



NIGERIA

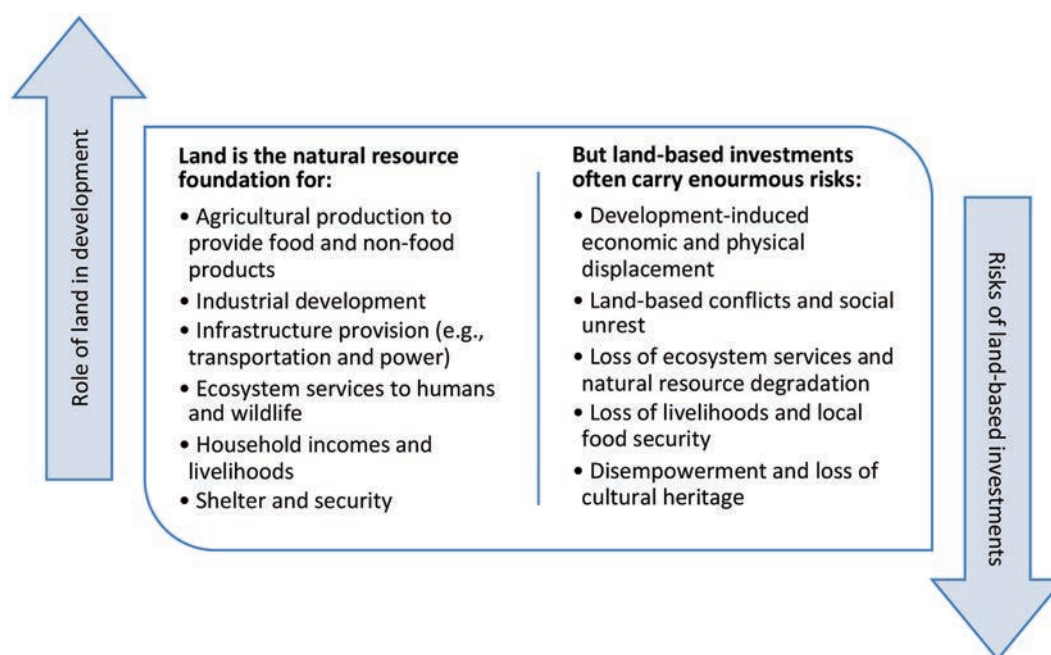
LAND REFORMS TO FACILITATE RESPONSIBLE AGRIBUSINESS INVESTMENTS

Policy note, June 2021

This note aims to discuss the critical elements and steps to implement the Framework for Responsible and Inclusive Land-Intensive Agriculture (FRILIA). The note draws upon the experience of World Bank-financed projects¹ that are developing and implementing FRILIA in Kaduna and Ogun States, and borrows significantly from a technical note² prepared to support FRILIA in Kaduna.

Role of Land in Development and Risks of Land-Based Investments

Key message # 1. Land plays a unique role in human and economic development by providing the fundamental natural resource for agricultural production, industrial development and physical infrastructure. However, land-based investments are often risky due to various social, environmental, and economic factors. Regulators and investors bear the responsibility to mitigate the risks and promote sustainable investments that generate widely shared benefits.



¹ The \$350 million Kaduna State Economic Transformation Program-for-Results (PforR), and the \$250 million Ogun State Economic Transformation Project.

² Towards Responsible Agricultural Investment in Kaduna State: Implementing the FRILIA Principles.

The Framework for Responsible and Inclusive Land-Intensive Agriculture (FRILIA)

Key message # 2. FRILIA aims to guide land administration in a manner that would maximize the role of land in development while effectively mitigating the risks of land-based investments. FRILIA is applicable to all forms of land use beyond agricultural purposes.

FRILIA derives from two internationally negotiated agreements on responsible land-based investments: (i) the Voluntary Guidelines on the Responsible Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT); and (ii) the UN Committee on World Food Security's Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI).

FRILIA principles are organized into the following four pillars:

1. Overarching principles to ensure that investments occur transparently and are consistent with and contribute to policy objectives such as poverty reduction, food security and job creation.
2. Principles on recognizing and protecting land rights, including rights rooted in statutory law, customary and traditional tenure systems.
3. Principles on state land acquisition and resettlement.
4. Principles related to ensuring environmental and social sustainability.

The four pillars of FRILIA principles aim to achieve the following goals:

1. Create an enabling environment for investments and improve investor confidence, thus mitigating conflicts arising from competing claims on land allocated to investors.
2. Facilitate sustainable economic development and growth rooted in environmental and social stability. FRILIA enables complementary investments on land in growth clusters (e.g., agribusiness, roads, waste management, educational institutions) and observes established environmental and social safeguards.
3. Protect the rights and economic opportunities of local communities to ensure they benefit optimally from large-scale investments, thus enhancing shared prosperity and broad-based welfare gains from land-based investments.
4. Enable participation of all stakeholders in decision making on land acquisition and utilization. This approach facilitates capacity building and transfer of technical know-how to local communities and empowers communities to participate in their own development.
5. Establish mechanisms for accountability of government institutions by providing toolkits and checklists to formalize the decision process on land acquisition and allocation.
6. Ensure effective mitigation of potential environmental and social risks associated with land-intensive investments.

Pillar 1: Overarching Principles: Transparency and Consistency with Development Policy Objectives

Key Principles	Actions to Apply Principles
<ul style="list-style-type: none"> • Investments should be consistent with and contribute to policy objectives, including poverty eradication, food security, sustainable land use, employment creation, and support to local communities. • Investments should occur transparently. • Land acquisition and related adverse impacts will as much as possible be minimized or avoided. • A range of investment and production models should be considered, including alternatives to large-scale transfer of land. FRILIA encourages the replacement of large-scale land acquisition and transfer with production models that include smallholders. • Investments should be subject to consultations with affected persons and communities, including with the disadvantaged and vulnerable, who are to be informed of their rights and assisted in their capacity to negotiate. • Communities have the opportunity and responsibility to decide whether or not to make land available, based on informed choices. • Investments should be monitored. 	<ul style="list-style-type: none"> • Conduct stocktaking of relevant development policy objectives for the state to inform FRILIA. • Create institutional arrangements for development and implementation of FRILIA to, among other objectives, allow a wide range of stakeholders to meaningfully participate in the process. • Develop a new investment approval process that aligns with stated principles. This would include updating or amending existing policy documents to reflect these principles. • Develop a due-diligence and guidance tool for screening investors and conducting preliminary assessments of investment proposals. • Develop an investment promotion strategy and plan that take advantage of FRILIA as a selling point. • Build state capacity to develop and supervise inclusive production models (e.g., out-grower schemes and joint ventures) as part of the state investment strategy and plan. • Conduct legal analysis to ensure that relevant inclusive production models are legally recognized in the state – and where necessary amend existing laws and regulations to the extent necessary to ensure the widest possible selection of inclusive production models. • Develop simple, yet comprehensive agreement templates that investors and smallholder farmers, among others, can use to govern their business relationships (e.g., out-grower contract forms, community partnership agreements). • Develop a monitoring plan for the investment lifecycle, including guidelines on what is to be monitored, who is responsible; create indicators and a schedule for how often each indicator should be measured, how and to whom reports should be submitted, and who should have access to them.



Pillar 2: Principles on Recognition and Protection of Land Rights

Key Principles

- **Safeguard against dispossession** of legitimate tenure-rights holders, consistent with the principle to avoid state acquisition of land in favor of inclusive business models that do not require transfer of tenure rights.
- **Identify systematically and impartially** existing legitimate rights, including customary and informal, and rights to common property resources.
 - Provide for the protection and enforcement of rights through **grievance redress mechanisms** that provides accessible and affordable procedures for third-party settlement of disputes, including but not limited to disputes arising from displacement or resettlement. These mechanisms should consider the availability of judicial recourse, including the Public Complaint Commission as established under the Public Complaints Commission Act 1975 (No. 31) (Chapter 377), and community and traditional dispute resolution mechanisms.

Actions to Apply Principles

- Carry out audits of land with legacy issues where government acquired land in the past and former landowners maintain grievances. The audits are a first step towards retroactively applying FRILIA to address legacy issues.
 - Develop effective grievance and dispute resolution processes with appropriate appeal mechanisms for claimants and customers. An effective grievance resolution process can provide an avenue for community members to raise concerns, identify and address risks, and provide valuable feedback on processes and activities that need to be improved.
 - Furthermore, the grievance redress mechanisms need to be proportional, culturally appropriate, accessible, transparent, accountable, and to offer protection to communities, including marginalized groups.
 - Develop procedures and guidelines for dispute resolution processes as needed. Templates for agreements between investors and tenure-rights holders should include such processes and mechanisms.
 - Require investors to establish an in-house GRM that is readily accessible to affected communities and uses a transparent procedure for addressing grievances.
 - Where appropriate, formalize customary and informal land rights to enhance sustainability of investments and reduce conflicts among farmers and between farmers and other users of land.



Pillar 3: Principles on State Land Acquisition and Resettlement

Key Principles	Actions to Apply Principles
<ul style="list-style-type: none"> • Compensation standards should be disclosed and applied consistently. • Economic and social impacts caused by land acquisition or loss of access to natural resources shall be identified and addressed, including cases of people who lack full legal rights to assets or resources they use or occupy. • Adequate compensation will be provided for purchasing replacement assets of equivalent value and to meet any necessary transitional expenses before taking of land or restricting access. • Supplemental livelihood improvement or restoration measures will be provided if taking of land causes loss of income-generating opportunities. • Public infrastructure and community services that may be adversely affected will be replaced or restored. • Displaced persons with land-based livelihoods should be offered an option for replacement land unless equivalent land is available. 	<ul style="list-style-type: none"> • Develop guidelines and train investors and the responsible MDAs in engaging in consultations with communities/local land-rights holders. The guidelines should include special accommodation for engagement of the most vulnerable and marginalized. • Identify or possibly establish mechanism for assisting affected persons and communities in developing their capacity to engage in consultations and negotiations. It can be done either as part of the Open Governance System (OGS) or by the state establishing a strong stakeholders engagement framework and plans to map, understand, engage, and ensure a transparent and responsive feedback system for all relevant stakeholders. This effort may require contracting with NGOs to provide this assistance, and/or creating community law centers. • Modify existing land acquisition procedures and compensation/resettlement standards to incorporate FRILIA principles. • Create community-friendly communications materials for dissemination to local government, civil society organizations and media outlets.



Pillar 4: Principles on Environmental and Social Sustainability

Key Principles	Actions to Apply Principles
<ul style="list-style-type: none"> • Safeguard against environmental damage, including actions that destruct/harm flora and fauna and hydrological formations (surface and ground water), or generate GHG emissions and other climate related impacts. • Investments should be preceded by independent assessments of potential positive and negative impacts on tenure rights, food security, livelihoods, and the environment. • Consider potential adverse impacts on physical cultural property and, as warranted, provide adequate measures to avoid, minimize, or mitigate such effects. • Promote community, individual and worker safety. • Promote fair treatment, non-discrimination and equal opportunity for workers and prevent all forms of forced and child labor, sexual exploitation, and gender-based violence. • Promote use of recognized good practices related to hazardous materials generated by agribusiness investments. 	<ul style="list-style-type: none"> • Assess existing environmental and social impacts assessments (ESIA) requirements for adherence to the environmental-related FRILIA Principles, ESIA service providers' capacity to apply those environmental principles, and FRILIA "one-stop shop" agencies capacity to evaluate those assessments. • Develop social impact criteria for inclusion in EIAs, and develop and implement a program to build capacity to conduct and evaluate social impact assessments, including mitigation measures. • Conduct assessments of existing land-based investments to develop a gender and vulnerable groups strategy for agribusiness investments in order to ensure equitable participation and benefits.



Farmland development in ecologically sensitive areas may require preservation of existing ecosystems.

Institutional Arrangements for FRILIA Implementation

1. Implementation of FRILIA principles begins with the creation of institutional arrangements to manage the processes. The institutional arrangements should allow a wide range of stakeholders to meaningfully participate in the processes, consistent with the overarching principle of transparency. The overall responsibility for developing and implementing FRILIA should rest with a state government agency – a “one-stop shop” with requisite technical capacity to lead the process and convening power to establish and facilitate the relevant multi-stakeholder technical working groups, committees and platforms. In addition to its own technical capacity, the agency would have technical linkages with the relevant MDAs to create a real “one-stop shop” for investors and create seamless user experience.

- The “one-stop shop” agency would be the port of call for potential investors, and the agency would be responsible to facilitate all necessary interactions between investors and other MDAs. For example, in Kaduna, the responsibility for FRILIA is vested with the Kaduna State Investment Promotion Agency (KADIPA).

2. Establishment of a multi-stakeholder Steering Committee to oversee development of FRILIA and ensure institutional coherence and effectiveness of implementation. A stakeholder mapping exercise should be used to inform the composition of the steering committee and ensure that senior officials from relevant MDAs are included.

- The steering committee would be supported by an administrative unit to create work plans, terms of reference and budgets as well as to coordinate meetings, among other tasks.

3. Creation of Technical Working Groups (TWG) based on the FRILIA pillars (one working group for each pillar) comprised of key technical experts from the government and non-governmental stakeholders. Members of the working groups would include:

- mid-level MDA staff with technical knowledge related to all relevant subjects assigned to the group; and
- representatives of investors, civil society and bilateral and multilateral institutions (such as the World Bank, FAO and DFID) with similar technical knowledge. The TWG would be supported by one or more technical consultants.

4. Creation of a multi-stakeholder platform that is regularly convened for consultations on key issues and communication of key outcomes. A multi-stakeholder platform (MSP) is a forum for all involved stakeholder groups to provide additional inputs and guidance to the steering committee and technical working groups. The MSP should meet early in the process and periodically while FRILIA implementation is in the early stages. The MSP could be organized under a communications committee, which would also be responsible for the development of a stakeholder engagement strategy and regular sharing of information with internal (governmental) and external stakeholders. The MSP should include:

- senior representatives of state government and representatives of district and local governments;
- representatives of CSOs, NGOs and investors; and
- traditional leaders and affected or potentially affected communities.

Cross-Cutting Technical Assessments

The key assessments required to inform the implementation of FRILIA include: (i) institutional capacity assessments; (ii) legal and regulatory assessments; (iii) financial assessments; and (iv) assessments of communications needs.



