



## Principles of responsible agricultural investments

Philippines' Multi-stakeholders Input to Committee on World Food Security



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# Contents

Foreword .....	4
Acronyms and abbreviations.....	6
Introduction.....	8
Objective, Process and Limitation .....	10
Agriculture and Sustainable Development.....	12
Land Reform.....	13
Support Services .....	14
Private Investments in Agriculture.....	16
Drivers of Investments .....	17
Land Investment Arrangements.....	17
Issues and Challenges.....	18
Recommended Principles.....	22
Principle 1: Responsible Agricultural Investment has Free, Prior and Informed Consent (FPIC) of communities that will be affected by the investments.....	23
Principle 2: Responsible Agricultural Investment upholds land tenure security and respects human rights.....	24
Principle 3: Responsible Agricultural Investment settles disputes in a fair, effective and timely manner.....	25
Principle 4: Responsible Agricultural Investment uses natural resources sustainably contributing to climate change mitigation and adaptation.....	26
Principle 5: Responsible Agricultural Investment respects women, cultural heritage, landscapes, traditional knowledge and customary laws.....	27
Principle 6: Responsible Agricultural Investment improves the livelihood of men and women, people’s food security and nutrition.....	28
Principle 7: Complementary policies and programs support Responsible Agricultural Investment.....	29
Annexes	
List of References.....	31

# Foreword

In the Philippines, as in much of Asia, food is produced mainly by smallholders who rely heavily on land, water and other natural resources for their livelihoods. Securing their access to these resources is therefore synonymous to securing food. Ultimately, the eradication of hunger and poverty will depend on tenure systems that guarantee equitable access to and control over these natural resources for all.

In May 2012, 98 countries in the Committee on World Food Security (CFS) officially endorsed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)* in Rome, Italy. The voluntary guidelines contain a set of principles and recommendations for governments that may be applied in different national contexts towards improving the governance of land and other resources along the areas of: legal recognition and allocation of tenure rights and duties; transfers and other changes to tenure rights and duties; administration of tenure; responses to climate change and emergencies; and promotion, implementation, monitoring and evaluation. These guidelines are intended for adoption by national governments; however, they are voluntary or non-binding, unlike a treaty or convention.

On 10 June 2013, the Philippine Development Forum – Working Group on Sustainable Rural Development (PDF-SRD), United Nations - Food and Agriculture Organization Philippine Resident Office (FAO-Phils), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, and the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) co-organized the “*Stakeholder Briefing on the Voluntary Guidelines and other Land Governance Mechanisms*” to provide an overview of the voluntary guidelines. Participated in by 124 representatives from government, CSOs and development partners, the forum: a) discussed the relevance of the VGGT in the Philippines, b) raised awareness on the state of governance of land, forests, fisheries, and ancestral domains in the Philippines, and c) highlighted initiatives to improve agricultural venture agreements in agrarian reform communities. Following this event, from August 2013 to October 2014, ANGOC implemented the project “*Promoting Responsible Land Governance for Smallholders in the Philippines*” in partnership with the PDF-SRD, NCI, FAO-Philippines and GIZ.

A major component of this Project was the preparation of three desk studies to identify existing gaps in policies and programs on the governance of land and resource tenure in the Philippines, and to familiarize stakeholders on the VGGT. The three desk studies were presented and discussed in several forums: experts’ meetings, three regional consultations and a national conference participated in by 314 representatives from government agencies, policy-makers, CSOs, academic institutions and international development organizations.

Specifically, this discussion paper “*Principles of responsible agricultural investments: Philippines’ Multi-stakeholders Input to Committee on World Food Security*” as written by Roel R. Ravanera and Gregorio Quitangon, has been prepared to tackle the challenges underpinning investments in agriculture, which impact on food security and tenure rights of the poor. The paper concludes with a set of recommended principles on responsible investments, considered as part of the inputs of the Philippine government to the ongoing CFS-initiated global consultation on rai.

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# Acronyms and abbreviations

A&D	Alienable and disposable
AFMA	Agriculture and Fisheries Modernization Act
ASEM	Asia-Europe Meeting
BMZ	Bundesministerium Für Wirtschaftliche Zusammenarbeit or German Federal Ministry for Economic Cooperation and Development
BOI	Board of Investment
BSP	Bangko Sentral ng Pilipinas
CARP	Comprehensive Agrarian Reform Program
CARPER	CARP Extension with Reform
CBFMA	Community-based Forest Management Agreement
CFS	World Committee on Food Security
CLOA	Certificate of Land Ownership Award
CSO	Civil Society Organization
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DOLE	Department of Labor and Employment
DTI	Department of Trade and Industry
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization
FPIC	Free and Prior Informed Consent
IFAD	International Fund for Agricultural Development
IPRA	Indigenous Peoples Rights Act
LGU	Local Government Unit
NCIP	National Commission of Indigenous Peoples
PEZA	Philippine Economic Zone Authority
RAI	Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources
UNCTAD	United Nations Conference on Trade and Development
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests
WB	World Bank

# Responsible Agricultural Investement (rai)

• Objective • Process • Limitation

# Principles of rai: Philippines' Multi-stakeholders Input to the Committee on World Food Security

## Introduction

Private sector investments in agriculture are on the rise. In Asia, this is evidenced by the growth of foreign direct investments in the South, East and Southeast in recent years, and the increase in trading activities between and among Asian nations.<sup>1</sup>

Asian governments can take some of the credit. Having grappled with problems such as food security and poverty, these governments eased their investment regulations and started offering policy and fiscal incentives to eager investors. At no time was this more profoundly felt than during the global food crisis of 2008, when food-importing countries were forced to review their food security policies and encouraged to have direct investments in food production in other countries.

But food is not the only motivator for the increase in investments. Given growing public interest in human health and the welfare of the world, incentives are also being extended to encourage the production of biofuel and other agro-related sources of renewable energy.

This increase in agricultural investments is not happening uniquely in Asia. It is a global phenomenon that is expected to continue in the near future. While many developing countries welcome and encourage this development, it has also intensified competition for agricultural lands to the extent that reports abound of land grabbing, displacement of occupants, unfair deals and erosion of agricultural resources. Moreover, land has become vulnerable to commercial pressures from other sectors, such as tourism, migration, resettlement and industrialization.<sup>2</sup> These concerns have prompted the outpouring of serious proposals to improve land and resource governance to avoid conflicts and mitigate negative impacts.

The Committee on World Food Security (CFS), after conducting multi-stakeholder consultations on a global scale, produced the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* to guide its member governments. Section 4 of this document specifically discusses the transfer and changes to tenure rights and other duties to investments, market and other external interventions.

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1 UNCTAD, 2005.

2 Ravanera and Gorra, 2011



For its part, the World Bank (WB) in partnership with FAO, IFAD and UNCTAD published the *Principles for Responsible Agricultural Investment that Respect Rights, Livelihoods and Resources (RAI)* in February 2010 as a working document for global dialogue. But not one of them has submitted the RAI to its governing body for approval.

A number of Civil Society Organizations (CSOs) also did not see eye to eye with the World Bank. They strongly rejected the RAI because they considered it “a move to legitimize what is absolutely unacceptable: the long-term corporate (foreign and domestic) takeover of rural people’s farmlands”.<sup>3</sup>

There are other organizations that have produced similar documents to address the phenomenon of increasing agricultural investments, such as the *Basic Principles on the Purchase and Leasing of Large Areas of Land in Developing Countries (BMZ, Germany)* and *Elements for a Code of Conduct for Foreign Land Acquisition (International Food Policy Research Institute)*, to name a couple. CSOs have also come out with their own versions.

CFS is now leading another round of consultations on responsible agricultural investments (abbreviated here as rai to differentiate it from the WB’s initiative) in the context of food security and nutrition. The consultation and negotiation process is open to all sectors and will run until October 2014 when the output is endorsed for approval by CFS in its 41st Plenary.

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<sup>3</sup> See <http://www.focusweb.org/content/stop-land-grabbing-now> and <http://www.fian.org/resources/documents/others/stop-land-grabbing-now/?searchterm=stop%20land%20grabbing>

## Objective, Process and Limitation

This paper is intended to recommend a set of principles for *rai* as a collective input of various stakeholders in the Philippines to the CFS-initiated global consultation.

In formulating the principles, three regional consultations (in Luzon, Visayas and Mindanao) were conducted, participated in by various stakeholders. Consolidated inputs were presented in a national consultation, which also took into consideration relevant documents, such as the CFS' Voluntary Guidelines on the Governance of Tenure, WB's Principles on RAI, zero draft of the on-going CFS global consultation on *rai*, Philippine CSO case studies on large-scale land acquisitions, assessment of the status of Philippine agriculture and land-related laws of the Philippines. All these activities were conducted from September 2013 to March 2014.

This paper proceeds through a series of brief sections initially to build context and understanding of agricultural investments in the Philippines. It progresses to discuss the prominent issues and challenges underpinning these investments as documented by CSOs and then finally concludes with the recommended principles.

A major constraint of the study in terms of reaching and getting inputs from relevant stakeholders is time. Considering that a number of agencies of varying capacities are handling agricultural investments, a consolidated input requires a longer period of time for gathering and processing the information.

# Agriculture and Sustainable Development

• Land Reform • Support Services

## Agriculture and Sustainable Development

In the Philippines, as in many Asian developing countries where majority of the people are dependent on agriculture for their livelihood, the agriculture sector commands primary importance and serves as a building block for economic development. Food security, rural employment and level of poverty are very much linked to the development of the agriculture sector. While its contribution to the Philippine GDP may have declined over the years, it does not diminish its importance to national development.

The two most compelling agenda for the Philippine government in pursuit of sustainable agricultural development are providing access to land to millions of farmers and the provision of the necessary support services. Recognizing the inequitable access to land, the constitution specifically provides that “the State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till.”

Toward this objective, the Philippine government embarked on a number of programs. Two of the major programs are the *Comprehensive Agrarian Reform Program (CARP)* and the *Agriculture and Fisheries Modernization Act (AFMA, RA 8435 of 1997)*. CARP promises a more equitable access to land while AFMA intends to modernize Philippine agriculture to enhance its competitiveness.

## Land Reform

With the *Comprehensive Agrarian Reform Program (CARP)* and *CARP Extension with Reform (CARPER)*, a greater part of agricultural lands have been redistributed with low ownership ceiling and with restricted transferability.

But while substantial progress has been made in distributing agricultural lands, overall land governance in the Philippines remains intricate and complicated. Physical features at the national level largely determine land classification and the subsequent land rights attached to it.<sup>4</sup> Subsequent laws, however, provide equally important dimensions in appreciating land rights, such as the Indigenous People's Rights Act (RA 8371 of 1997) that vested land rights based on historical claim of ownership or actual occupation. The law on economic zones underscores economic development and allows government to acquire any private lands within or adjacent to the ECOZONE (RA7916 PEZA). The Local Government Code emphasizes local development and gives local government units the authority to reclassify lands (Sec 20 Art II of RA 7160, the Local Government Code of 1991).<sup>5</sup>

All of these laws have resulted in overlapping land tenure and jurisdiction among the many government agencies. While specific laws mandate the existence of DAR, Department of Environment and Natural Resources (DENR) and the National Commission of Indigenous Peoples (NCIP), there is no harmony when it comes to their policies and operational processes. This concern is recognized by the various agencies as articulated in a Joint Administrative Order JAO 01-12.<sup>6</sup>

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- <sup>4</sup> Lands of the public domain with 18% in slope or over are classified as non-alienable and disposable and would include forest and timberland, mineral land and natural reserves. The remaining lands classified as alienable and disposable (A&D) are further subdivided into (a) agricultural lands, (b) residential, commercial, industrial or similar productive purposes, (c) educational, charitable, and other similar purposes and (d) reservations.
- <sup>5</sup> A city or municipality may, through an ordinance passed by the Sanggunian after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition.
- <sup>6</sup> The Joint DAR-DENR-LRA-NCIP Administrative Order No. 01-12 clarifies the respective policies and programs of the agencies and instituted mechanisms to resolve jurisdictional, operational and policy issues.

### Support Services

The support services envisioned to uplift agricultural development are embodied in AFMA. It recognized the multiple functions of agriculture and encompassed seven major principles: 1) poverty alleviation and social equity; 2) food security; 3) rational use of resources; 4) global competitiveness; 5) sustainable development; 6) people empowerment; and 7) protection from competition.

Admittedly, this plan is what the Philippine agriculture needs. The budget, however, did not match its intentions. The evaluation report of AFMA conducted in 2007 stated that “AFMA can be faulted for over-commitment and trying to do many things with too many agencies, and saddled with lack of resources. In the process, it faltered in implementation. The additional money of P20 billion in the first year (1999); and P15 billion a year in the next six years (2000 - 2005) did not materialize.”

It is not surprising, therefore, that the performance of the agriculture sector has been below par especially when compared with the other Asian countries. A report by Habito and Briones<sup>7</sup> concluded: “Data over the past 20 years show an unmistakable trend of deterioration in the performance of the Philippine agricultural sector, which becomes starker when taken against the performance of its neighboring countries in the region.”

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<sup>7</sup> Paper presented at the conference entitled “Policies to Strengthen Productivity in the Philippines,” sponsored by the Asia-Europe Meeting (ASEM) Trust Fund, Asian Institute of Management Policy Center, Foreign Investment Advisory Service, Philippines Institute of Development Studies and the World Bank, held in Makati City, June 27, 2005.

# Private Investments in Agriculture

- Drivers of Investments • Land Investment Arrangements
- Issues and Challenges

## Private Investments in Agriculture

With low public spending in agriculture and complexity in land governance, private investments have also been slow in coming. Domestic investors are holding on to their money until such time that infrastructures (such as farm-to-market roads, ports and transportation facilities) are improved, long term financing is secured and the general policy environment is improved. Some prefer to invest their money somewhere else.<sup>8</sup>

The Philippines has also not been a priority destination of foreign investors, more so with agricultural investors. According to Bangko Sentral ng Pilipinas (BSP), the Philippines attracted a measly US\$2.8 billion in FDI, relatively small compared to other Asian countries (Tacujan, 2013). Critics blame the constitutional prohibition of 100% foreign-owned investments in the country as a major impediment. Instead, ownership of companies should be 60:40, in which majority of the shares is Filipino-owned (Sec 2, Art XII of the Constitution).<sup>9</sup>

Recent reports, however, show that agricultural investments continue to flow into the country. While a complete data sheet is not available and comprehensive data on agricultural investments are very limited, reports from some government agencies and field documentations by CSOs validate this increase in investments.

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<sup>8</sup> The Wall Street Journal - Saturday, October 12th published an article "Del Monte's Philippine Spinoff to Buy Parent for \$1.68 Billion" that says "Philippine-based Del Monte Pacific Ltd., majority-owned by the country's wealthy Campos family, will acquire the canned-food business of U.S. Del Monte Foods in a \$1.68 billion deal, the latest in a string of U.S. acquisitions by homegrown Asian companies".

<sup>9</sup> For rice and corn, **Presidential Decree No. 194 (1973)** authorizes corporations and similar entities owned in whole or in part by foreigners to engage in the rice and corn industry



### Drivers of Investments

What seems to be driving these investments are the growing global demand for food, the incentives given to biofuel production and the opening up of the economy to agricultural trade and investment.

Food importing countries, alarmed by their experience during the 2008 food crisis, are now directly investing in food production to ensure their own food security. Similarly, the incentives for biofuel are attracting these investments. The Philippine government, for example, gives incentives as provided for in *RA 9367 (Biofuels Act)* and *RA 9513 (Renewable Energy Act)*, in addition to the applicable incentives in the Omnibus Investment Code.

This rise in agricultural investments is expected to intensify in the near future with the increasing global trade liberation. In ASEAN countries, a single market and production base will become a major platform starting 2015 with free flow of goods, services, investments, capital and skilled labor envisioned under the ASEAN Economic Integration, which will involve agriculture, food and forestry on top of other priority sectors (ASEAN Economic Blueprint, 2008).

### Land Investment Arrangements

Despite policy restrictions and low ownership ceiling of agricultural lands, there are still a number of avenues by which land and/or use rights are acquired for large-scale investments in agriculture.

For public domain lands, the Constitution allows lease agreements but with a limit of 25 years, renewable only for another 25 years. In public forests, particularly in areas awarded with community based forest management agreements (CBFMAs), the mechanism is through joint venture agreements where investors are granted the right to use portions of the area for productive use. In ancestral lands covered by IPRA, a Free and Prior Informed Consent (FPIC) by the community is necessary before permission is given to develop portions of the ancestral domain (Eleazar, et al 2013).

In agricultural areas where CLOAs have been awarded, the mechanisms include, among others, lease, out-grower arrangements and management contracts between the CLOA holders and the investors.<sup>10</sup> The Department of Agrarian Reform (DAR) recognizes the importance of agricultural investment in assisting the agrarian reform beneficiaries in fully developing their lands. It promulgated *DAR Administrative Order 9 (AO 9), series of 2009* on rules and regulations governing agribusiness ventures in agrarian reform areas. The *AO* identified and recognized different types of agribusiness partnerships with specific governing policies.

### Issues and Challenges

This shift from public spending to facilitating private investment in agriculture poses new challenges to the local farming communities as well as to the government.

Local farmers and communities will have to take on an additional role, that is, from primary producers to becoming business partners. This requires certain business intelligence and shrewdness in contract negotiation, risk management and handling disputes, among others.

Government also needs to adjust its role from program implementers to regulators of private agricultural investments. On top of its current functions, it will have to establish an information database, a monitoring and evaluation system and mechanisms to settle disputes.

Case studies and field documentation conducted by CSOs on agricultural investments cited a number of issues related to contracting and investment arrangements, impact on the community and the environment, governance, and implications on livelihood.

#### 1. Transparency and access to information

Important and basic documents, such as contracts between the investor and former landowner or with the farmers, have been found to be inaccessible. To make matters worse, farmers lack the technical or legal capacity to audit and examine financial documents. There were also reported cases wherein investors negotiated with spurious representatives of the community resulting to factions in the community. This only served as leverage to investors and put them in a position to take advantage of the divided community.

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<sup>10</sup> The various mechanisms allowed by DAR are elaborated in DAR A09.

## **2. Erosion of land tenure security and loss of livelihood**

Under CARP, land use rights and restrictions are relatively clear and straightforward. The same can be said of the policies and operational procedures of *DAR*. *DAR's AO9 series of 2006* on Agribusiness Ventures on Agricultural Lands recognizes land-related rights and defines procedures for transferring such rights in a manner that is transparent.

And yet, instances of physical and economic displacement of farmers still abound in agricultural investments, wherein investors impinge on the rights of farmers over their land. A case in point is the farmer cooperative in Davao del Norte. The farmers who were accorded with the Certificate of Land Ownership Award (CLOA) entered into a marketing agreement with its former landowner, who a year later assigned its rights over the contract to another corporation. At the end of the 10-year agreement, the farmer cooperative accumulated huge debts. As a way out, they entered into an agreement with the investor who took over the plantation's operations and management. The agreement was for two years and subject to extension until the cooperative could pay off its debts. The cooperative's financial situation did not improve with the takeover in 2008, but more than doubled its debt from that year until 2012. Now, they are in danger of losing their land.

In some cases, investors in search of more profitable ventures would offer to pay off farmers in exchange for their farms. For several farmers in Gimalas, Batangas, this meant more than leaving their farms, but waiving their rights as owners of the land. In return, they got a huge sum and a small lot for their houses.

These examples run contrary to the policy of the State to pursue a genuine agrarian reform program. Instead of establishing owner cultivatorship of economic-size farms as the basis of Philippine agriculture, the outcome painted an entirely different picture: the ubiquitous proliferation of farmworkers and landless farmers.

## **3. Lack of support to farmers in dispute resolution**

With overlaps in land tenure, murky negotiations, unfulfilled promises and deviations from the agreed development plan; it is not surprising for conflicts to arise in many of these agricultural investments.

As a means of addressing them, DAR is vested with jurisdiction over all matters involving the implementation of agrarian reform (Sec. 50 CARPER, Quasi-Judicial Powers of the DAR). Disputes involving ancestral lands are settled through the indigenous communities' own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices that are compatible with the national legal system and with internationally recognized human rights laws (Sec.15 IPRA). Meanwhile, cases related to the environment are taken care of by the DENR while those involving labor disputes are handled by DOLE (Eleazar, et al 2013).

Yet, given these mechanisms for lodging complaints, there is a perceived lack of support in prioritizing farmers, particularly in providing them with the much-needed legal support. Moreover, there is no systematic monitoring on how these conflicts are resolved or if investors complied with the agreement.

#### **4. Degradation of the Environment**

Encroachment of agriculture plantations in the watershed of Cagayan de Oro has been cited as a major contributory factor in the massive flooding during Typhoon Sendong (Washi), an occurrence that was unprecedented in the history of the city. Chemical contamination of the rivers and water system by pesticides has also been reported.

Up north in Semirara Island in Caluya, Antique, seaweed farms are being threatened not just by potential tourism development but by coal mining operations as well. When currents flow from Semirara, the coal dusts impact the seaweeds throughout Caluya resulting in disease and crop losses.

But government laws are not wanting. *PD 1151* or the *Philippine Environmental Policy* prescribes guidelines for EIA and compliance with environmental standards. What is needed is a strong monitoring and compliance mechanism towards a systematic review on how these environmental standards are being adhered to.

# Recommended Principles on rai

- rai and Free, Prior and Informed Consent (FPIC)
  - rai on land tenure security and human rights.
    - rai on settling disputes
- rai on natural resources, climate change mitigation and adaptation
  - rai on women, cultural heritage, landscapes, traditional knowledge and customary laws
- rai on livelihood improvement, food security and nutrition
  - Complementary policies and programs support rai

## 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.



# responsible agricultural investments

• Annexes

## List of References

- ASEAN Economic Blueprint, 2008.
- *DAO No. 16*. Addendum to *DAO 42*, which provides the regulations and Guidelines Governing the Establishment and Development of IFPs. April 20, 1992.
- *DAO No. 24, Series of 1996*. Socialized Industrial Forest Management Program.
- *DAO 99-53*. Regulations Governing the Integrated Forestry Management Agreement. December 23, 1999.
- *DAR Administrative Order No. 9 series of 2006* on Revised Rules and Regulations Governing Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas.
- Eleazar, F, et al. Improving Land Sector Governance in the Philippines: Implementation of Land Governance Assessment Framework (LGAF). A project coordinated by LETS in consultation with various stakeholders led by DENR and with support from the World Bank. August 2013.
- *EO 226*. The *Omnibus Investments Code of 1987*. June 16, 1987.
- Habito, C. and R. Briones. “Policies to Strengthen Productivity in the Philippines,” paper presented at the conference sponsored by the ASEM Trust Fund, AIM Policy Center, FIAS, PIDS and the World Bank, held in Makati City, June 27, 2005.
- *House Bill 6545*: An Act Instituting a National Land Use and Management Policy. Working Draft.
- *JAO 01-12*. Joint DAR-DENR-LRA-NCIP *Administrative Order 01-12*. January, 2012.
- Lim, E. & Catindig, M. (The People’s Campaign for Agrarian Reform Network, Ltd. - AR Now!). (2013). Agricultural Land Grabbing through Agribusiness Venture Arrangements with ARBs –Commodification of Right to Land: The Cases of the Hijo Agrarian Reform Beneficiaries Cooperative (HARBCO).



- Managing our land resources and securing our future: A Briefer on the National Land Use and *RA 8371. Indigenous People's Rights Act of 1997*. October 29, 1997. NAFC-DA in pdf format AFMA Review Final Report (June 2007) published electronically at <http://nafc.da.gov.ph/afma/about.php>
- *NCIP AO 3, series of 2012*. The revised guidelines on Free and Prior Informed Consent (FPIC) and related processes of 2012. April 13, 2012.
- NCIP 15th Year Anniversary of IPRA Press Kit, October 30, 2012
- Nerva, E. & delos Santos, K. (Center for Agrarian Reform and Rural Development – CARRD). (2013). Case Study: Agricultural Lands Converted to an Industrial Park in Gimalas, Batangas.
- Nerva, E. & delos Santos, K. (Center for Agrarian Reform and Rural Development – CARRD). (2013). Case Study: Unmonitored Leaseback Arrangement Enslaves Farmers in Sto. Niño, Capiz.
- *PD 1151. Philippine Environmental Policy*. June 6, 1977.
- *PD 705. Revised Forestry Code*. May 19, 1975.
- *Philippine Constitution*
- Ravanera R. and V. Gorra. Commercial pressures on land in Asia: An overview. International Land Coalition with IFAD and CIRAD. 2011.
- *RA 6657. Comprehensive Agrarian Reform Program*. June 10, 1988.
- *RA 8371. Indigenous People's Rights Act of 1997*. October 29, 1997.
- *RA 9367. Biofuels Act of 2006*. July 24, 2006.
- *RA 9513. Renewable Energy Act of 2008*.

- *RA 9700. Comprehensive Agrarian Reform Program – Extension with Reforms.* August 7, 2009.
- *RA 7160, the Local Government Code of 1991.*
- Ridao, A. (Pambansang Kilusan ng mga Samahang Magsasaka - PAKISAMA). (2013). Anticipated Effects of Commercial Tourism Investments on the Food Security, Local Culture and Economy, and Environment of Caluya, Antique, West Central Philippines.
- Tacujan, P. Protectionist clauses in the Philippine Constitution restrict the flow of foreign direct investment. *The Philippine Star*, June 3, 2013.
- *The Wall Street Journal*: “Del Monte’s Philippine Spinoff to Buy Parent for \$1.68 Billion”. October 12, 2013.
- United Nations (2009). “World Investment Report 2009: Transnational Corporations, Agricultural Production and Development.” United Nations Conference on Trade and Industry, September 17, 2009.





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