

## Recommended Principles on Responsible Agricultural Investments (rai)

The recent increasing global demand for food and bio-fuel has brought back agriculture into the economic agenda. Investments are back and on the rise despite constitutional and policy constraints. This is further pushed by the nation's commitment to ASEAN Economic Integration by 2015, which is seen to open up the nation's economy to regional competition including that of agriculture.

Unfortunately, reports on expanding private agricultural investments have not been received well by some sectors. Obscure negotiations, non-compliance with existing policies and overlapping jurisdictions of agencies threaten the tenure security and rights of farmers, fisher folks and indigenous communities.

This sends an alarm bell as agriculture is not simply a business proposition but carries with it significant social agenda for national development. It is recommended that government institute the necessary regulatory systems and mechanisms to govern land investments.

While crafting specific policies and programs will have to take a number of factors into consideration, a set of principles can be agreed upon as guide and reference. The seven principles outlined below are based on regional and national consultations participated in by various stakeholders, and take into consideration relevant global documents, CSO case studies on large-scale land acquisitions, assessment of the status of Philippine agriculture and land-related laws of the Philippines. The VGGT sections complementing these principles are cited in the box b(next page) for each recommended principle.

**Principle 1:**

**Responsible agricultural investment has free, prior and informed consent (FPIC) of communities that will be affected by the investments**

Concerned individuals and communities should give free, prior and informed consent to any proposed investment. To realize this, mandated government agencies should require investors to provide sufficient and correct information (including market information). Investment proposals should then be subjected to consultations through appropriate mechanisms, such as the Fisheries and Aquatic Resources Management Councils and other similar bodies.

Prior to any agreement, investment contracts should be directly negotiated with farmers/landowners/communities under the supervision of the mandated government agency. These agreements should be signed by all parties and made publicly accessible.

In support of these processes, government agencies, including local government units, must have the necessary regulations, clear standard procedures and reliable record systems that are applied consistently and free from political influence. They should ensure that investments have an unquestionably positive impact on the community and that the benefits and risks are properly shared.

**Section 11.4 of VGGT:**

States and other parties should ensure that information on market transactions and information on market values are transparent and widely publicized, subject to privacy restrictions. States should monitor this information and take action where markets have adverse impacts or discourage wide and equitable market participation.

**Section 11.4 of VGGT:**

States should establish appropriate and reliable recording systems, such as land registries, that provide accessible information on tenure rights and duties in order to increase tenure security and to reduce the costs and risks of transactions.

**Section 11.2 of VGGT:**

States should facilitate the operations of efficient and transparent markets to promote participation under equal conditions and opportunities for mutually beneficiary transfers of tenure rights which lessen conflict and instability; promote the sustainable use of land, fisheries and forests and conservation of the environment; promote the fair and equitable use of genetic resources associated with land, fisheries and forests in accordance with applicable treaties; expand economic opportunities; and increase participation by the poor.

**Principle 2:**

**Responsible agricultural investment upholds land tenure security and respects human rights**

Investment agreements must not in any way diminish the tenure status and security of the farmers, their spouses, family members and other rightful owners of the land. Arrangements and mechanisms, such as joint ventures, management contracts and marketing agreements, should be assessed, monitored and reviewed regularly to avoid farmers unknowingly surrendering these rights in legal documents.

Investments, particularly in project implementation, should not infringe into their basic human rights. Investors must adhere to international treaties and national government regulations and laws. This way, child labor is avoided and male and female workers are treated in a fair and non-discriminatory manner.

**Section 11.8 of VGGT:**

Given the importance of small-scale producers for national food security and social stability, States should ensure that when facilitating market operations of tenure transactions, they protect the tenure rights of small-scale producers.

**Section 11.2 of VGGT:**

States should take measures to prevent undesirable impacts on local communities, indigenous peoples and vulnerable groups that may arise from, inter alia, land speculation, land concentration and abuse of customary forms of tenure. State and other parties should recognize the values such as social, cultural and environmental values are not always well served by unregulated markets. States should protect the wider interest of societies through appropriate and laws of tenure.

**Section 11.6 of VGGT:**

States should establish safeguards to protect the legitimate tenure rights of spouses, family members and others who are not shown as holders of tenure rights in recording systems, such as land registries.

**Section 11.8 of VGGT:**

Given the importance of small-scale producers for national food security and social stability, States should ensure that when facilitating market operations of tenure transactions, they protect the tenure rights of small-scale producers.

**Section 12.4 of VGGT:**

Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights.

**Principle 3:****Responsible agricultural investment settles disputes in a fair, effective and timely manner**

Conflicts, whenever they arise, must be addressed transparently, expeditiously, fairly and in a non-discriminatory manner. This presupposes that justice grievance mechanisms to settle disputes are present, equally accessible (preferably done at the local level) and affordable to all individuals or groups potentially affected by agricultural investments.

A mechanism must be instituted that will systematically monitor compliance with resolutions or agreements reached by contending parties. Government should provide the necessary support for farmers, fisher folks and indigenous communities to have proper representation.

**Section 11.3 of VGGT:** States should establish policies, laws and regulatory systems and agencies to ensure transparent and efficient market operations, to provide non-discriminatory access and to prevent uncompetitive practices. States should simplify administrative procedures in order to avoid discouragement of market participation by the poor and the most vulnerable.

**Section 12.14 of VGGT:** States and affected parties should contribute to the effective monitoring of the implementation and impacts of agreements involving large-scale transactions in tenure rights, including acquisitions and partnership agreements. States should take corrective action where necessary to enforce agreements and protect tenure and other rights and provide mechanisms whereby aggrieved parties can request such action.

**Principle 4:****Responsible agricultural investment uses natural resources sustainably contributing to climate change mitigation and adaptation**

Agricultural investments should promote sustainable agriculture practices and efficiency of food system along the goals of the *Philippine Organic Agriculture Act*. Positive impacts and externalities in the environment should be considered and strengthened.

Environmental policies and systems such as environmental impact assessments should be strictly complied with to determine potential positive and negative impacts. Investors and government agencies should recognize differential impacts of climate change and institute provisions for risk-sharing and social protection. Multi-stakeholder monitoring for compliance should be encouraged and instituted.

Resilience of agriculture, food systems and related livelihoods to short- and long-term effects of climate change are increased through mitigation and adaptation measures. In this regard, assess, to the extent possible, the *People's Survival Fund Law*, to check on prioritization criteria for adaptation interventions (*RA 10174*).

**Section 12.4 of VGGT:** Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights.

**Section 12.6 of VGGT:** States should provide safeguards to protect legitimate tenure rights, human rights, livelihoods, food security and the environment from risks that could arise from large-scale transactions in tenure rights.

**Section 12.10 of VGGT:** When investments involving large-scale transactions of tenure rights, including acquisitions and partnership agreements, are being considered, States should strive to make provisions for different parties to conduct prior independent assessments on the potential positive and negative impacts that those investments could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment.

**Principle 5:**

**Responsible agricultural investment respects women, cultural heritage, landscapes, traditional knowledge and customary laws**

Responsible agricultural investment should recognize the vulnerability of women and other disadvantaged groups, and establish the necessary precautionary measures to protect their rights and interests.

Agricultural investments must respect the diversity of rural lifestyles and landscapes, acknowledging their long-term economic, social and environmental benefits. In particular, investments should value and support traditional knowledge, preservation of endemic flora and fauna, and cultural heritage around local food systems. Also, religious sites should be safeguarded.

**Section 12.8 of VGGT:** : In the case of indigenous peoples and their communities, States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments, including as appropriate from the International Labour Organization Convention (No 169) concerning Indigenous and Tribal Peoples in Independent Countries and the United Nations Declaration on the Rights of Indigenous Peoples. States and other parties should hold good faith consultation with indigenous peoples before initiating any investment project affecting the resources for which the communities hold rights. Such projects should be based on an effective and meaningful consultation with members of indigenous peoples as described in paragraph 9.9. The principles of consultation and participation of these Guidelines should be applied for investments that use the resources of other communities.

**Principle 6:**

**Responsible agricultural investment improves the livelihood of men and women, people's food security and nutrition**

Subsistence farmers and small-scale producers, many of whom are women, constitute the backbone of Philippine agriculture, and as such, ensure the country's food security. In turn, land provides them employment, livelihood and habitat for decent community life and contentment. Agricultural investments should improve their livelihoods and create jobs consistent with the policy framework of inclusive growth.

Agricultural investments must enhance the productive capacities of smallholder farmers and producers. This is achieved by strengthening value generation at different stages in agriculture and food systems, improving access to markets and satisfying nutritional needs. Research to promote these initiatives should be supported.

Overall, agricultural investments should contribute and strengthen national food security and nutrition.

**Section 12.1 of VGGT:** State and non-state actors should acknowledge that responsible public and private investments are essential to improve food security. Responsible governance of tenure of land, fisheries and forests encourages tenure right holders to make responsible investments in these resources, increasing sustainable agricultural production and generating higher incomes. States should promote and support responsible investments in land, fisheries and forests that support broader social, economic and environmental objectives under a variety of farming systems. States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.

**Principle 7:****Complementary policies and programs support responsible agricultural investment**

The objective of enhancing food security and nutrition must be addressed consistently and not undermined by other policies and regulations particularly those covering governance of resources. Investment policies, such as those implemented by DTI-BOI, PEZA and LGUs, should be attuned with rai principles. Complementary policies such as Comprehensive Land Use Plan and the Philippine Organic Agriculture Act should be promoted. Provision of incentives for good practices is recommended.

Relevant public-sector institutions at national and local levels must be informed, be provided the necessary training and resources, and act in a coordinated manner to create synergy and avoid conflicting measures. All relevant services should be accessible with special attention and priority given to the vulnerable groups.

A substantial number of laws exist to ensure responsible agricultural investments. An effective monitoring mechanism needs to be instituted to ensure that these laws are complied with and implemented.

**Section 11.1 of VGGT:** Where markets in tenure rights operate, States should ensure that all actors are consistent with their existing obligations under national and international laws and with due regard to voluntary commitments under applicable regional and international instruments. Transactions of tenure rights to land, fisheries and forests should comply with national regulation of land use and not jeopardize core development goals.

**Section 11.7 of VGGT:** State and non-state actors should adhere to applicable ethical standards. They should publicize and monitor the implementation of these standards in the operation of markets in order to prevent corruption, particularly through public disclosure.

**Section 12.15 of VGGT:** When States invest or promote investments abroad, they should ensure that their conduct is consistent with the protection of legitimate tenure rights, the promotion of food security and their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.



