capacity and systems at local levels to identify, record, and where appropriate, formalize land rights, recognizing that secure land tenure regimes can support responsible investment.

- 4.1.1 Does the country have a clear and modern land use policy, land law, forestry and associated laws (e.g. Tree Acts)? Has the country, for instance through the ministries or agencies responsible for agriculture, forestry, and land, strengthened this land use policy or land law, for example by carrying out an alignment assessment activity or similar process to assess its land law's and land use policy's degree of alignment with or departure from the VGGT?⁵⁴ Has the country taken steps to address any gaps or areas of misalignment identified through this process?
- 4.1.2 Has the country invested in strengthening local administrative capacity and systems levels to identify, recognize and protect, and where applicable record legitimate land rights? This could include, for example:
- (a) Recruiting and training capable and motivated personnel to staff land administration agencies and putting policies in place to reward good performance and discipline underperformance.
 - (b) Making land and forestry register information freely accessible, including market prices for land (if existent).
 - (c) Digitalizing land and forestry records so that they are harder to forge, lose, or alter, and record-keeping is more traceable and reliable.⁵⁵
 - (d) Recruiting qualified and experienced land surveyors and land valuers.
 - (e) Establishing a 'User Council' to advise the land registration agencies with inputs from key stakeholder groups and publishing the results.
 - (f) Establishing transparency enhancing policies and protecting whistle-blowers.
 - (g) Ensuring land registration does not require expensive services or examinations.⁵⁶
- 4.1.3 Has the country recognized the link between secure land and forest tenure regimes (including both social and legal legitimate rights) and responsible investment? This could include, for instance, identifying policy actions needed to strengthen the recognition of legitimate tenure rights in a national or regional investment strategy or investment promotion plan. It could also include references to the need to promote responsible investment in FAF as part of a preamble or objectives section of the land (use) policy and land law, forest policy and law.

4.2 Facilitating collective, communal and individual land titling and other forms of protection of tenure rights in a way that recognizes a broad range of conceptions of land ownership and access, and that is truly accessible to poor

⁵⁴ See for example, FAO (2019) 'Assessing the governance of tenure for improving forests and livelihoods: A tool to support the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure' available at <http://www.fao.org/3/ca5039en/CA5039EN.pdf> and FAO 'Legal Assessment Tool (LAT) for gender-equitable land tenure' <http://www.fao.org/gender-landrights-database/legislation-assessment-tool/en/>

⁵⁵ Deininger, K. (2018) For billions without formal land rights, the tech revolution offers new grounds for hope. *World Bank Blogs*. <https://blogs.worldbank.org/developmenttalk/billions-without-formal-land-rights-tech-revolution-offers-new-grounds-hope> [Date accessed 2 December 2020]

⁵⁶ FAO. (2007). FAO Land Tenure Studies 9 - *Good governance in land tenure and administration*. Rome. <http://www.fao.org/3/a1179e/a1179e00.pdf>

communities and marginalized groups, learning from past experiences with individual titling programmes, particularly for the rural poor.

- 4.2.1 Does the country give legal recognition, including through its national constitution, land and forestry law, land (use) and forest policies, land and forest administration systems, and judicial practices, to customary, indigenous, and/or collective land rights, as well as traditional land and forest use rights? Are these forms of land and forest rights afforded equal status and levels of protection with legal recognition?
- 4.2.2 Are the country's organizations responsible for recording land and forest tenure rights and processes, and the institutions responsible for their management, designed in a way that they are accessible to poor communities and marginalized groups? For example, are the processes clearly documented with information easily available to such groups? Are the processes for recording and registering forest rights simple without requiring complex management plans, resource inventories and other such documentation?
- 4.2.3 Do these processes and institutions use local languages? Can women access these institutions? Are fees reasonable and transparent? Are records kept at the local level? Have the land and forest tenure recording processes been appropriately streamlined, with clearly defined steps and timeframes for how long each step should take?⁵⁷
- 4.2.4 Have active steps been taken to account for unequal gender relations at local levels, to help ensure that women can access and benefit from land and forest tenure recording processes? For instance, can women be granted land and forest tenure rights in their own name or are they included in dual recording? Are women and marginalized groups included in decision-making bodies in the recognition, recording and management of collective lands and forests? Has the country conducted gender training and awareness raising among public officials dealing with land, and public education campaigns to address cultural and societal attitudes towards women's land and forest rights?⁵⁸

4.3 Raising awareness among communities of their legitimate tenure rights, including:

- (a) Building capacity of local communities to engage with investors, including participating in negotiations.**
- (b) Developing simple and effective processes through which concerns, grievances and infringements about land rights or communal resources can be raised and addressed (vis-à-vis all groups, including investors).**

- 4.3.1 Does the country carry out directly, or support civil society or other organizations to carry out capacity building for local communities on investing and negotiating with investors? This could include, for example, delivering workshops on topics such as participatory community land and forest governance and decision-making processes, negotiation skills, reading and understanding legal documents, and investment

⁵⁷ FAO and MRLG. 2019. *Challenges and opportunities of recognizing and protecting customary tenure systems in Cambodia*. Bangkok, 13 pp. <http://www.fao.org/3/CA1034EN/ca1034en.pdf>

⁵⁸ Quan, J. (2006). *Land access in the 21st century: Issues, trends, linkages and policy options*. Access to Natural Resources Sub-Programme; LSP Working Paper 24. FAO. <http://www.fao.org/3/a-ah245e.pdf>

monitoring and impact assessment.⁵⁹ It could also include making available resource and guidance documents in local languages, or subsidising community (para) legal advisory services.

- 4.3.2 Does the county ensure that effective, land and communal resource-related grievance and dispute resolution mechanisms are in place, and are readily accessible, for example:⁶⁰
- (a) Supporting customary or community-based conflict resolution approaches, making necessary adjustments or interventions to better integrate principles of gender equality and inclusiveness;
 - (b) Promoting consensual alternative dispute resolution methods such as mediation, conciliation and arbitration, with binding adjudicative processes available as a last resort;
 - (c) Establishing formal land and forestry related dispute resolution bodies, such as special courts or tribunals, with special procedures to ensure quick and cheap resolution of disputes in a way that is binding and final;
 - (d) Requiring investor-administrated grievance redress mechanisms, in line with sub-guideline 8.3.

4.4 Conducting joint awareness raising activities amongst AMS at all levels of government regarding the VGGT and other relevant principles and guidelines, and discouraging investment promotion practices that undermine security of tenure. Ensuring that where resettlement is deemed unavoidable, it should be minimized and appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented. A resettlement plan should be put in place based on the results of the social impact assessment, and having regard to the UN Office of the High Commissioner for Human Rights Basic Principles and Guidelines on Development-Based Evictions and IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement⁶¹. The resettlement plan should be agreed by concerned communities under the FPIC process and should include opportunities for on-farm and off-farm employment and skills training for project affected peoples

Awareness raising

- 4.4.1 Does the country have a policy or strategy for conducting awareness raising activities, such as national, regional or provincial level workshops, trainings, learning or sensitization events for government officials on the VGGT or other principles and guidelines related to governance of tenure?

⁵⁹ Knight, R., Cordes, K Y., Szoke-Burke, S., Mebratu-Tsegaye, T., and Brinkhurst, M. (2018). *Community-Investor Negotiation Guide 1: Preparing in Advance for Potential Investors*. CSI and Namati. https://namati.org/wp-content/uploads/2018/09/Community-Investor-Negotiation_Guide-1_Preparing-in-Advance-for-Potential-Investors_LowRes.pdf

⁶⁰ Wehrmann, B. (2008). *Land Conflicts – A practical guide to dealing with land disputes*. GTZ; Eschborn. <https://www.commddev.org/pdf/publications/A-practical-guide-to-dealing-with-land-disputes.pdf>

⁶¹ United Nations. (2019). *Basic principles and guidelines on development- based Evictions and displacement*. A/HRC/4/18. https://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf ; IFC. (2012). *Performance Standard 5 - Land Acquisition and Involuntary Resettlement*. World Bank. https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps5

- 4.4.2 Does the country have a policy or strategy for conducting targeted awareness raising activities, such as national, regional or provincial level workshops, trainings, learning or sensitization events for government officials whose job function may involve using or supporting investment promotion practices that could undermine security of tenure/legitimate tenure rights? This could include for example, officials at the land registry office, cadastre, in the investment promotion agency, or in the Ministry responsible for agriculture, fisheries and forestry, at the national, regional or provincial levels.

Resettlement practices

- 4.4.3 Has the country carried out an alignment assessment activity to assess its legal framework's and resettlement practices' degree of alignment with or departure from the [UN Office of the High Commissioner for Human Rights Basic Principles and Guidelines on Development Based Evictions \(the OHCHR Guidelines\)](#), or the International Finance Corporation's [Performance Standard 5 on Land Acquisition and Involuntary Resettlement](#). Such a process may have been similar to, or carried out in conjunction with, the process referred to in paragraph 4.1.1 above.
- 4.4.4 If yes to the previous question, following this alignment assessment activity, has the government taken steps to address any gaps or areas of misalignment identified?
- 4.4.5 Does the country's national constitution, land law, forestry law, expropriation or resettlement law, or other relevant legal instruments, in accordance with article 21 of the OHCHR Guidelines, require that any resettlement or eviction be:
- (a) authorized by law;
 - (b) carried out in accordance with international human rights law;
 - (c) undertaken solely for the purpose of promoting the general welfare;
 - (d) reasonable and proportional;
 - (e) regulated so as to ensure full and fair compensation and rehabilitation; and
 - (f) carried out in accordance with the OHCHR guidelines.⁶²
- 4.4.6 Does the country's national constitution, land law, forestry law, expropriation or resettlement law, or other relevant legal instruments, in accordance with IFC Performance Standard 5, provide for:
- (a) Consideration of feasible alternative project designs to avoid or minimize physical and/or economic distress or displacement;
 - (b) Compensation for loss of assets and access to resources at full replacement cost and other assistance to help displaced persons improve or restore their standards of living or livelihoods;
 - (c) Engagement with affected communities;
 - (d) Establishment of a grievance mechanism;
 - (e) Development and implementation of a Resettlement Action Plan (for physically displaced persons) or Livelihood Restoration Plan (for economically displaced persons).⁶³

4.5 Maintaining a fair and transparent system of identifying land rights in a way that safeguards legitimate tenure rights holders and conservation areas, including

⁶² United Nations. (2019).

⁶³ IFC. (2012).

through the use of technology such as global position system (GPS) technology or satellite data, where appropriate

- 4.5.1 Does the country's system of tenure right identification and adjudication align with the principles of the VGGT, in particular section 3 on the legal recognition and allocation of tenure rights and duties?
- 4.5.2 Does the country make appropriate use of technology for the identification and protection of land and forest tenure rights, for example:
- (a) Digitalizing land and forest records and their transactions;⁶⁴
 - (b) Making use of high-resolution satellite imagery to help establish land and resource use and identify gaps in the coverage of land administration;⁶⁵
 - (c) Exploring potential applications for blockchain technology in land and forest rights registration, and determining their feasibility in the national context;⁶⁶

Guideline 5: Natural resources

5.1 Ensuring comprehensive natural resource management systems, based on existing resource management laws, as well as indigenous peoples' and local community's good practices and knowledge, to govern development of infrastructure, access and use, including:

- (a) Establishing the principles of managing water as a scarce economic resource to achieve efficient and equitable use, and to ensure the conservation and protection of water resources.**
- (b) Ensuring water access in line with human rights obligations and development commitments, with the government retaining primary responsibility for the delivery of water and sanitation for its population, and not relying solely on private investors to provide public services.**
- (c) Developing national forest plans that explicitly address investment as it relates to and impacts on key forestry issues such as conservation, invasive species, illegal logging, fires, and wildlife.**
- (d) Supporting forest management decentralization and devolution processes.**
- (e) Where necessary, using specific regulations to govern sensitive and critical areas and protected sites.**
- (f) Providing for inter-ministerial coordination, standard setting, planning and monitoring, between the relevant Ministries such as agriculture, forestry, environment and water.**

- 5.1.1 This sub-guideline, through paragraphs (a) to (f), provides a number of examples of how it can be implemented. In addition to these examples, the user may wish to consider the below prompt questions when scoring this sub-guideline.
- 5.1.2 Does the country ensure that FAF investment projects operationalize the principle of water being a scarce resource? This may include, for example, reaffirming the applicability of water use laws and licensing requirements in investor-state contracts, ensuring that water usage fees payable by an investor reflect the economic value of

⁶⁴ FAO. (2017). *Governance of Tenure Technical Guide No. 10 - Improving Ways to Record Tenure Rights*. <http://www.fao.org/3/a-i7568e.pdf>

⁶⁵ Deininger, K.

⁶⁶ Land Portal. (2019). *Blockchain and Property Rights*. <https://landportal.org/library/resources/blockchain-and-property-rights>

the water, and ensuring that water usage licences account for the needs of other users of the water resource, as well as seasonal or climate change related changes in water availability.⁶⁷

- 5.1.3 Does the country's investor and investment screening processes require the investor, as a condition to gaining a lease, concession, or other operating permission, to recognize legally and socially legitimate rights including customary rights to trees, tree products, and other natural resources, and assess the impacts of their proposed business operations on access to and quality of natural resources?⁶⁸
- 5.1.4 Does the country's investor and investment screening processes require the investor, as a condition to gaining a lease, concession or other operating permission, to develop a natural resource management plan to manage and mitigate the potential adverse impacts identified through their impact assessment?⁶⁹
- 5.1.5 If the investor's impact assessment shows potential negative impacts on access to and quality of natural resources that are too severe to be adequately managed, do the country's laws, regulations or investment approval processes permit for the investment to be denied authorisation to proceed?⁷⁰
- 5.1.6 Do the country's natural resource management laws, regulations, plans, and/or institutional charters acknowledge the importance of, and establish processes for incorporating, indigenous peoples' and local communities' knowledge and practices with respect to resource management? For example, does the national resource management agency have an advisory body with representation of indigenous peoples or local community groups? Are certain decisions on national resource management required to be referred to that advisory body?
- 5.1.7 Do these laws, regulations, plans and charters build in processes for ensuring the participation and consultation of indigenous peoples and local communities with respect to natural resource planning, oversight and decision making? For instance, has consent been given following an FPIC process prior to granting licences for water extraction by a large FAF investor? Are consultations held and is consent provided in local and indigenous languages, with relevant documentation also available in those languages?

5.2 Promoting alternative livelihoods in forested areas through community integrated knowledge transfer activities, as well as supporting communities in the planting of crops and use of other agronomic practices which help to prevent soil erosion and other land degradation.

- 5.2.1 Does the country have a policy or strategy in place for supporting evidence-based, sustainable livelihood diversification in forested areas, with programming that takes into account the diverse socioeconomic needs and priorities of targeted communities? Diversification may be promoted through recognition and support for enjoyment of rights to forest land, trees, the multitude of tree and forest products, access to payment for ecosystem services, carbon credits, and other activities that promote income generation and sustainable forestry.

⁶⁷ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

⁶⁸ Ibid.

⁶⁹ UNCTAD and World Bank. (2018). *Water Access and Management. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 13*. World Bank, Washington, DC.

<https://openknowledge.worldbank.org/handle/10986/29478>

⁷⁰ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

- 5.2.2 Does the country have policies, planning or programming in place to support and incentivize communities in the use and scaling up of agroecological practices? This could include, for example, funding knowledge sharing platforms, specific credit lines and insurance schemes, access to seedlings and other planting materials, support for pest and fire management, training courses, public food procurement policies, technical assistance and rural (including forestry) extension services.⁷¹

Guideline 6: Technology generation and diffusion

6.1 Developing skills and recruiting personnel skilled in the commercialization of technology and PPP development in FAF.

- 6.1.1 Does the country's ministry of agriculture, investment promotion agency, or other FAF institution have a specific hiring policy for targeting and recruiting personnel with skills in technology commercialization and technology related PPP development?
- 6.1.2 Has the country developed and delivered training programmes to support staff involved in commercialization of FAF technology, structuring technology transfer PPPs, or screening FAF investments, to help develop their understanding of high priority FAF technology? Has the country supported staff to attend training programmes developed by other institutions?

6.2 Supporting the creation and adoption of new technologies by establishing national and regional systems of innovation, involving government, NGOs, the private sector and smallholder representatives.

- 6.2.1 Does the country have a national policy, plan, or strategy for promoting and supporting technology development, commercialization, and distribution in the FAF sector?
- 6.2.2 Does that national policy, plan or strategy seek to include and engage small-scale producers and NGOs, as well as the private sector and government?
- 6.2.3 Is that policy, plan or strategy supported by regulatory and institutional arrangements, such as targeted incentives, subsidies, or other forms of financial and non-financial support for FAF investors to promote technological innovation and diffusion? This could include, for example, deploying dedicated extension officers to collaborate with private investors to disseminate technology to smallholders engaged by those investors.⁷²
- 6.2.4 Does the country have a unit or department in the relevant government agency to support FAF innovators?

6.3 Funding or subsidizing the initial procurement of new technologies for small holders and SMEs, to reduce their initial cost and catalyze technological progress in the country. Focusing, in particular, on appropriate technologies to assist small holders and SMEs improve productivity and product quality, comply with international market standards, and increase competitiveness.

⁷¹ FAO. (2018). *FAO's work on agroecology - A pathway to achieving the SDGs*. Rome, Italy. 28pp.
<http://www.fao.org/3/i9021en/i9021en.pdf>

⁷² UNCTAD and World Bank. (2018). *Technology Transfer. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 23*. World Bank, Washington, DC.
<https://openknowledge.worldbank.org/handle/10986/29468>

- 6.3.1 Does the country have a policy or practice of providing sustainable financing arrangements, such as loans, grants, or subsidies, to smallholder farmers and SMEs for investing in FAF technologies?⁷³ Are these financing arrangements specifically aimed at encouraging uptake of technologies to help improve productivity, quality, competitiveness and compliance with international market standards?
- 6.3.2 Are these policies or practices carefully designed to ensure that the promoted technologies are well-adapted to the needs, preferences, resources, and environments of the smallholders and SMEs who are the targeted users of the technology? For example, are monitoring systems put in place to evaluate the effectiveness of technology promoting policies?⁷⁴
- 6.3.3 Is the promotion of knowledge intensive technology to smallholders and SMEs accompanied by new and innovative forms of extension, for example using ICT?⁷⁵

6.4 Seconding skilled government officers to an industry body to provide enterprise- or crop-specific technical support to smallholders.

- 6.4.1 Does the country have a policy or practice of supporting these types of skill-exchange secondments?

6.5 Linking agricultural research institutions and NGOs involved in technology development and dissemination with larger investors to leverage the efforts of all parties for the benefit of smallholders.

- 6.5.1 Does the country have a policy of supporting and strengthening multisectoral forums for research dissemination and information exchange? For example, does the Ministry of Agriculture, forestry or other relevant agency host a multisectoral working group focused on technology and innovation in FAF?
- 6.5.2 Does the relevant government agency host, sponsor, or otherwise support knowledge sharing and research dissemination events, and encourage participation from a wide range of stakeholders? This could include, for example, providing free or subsidized access to paid events for smallholder farmers.
- 6.5.3 Does the country ensure that any publicly funded agricultural research is widely promoted, exchanged and disseminated in a way that is accessible to a diverse range of stakeholders? This could include for example, requiring research papers to be made available free of charge, in local languages and in easy to read summaries. It could also include hosting research launch and sensitization events in rural areas.

6.6 Creating an enabling environment for public-private partnerships in knowledge transfer, agricultural technology generation and human resource development.

- 6.6.1 Has the country reviewed its regulatory investment framework for public and private sectors engaged in technology development and collaboration in the agricultural and forest product value chain, to ensure that it is transparent, stable and conducive, in

⁷³ Ibid.

⁷⁴ Rosegrant, M W., Koo, J., Cenacchi, N., Ringler, C., Robertson, R., Fisher, M., Cox, C., Garrett, K., Perez N D., Sabbagh, P. (2014). *Food Security in a World of Natural Resource Scarcity - The Role of Agricultural Technologies*. International Food Policy Research Institute. Washington, DC.
<https://www.wilma.us/docs/IFPRI%20Food%20Security%20Role%20of%20Agricultural%20Technologies%202014-1.pdf>

⁷⁵ Ibid.

the manner described in the [ASEAN Public-Private Partnership Regional Framework for Technology Development in the FAF Sectors](#) (the ASEAN PPP Framework)?⁷⁶

- 6.6.2 Has the country reviewed its institutional framework, roles and responsibilities for technology development PPPs in FAF, to ensure that clear lines of responsibility are identified for each level of government (national, provincial and local level) and for private sector partners, in the manner described in the ASEAN PPP Framework?⁷⁷

6.7 Providing effective legal and policy frameworks for intellectual property rights, including efficient regulatory approvals for new technologies, products and processes so the newest technology and innovation can be readily adopted.

- 6.7.1 Does the country have intellectual property laws and regulations, published in a readily accessible way and available in local languages?
- 6.7.2 Does the country provide easy to read summaries, digests or explainer notes which describe the various intellectual property rights available to FAF innovators, and how they can be registered or obtained?
- 6.7.3 Does the country have an intellectual property office which plays a facilitative role in supporting technological innovation in the FAF sector? This could include, for example having officials whose role is to support small businesses to make complete and compliant applications for intellectual property rights.
- 6.7.4 Does the intellectual property office have officials examining applications who are familiar with the FAF sector and FAF related innovations?
- 6.7.5 Are regulatory approvals carried out in a way that is efficient and transparent, for example with published timeframes for the various stages in an application for the registration of an intellectual property right?

Guideline 7: Climate change, natural disasters, and other shocks

7.1 Increasing public funds for research and extension services to support FAF-related climate change mitigation and adaptation, including through:

- (a) Increasing investments for mitigation and adaptation technologies, and the development of climate resilient varieties.**
- (b) Building capacity of government officials and small-scale producers to disseminate and apply high-quality research through shared ASEAN experiences.**

- 7.1.1 Does the country make available public funding for research in the field of FAF-related climate change mitigation and adaptation? Has this funding increased in recent years?
- 7.1.2 Does the country make available public funding for extension services in the field of FAF-related climate change mitigation and adaptation, particularly for local communities and small-scale producers? Has this funding increased in recent years?
- 7.1.3 Does the country have a strategy for increasing public investment in new technologies for climate change mitigation and adaptation in FAF? This may include

⁷⁶ See paragraph 4.1; ASEAN. (2017). *ASEAN Public-Private Partnership Regional Framework for Technology Development in the Food, Agriculture and Forestry (FAF) Sectors*. <https://asean.org/wp-content/uploads/2012/05/18.-ASEAN-PPP-Framework-FAF.pdf>

⁷⁷ See paragraph 4.2

different forms of innovative financing partnerships to share risk with the private sector, such as public-private joint ventures, and innovation funds or research grants.⁷⁸

- 7.1.4 Does the country have a strategy for increasing public investment in research and development for climate resilient seed varieties?
- 7.1.5 Does the country have a strategy or programme to develop the capacity of government officials, communities and small-scale producers to use and share research in the field of climate change mitigation and adaptation in FAF? This may include, for example, support for on-the-job learning programmes or training academies.

7.2 Developing legal and policy frameworks to harness the private sector to find diverse and innovative insurance products and services that consider the risks arising from the increased frequency of droughts, floods and other extreme weather-related events, with a particular focus on the role of ICT given that over 90 per cent of the global top 100 ICT companies are present in ASEAN.

- 7.2.1 Does the country have laws, regulations, policies, or practices which create an enabling environment that incentivizes private sector actors, such as credit and insurance providers, to develop innovative insurance products tailored for the FAF sector?
- 7.2.2 This could include, for example, creating an enabling environment for the development of weather index insurance by supporting open weather data systems, and assisting with awareness raising and education for smallholder farmers on the benefits and limitations of such products.⁷⁹
- 7.2.3 Does the country have laws, regulations, policies or practices which create an enabling environment that incentivizes private sector actors to develop new services to help communities, smallholders and other FAF investors address the risks arising from extreme weather events?
- 7.2.4 This could include, for example, setting up an innovation fund for companies interested in providing such services, which fund and support technical assistance for product development, feasibility studies, pilot testing, or testing of marketing and distribution channels.⁸⁰

7.3 Identifying specific areas of action required in respect of climate change measures and encouraging investors to pay sufficient attention to them.

- 7.3.1 Has the country undertaken a process of identifying priority actions in respect of climate change measures? This may be, for example, as part of a national adaptation and mitigation plan or strategy.

⁷⁸ Asian Development Bank (ADB). (2014). *Technologies to Support Climate Change Adaptation in Developing Asia*. Mandaluyong City, Philippines. <https://www.adb.org/sites/default/files/publication/149400/technologies-climate-change-adaptation.pdf>

⁷⁹ Kramer, B. (2019). Can weather index insurance help farmers adapt to climate change? *IFPRI Blog*. <https://www.ifpri.org/blog/can-weather-index-insurance-help-farmers-adapt-climate-change> [Date accessed 3 December 2020]

⁸⁰ Adegoke, J., Aggarwal, P., Rüegg, M., Hansen, J., Cuellar, D., Diro, R., Shaw, R., Hellin, J., Greatrex, H., and Zougmore, R. (2017). *Review on index-based insurance for climate-smart agriculture*. FAO and GACSA. <http://www.fao.org/3/a-bu216e.pdf>

- 7.3.2 Does the country have a strategy for promoting awareness and uptake of these actions by FAF investors? This could include, for example, engaging in a process of mainstreaming national adaptation planning into FAF investment policy framework, to ensure that investment planning, screening, and promotion practices are aligned with the country's priority action areas.
- 7.3.3 Does the country have a strategy for promoting the scaling-up of identified good practices amongst FAF investors, including those defined at the regional level, in instruments such as the [ASEAN Regional Guidelines for Promoting Climate Smart Agriculture Practices?](#)⁸¹

Guideline 8: Respect the rule of law and incorporate inclusive and transparent governance structures, processes and grievance mechanisms

8.1 Establishing guidelines for the periodic reporting and disclosure of information, including:

- (a) Publishing details of prospective investors (name, registered office, and contact), information about the bidding and screening process, as well as details of potential projects such as the incentives on offer.**
- (b) Ensuring the above documents and information are accurate, published early, and kept up-to-date throughout the life cycle of the investment project.**
- (c) Making disclosed information accessible to all stakeholders, taking into consideration their diversity and levels of understanding, for instance by developing simple summaries in local languages.**
- (d) Ensuring that the relevant information, documents and grievance issues pertaining to an existing investment (or parcel of land where no past investment has occurred) are made available to a future investor.**
- (e) Ensuring consistency of reporting standards between small and large investors, to aid in the comparison of reported information.**

- 8.1.1 Does the country have guidelines for regular reporting and information disclosure by FAF investors, including the elements described in (a) to (e) above? In addition to these elements, this could include for example, ensuring that all investor-state FAF contracts include clear and enforceable obligations for periodic reporting on the operation of FAF investment projects, and avoiding overly broad confidentiality clauses which would interfere with (a) above.⁸²
- 8.1.2 Does the country have policies or processes for ensuring the consistency of reporting standards and information comparability, for example, by issuing simplified reporting templates, imposing page number limits on reports, or using standardized online forms linked to data collection programmes?

⁸¹ ASEAN. (2015). *ASEAN Regional Guidelines for Promoting Climate Smart Agriculture (CSA) Practices*. Makati City, Philippines. <https://www.asean.org/storage/images/2015/October/ASEAN-Regional-Guidelines-on-Promoting-CSA-Practices/ASEAN%20Regional%20Guidelines%20on%20Promoting%20CSA%20Practices-endorsed%2037th%20AMAF.pdf>

⁸² Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

8.2 Strengthening access for local communities and indigenous peoples to pro bono legal services and legal aid.

- 8.2.1 Does the country support the provision of pro bono legal services and legal aid, for instance with funding support, seconding government legal officers to community legal organizations, or encouraging and incentivizing private law firms to provide pro bono legal services, especially to women, young people, indigenous peoples and marginalized groups?⁸³

8.3 Providing guidance for investors on good practices and processes for conducting community consultations and negotiations, monitoring investors to ensure that they engage and negotiate meaningfully with affected communities, including overseeing the use of grievance redress mechanisms, and ensuring that barriers to effective participation are addressed.

- 8.3.1 Does the country provide guidance for investors on good practices and processes for community consultations and negotiations, for example the principles of consultation and participation of the VGGT?⁸⁴ Such guidance could take the form of binding legal directives on consultation processes, voluntary guidelines, or facilitation and assistance to conduct consultations and negotiations in accordance with good practices.
- 8.3.2 Does the country have a process for monitoring investors to ensure that they engage and negotiate meaningfully with affected communities? This may include for instance, ensuring that investors provide comprehensive information to enable effective engagement, making sure that agreements are documented and understood by the people affected, and making certain that negotiation processes are non-discriminatory and gender sensitive, in line with the VGGT.⁸⁵
- 8.3.3 Does the country have in place policies or practices for overseeing the use of grievance redress mechanisms administered by FAF investors, to ensure that they, amongst other things, are legitimate, accessible, predictable, equitable, transparent and gender sensitive?⁸⁶
- 8.3.4 Has the country taken steps to ensure that barriers to effective participation in grievance mechanisms, consultations and negotiations are addressed? This may include for example, campaigns to generate public awareness and understanding of available grievance redress mechanisms and how to access them, or the provision of financial or advisory support to engage in negotiations or access grievance redress mechanisms.⁸⁷

8.4 Ensuring access to effective, affordable remedies through the courts or other legitimate non-judicial processes, where a grievance redress mechanism is unable to resolve a grievance.

⁸³ United Nations Human Rights Office of the High Commissioner. (2011). *Guiding Principles on Business and Human Rights – Implementing the United Nations “Protect, Respect and Remedy” Framework*. United Nations. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁸⁴ FAO. (2012).

⁸⁵ Para 12.11

⁸⁶ United Nations Human Rights Office of the High Commissioner. *Guiding Principles on Business and Human Rights – Implementing the United Nations “Protect, Respect and Remedy” Framework*

⁸⁷ Ibid.

- 8.4.1 Does the country's laws and legal procedures help ensure access to effective, affordable remedies through the national courts? For example, by providing options for aggregating claims or enabling representative proceedings⁸⁸, reduced court fees, legal aid or subsidised legal advisory services.
- 8.4.2 Do the country's laws and legal procedures provide for effective remedies such as restitution of land (per the VGGT and the UN Guiding Principles on Business and Human Rights), compensation, and benefit sharing?
- 8.4.3 Does the country support and facilitate access to non-judicial processes such as mediation, ombudspersons, or other specialised institutions? Do they have access to and awareness of statutory laws to make informed decisions? Are their decisions respected in formal dispute resolution bodies such as courts?

8.5 Supporting an enabling environment for FAF investors, including by:

- (a) Enabling the meaningful participation of stakeholders in FAF investment policy-making, and providing opportunities for feedback and dialogue on the implementation of laws and policies;**
- (b) Improving coordination and communication between different levels of government;**
- (c) Promoting equal access to information, services, incentives, resources, and government bodies, and non-discriminatory enforcement of laws and regulations in accordance with national laws.**

- 8.5.1 Does the country support an enabling environment for FAF investors in the manner described in the examples in (a) to (c)?
- 8.5.2 Does the country have a single 'one-stop-shop' or dedicated enquiry point that can receive all FAF investor enquiries about investment policies, permits and applications?⁸⁹
- 8.5.3 Does the country engage in investment facilitation processes, for instance by striving to improve the efficiency of investment administrative procedures, and enhancing the accessibility and transparency of its FAF-related investment policies, laws, and regulations? Does the country engage in other forms of investment facilitation, for instance as outlined in UNCTAD's Global Action Menu for Investment Facilitation?⁹⁰
- 8.5.4 Does the country avoid the use of stabilization provisions in its investor-state contracts, while endeavouring to maintain some degree of regulatory predictability and certainty for investors?⁹¹
- 8.5.5 Note to user: the above elements relate to the creation of an enabling environment for investors in general. The enabling environment for FAF investment is also seen as including elements that cut across these guidelines, such as establishing a clear and transparent process for acquiring land (4.1), supporting access to finance for smallholder farmers (2.7.1), and financing infrastructure development (1.4). This sub-

⁸⁸ Ibid.

⁸⁹ UNCTAD and World Bank. (2018). *Creating an Enabling Environment. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 5*. World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/29480>

⁹⁰ Zhan, J X. (2016). *UNCTAD's Global Action Menu for Investment Facilitation – Context, Concept, Content and Configuration*. UNCTAD Trade and Development Board. https://investmentpolicy.unctad.org/uploaded-files/document/Presentation%20by%20James%20Zhan_UNCTAD.pdf

⁹¹ UNCTAD and World Bank. *Creating an Enabling Environment. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 5*.

guideline also overlaps with sub-guideline 1.1 - 'Providing a safe, enabling environment for responsible investment in food and nutrition security.'

Guideline 9: Impact assessment & accountability

9.1 Strengthening the implementation and enforcement of relevant impact assessment regulations pertaining to FAF investments.

- 9.1.1 Does the country ensure implementation and enforcement of regulations requiring environmental and social impact assessments (ESIAs) by FAF investors?
- 9.1.2 This may include for example, by requiring investors to carry out their own ESIs and not agreeing to do so on the investor's behalf, and by not authorizing any operational permits or licences until an ESIA has been conducted and approved.⁹² It may also include ensuring that ESIs are incorporated into investor-state contracts in an enforceable way.⁹³
- 9.1.3 Does the country's impact assessment legal framework require that large scale agribusinesses conduct economic, social and environmental impact assessments as a precondition to being granted a land lease or other operating license?⁹⁴

9.2 Strengthening the integration of the results of impact assessments into management plans.

- 9.2.1 Does the country's ESIA laws or regulations require that a FAF investor develop an environmental and social management plan (ESMP), identifying how the investor will minimize and mitigate risks identified in the ESIA?⁹⁵
- 9.2.2 Does the country's ESIA laws or regulations require that the project be periodically monitored and evaluated to determine whether the identified impacts occurred as predicated, and to identify evolving risks so they can be minimized and mitigated?⁹⁶
- 9.2.3 Are the results of ESIs, ESMPs and monitoring activities made available (per sub-guideline 9.3 below), to help facilitate the involvement of other stakeholders in monitoring?

9.3 Ensuring ongoing monitoring and periodic reviews of impacts by relevant agencies and encouraging the cooperation of other stakeholders in monitoring activities, such as local communities, civil society, private sector organisations, and making the results of monitoring activities publicly available.

- 9.3.1 Does the country require that the results of ESIs and ESMPs are published online and in print, in local languages?
- 9.3.2 Has the government considered other outreach and dissemination strategies to ensure all relevant stakeholders can access these documents?

⁹² UNCTAD and World Bank. (2018). *Environmental and Social Impact Assessments. Responsible Agricultural Investment (RAI) Knowledge Into Action Note, no. 14*. World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/29477>

⁹³ Smaller, C., Mann, H., Bernasconi-Osterwalder, N., Pinter, L., McCandless, M., and Parry, J.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ FAO. (2015). *Environmental and Social Management Guidelines*. Rome. <http://www.fao.org/3/a-i4413e.pdf>

- 9.3.3 Does the country require that the results of monitoring activities, for example periodic reporting by the investor and the results of site inspections by government officials, are published online and in print, in local languages?
- 9.3.4 Does the country's ESIA laws or regulations require that the project be periodically monitored and evaluated to determine whether the identified impacts occurred as predicted, and to identify evolving risks so they can be minimized and mitigated?
- 9.3.5 Is it a condition of the investor's operating license/s that the ESMP be periodically reviewed and updated?⁹⁷

9.4 Putting in place effective and efficient screening processes for large-scale investors.

- 9.4.1 Does the country have a systematic and transparent process for screening and selecting FAF investors and investment projects?
- 9.4.2 This type of process may include various phases such screening the investment concept (including elements such as crop, site, business model, local community views and needs) and investor's credibility, assessing the investor's business plan, and confirming the investor's compliance with due diligence requirements.⁹⁸

Guideline 10: Regional approaches

10.1 Developing shared approaches to FAF investment promotion and facilitation, sharing information on investments requiring cross-ASEAN financing and expertise, discouraging 'race to the bottom' investment promotion practices and encouraging a 'race to the top' in investment promotion practices.

- 10.1.1 Does the country actively engage in ASEAN processes to build upon, implement, and regionalize international good practices in responsible FAF investment?
- 10.1.2 Does the country proactively cooperate with requests from other ASEAN Member States to provide FAF-related investment information, for instance by sharing background information on outward investors to assist with host-state screening and due diligence efforts?⁹⁹
- 10.1.3 Does the country support efforts for greater transparency that can help to support 'race to the top' investment promotion practices, for example by ensuring that the country's investment rules, regulations, policies, and processes are publicly available and regularly updated?¹⁰⁰
- 10.1.4 Does the country support regional level FAF investment promotion initiatives and participate in joint investment promotion activities, such as FAF investment forums, workshops, and roadshows?¹⁰¹

⁹⁷ UNCTAD and World Bank. *Environmental and Social Impact Assessments. Responsible Agricultural Investment (RAI) Knowledge Into Action Note*, no. 14

⁹⁸ UNCTAD and World Bank. (2018). *Tools for Screening Prospective Investors. Responsible Agricultural Investment (RAI) Knowledge Into Action Note*, no. 7. World Bank, Washington, DC.
<https://openknowledge.worldbank.org/handle/10986/29482>

⁹⁹ UNCTAD. (2019). National security-related screening mechanisms for foreign investment - An analysis of recent policy developments. *Investment Policy Monitor*. Special Issue. United Nations.
https://unctad.org/en/PublicationsLibrary/diaepcbinf2019d7_en.pdf

¹⁰⁰ Proksch, M. (2012). *Modalities for regional cooperation in investment*. UNESCAP. Bangkok, Thailand.
<https://www.unescap.org/resources/modalities-regional-cooperation-investment>

¹⁰¹ Ibid.

10.2 Promoting intra-regional assistance, experience sharing and capacity building on issues related to responsible investment in FAF to strengthen AMS governments' capacity on legal, policy and implementation issues.

10.2.1 Does the country promote ASEAN initiatives for regional assistance, experience sharing and capacity development on FAF investment issues? This may include for example, supporting staff to attend capacity development events, and empowering them to share national experiences with other member states' officials.

10.3 Building upon and upholding existing international good practices and standards mentioned in these Guidelines, for example the principles of Free, Prior and Informed Consent (FPIC), IFC Performance Standards, FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), and UN Guiding Principles for Business and Human Rights.

10.3.1 Does the country actively participate in ASEAN initiatives aimed at building on and upholding international good practices in FAF investment? The completion of the ASEAN-RAI Alignment Assessment Tool, and then taking steps to address gaps identified, would be a particularly important way of implementing this sub-guideline.

10.4 Promoting bilateral cooperation between home and host countries to jointly monitor the performances of FDI in FAF and harmonize regulations to ensure the principles of these guidelines are maximized in existing and future FDI.

10.4.1 Does the country, in its capacity as a home state of an intra-ASEAN FAF investment, cooperate bilaterally to ensure outward investments are in line with the ASEAN-RAI Guidelines, for instance, by requiring that recipients of investment guarantees conduct ESAs?¹⁰²

10.4.2 Has the country formalized or institutionalized cooperation between its outward investment agency and that of its regional and bilateral partners? This could include, for instance, the establishment of joint committees to coordinate on the development of investment incentives and facilitation initiatives?¹⁰³

¹⁰² UNCTAD. (2015). *Investment Policy Framework for Sustainable Development*. United Nations. https://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf

¹⁰³ Ibid.

ANNEX I - Organizations which track, map and report on government policies in ASEAN

Organization	Website
Asian Development Bank	https://www.adb.org/what-we-do/sectors/agriculture/main
Cambodia's Centre for Policy Studies	http://www.cps.org.kh/
Centre for Indonesian Policy Studies	https://www.cips-indonesia.org/food-security-and-agriculture See in particular, CIPS policy briefs https://www.cips-indonesia.org/publication
Centre for Economic and Social Development	https://myanmarcesd.org/publications/
Economic Research Institute for ASEAN and East Asia	See in particular, the AEC Blueprint Implementation Performance and Challenges: Investment Liberalization
Food and Agriculture Organization of the United Nations (FAO)	See in particular the Legal Assessment Tool (LAT) for gender-equitable land tenure See in particular Assessing the governance of tenure for improving forests and livelihoods
Institute for Policy and Strategy for Agriculture and Rural Development (IPSARD)	http://ipsard.gov.vn/
International Food Policy Research Institute	https://www.ifpri.org/country/asia
Mekong Institute	See in particular, Trade and Investment Facilitation publications and Agricultural Development and Commercialization publications
Mekong Region Land Governance project (MRLG)	See in particular, project webpage on responsible agricultural investment .
Organisation for Economic Co-operation and Development (OECD)	See in particular, OECD Investment Policy Reviews (recent reviews available for Cambodia, Viet Nam, Myanmar, Lao PDR)
Singapore Institute of International Affairs	http://www.siiainline.org/
Southeast Asian Regional Center for Graduate Study and Research in Agriculture	See in particular, SEARCA Policy brief series: https://www.searca.org/pubs/briefs-notes?cid=2
Stockholm Environment Institute Asia	https://www.sei.org/centres/asia/research-areas/
United Nations Economic and Social Commission for Asia and the Pacific	See in particular, Handbook on Policies, Promotion and Facilitation of Foreign Direct Investment for Sustainable Development in Asia and the Pacific