**Supplemental Resource**

**Land Rights Assessment Tool Kit**

### How to Use this Resource

This tool kit accompanies Phase 2, Task 2, Step 4 of the Model Guidebook for Business Enterprises. It provides guidance on supplementing an environmental and social impact assessment (ESIA) with a deeper assessment of impacts to land rights, uses and livelihoods.

### Scope of the ESIA

Any ESIA or human rights impact assessment (HRIA) that a company conducts to comply with widely-accepted human rights standards[[1]](#endnote-1) and domestic laws and policies should also assess investment impacts on land rights, uses and livelihoods. The ESIA should be supplemented by analyses of the following:

* **How the potential acquisition would affect the amount of land available for food crop and other livelihoods production.** The analysis must go beyond the obvious agricultural and other land uses to include such things as gathered resources (including craft and production materials and medicinal and other resources obtained from the land), along with the economic benefits of naturally occurring and planted trees.
* **Identification and importance of agricultural use and infrastructure.** This could include commodity crops; food crops; non-agricultural livelihood strategies; water sources; agricultural inputs like seeds, fertilizers, and pesticides; market access; roads and transportation; and other infrastructure.
* **Existing and prospective spatial uses and boundaries**. This includes formally documented rights to the land, or any other identified and documented boundaries or governance rules.
* **Overlapping rights and uses.** Groups and individual land holders and users within the community may have overlapping rights and uses on the same parcels of land, including seasonal work or different crops grown by women and men. While assessing overlapping uses, any conflicts or disputes over land should be examined as well because they will probably have to be resolved to come to an agreement with community members.
* **Extent to which women and men have different perspectives on all issues discussed and examined during the assessment.** For example, women’s land uses may not be recognized by men and the broader community, and women may be more knowledgeable than men about plants grown or gathered for food or medicinal purposes, and may be able to provide more detailed information on sources and uses of water.[[2]](#endnote-2)
* **The full market and non-market value of the land**, which would include assessing livelihoods as well as social, cultural, religious, spiritual, and environmental values. The goal is to ensure that all land users receive full and equitable compensation for relinquishing their land rights.
* **The cost or value of any additional resources needed** to supplant or remedy the loss of livelihoods, including the reduction in food cropping. Resources could include new land, money, and alternative livelihoods opportunities (employment, household vocations, business enterprises, and other options).

### Resources for HRIA and ESIA

HRIA Tools

BSR, (2013), *Conducting an Effective Human Rights Impact Assessment,* available at: <http://www.bsr.org/reports/BSR_Human_Rights_Impact_Assessments.pdf>

Business and Human Rights Resource Centre, *Human Rights Impact Assessments,* <https://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-companies/type-of-step-taken/human-rights-impact-assessments>

Columbia Center on Sustainable Investment, (2017), *A Collaborative Approach to Human Rights Impact Assessments,* available at: <http://ccsi.columbia.edu/files/2014/05/A-Collaborative-Approach-to-HRIAs_Web.pdf>

Danish Institute for Human Rights*,* (2016),***Human Rights Impact Assessment Guidance and Toolbox,*** available at:[*https://business-humanrights.org/en/road-testing-toolbox-on-assessing-human-rights-impacts-of-business-projects-activities*](https://business-humanrights.org/en/road-testing-toolbox-on-assessing-human-rights-impacts-of-business-projects-activities)

Desiree Abrahams and Yann Wyss, United Nations Global Compact (2011), *Guide to Human Rights Impact Assessment and Management,* available at: <https://www.unglobalcompact.org/docs/issues_doc/human_rights/GuidetoHRIAM.pdf>

Global Compact Network Netherlands, Oxfam, Shift, (2016),***Doing Business with Respect for Human Rights: Assessing impacts,*** available at: <https://www.businessrespecthumanrights.org/en/page/344/assessing-impacts>

NomoGaia, (2012), ***Human Rights Impact Assessment Toolkit,***available at: <http://nomogaia.org/tools>

Rights & Democracy,***Getting it Right: Human Rights Impact Assessment Guide,*** available at: <http://hria.equalit.ie/en/index.html>

World Bank Group, (2013), *Human Rights Impact Assessments: A Review of the Literature, Differences with Other Forms of Assessments and Relevance for Development,* available at: <http://siteresources.worldbank.org/PROJECTS/Resources/40940-1331068268558/HRIA_Web.pdf>

ESIA Tools

IFC, *The Social and Environmental Impact Assessment Process,* <http://www.ifc.org/wps/wcm/connect/296ae980488551f5aa0cfa6a6515bb18/ESIA.pdf?MOD=AJPERES>

IFC, (2013), *Good Practice Handbook, Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets,* available at: <http://www.ifc.org/wps/wcm/connect/3aebf50041c11f8383ba8700caa2aa08/IFC_GoodPracticeHandbook_CumulativeImpactAssessment.pdf?MOD=AJPERES>

IFC, (2007), *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets,* available at: <http://www.ifc.org/wps/wcm/connect/938f1a0048855805beacfe6a6515bb18/IFC_StakeholderEngagement.pdf?MOD=AJPERES>

OECD, (2011), *OECD Guidelines for Multinational Enterprises*, available at: <http://www.oecd.org/daf/inv/mne/48004323.pdf>

Frank Vanclay, (June 2015), *Social Impact Assessment: Guidance for assessing and managing the social impacts of projects,* available at: <http://www.iaia.org/uploads/pdf/SIA_Guidance_Document_IAIA.pdf>

World Bank, (2017), *The Environmental and Social Framework,* available at: <http://documents.worldbank.org/curated/en/383011492423734099/pdf/114278-REVISED-Environmental-and-Social-Framework-Web.pdf>

### Community Assessment Interview Guides

This resource provides a starting point to guide interviews undertaken as part of the community assessment. The questionnaire provided here is comprehensive and includes considerable overlap between sections, in order to encompass as many contexts as possible. Not every investment will require asking all of these questions; they should be tailored to the specific investment inquiry and local context.

## District Agency: Key Informant Interview Guide

#### District governance structure

1. Position? How long have they been in their position?
2. Roles and Responsibilities? How are they involved in the investment process?
3. Land decision-making
4. District agency’s interaction with community
5. District agency’s interaction with customary authority
6. District agency’s interaction with companies
7. District agency’s interaction with CSOs

#### Nature of land rights granted and implications for investment activities and communal land rights

1. What are the types of land rights granted for investments?
2. Who participates in decisions about the granting of the land rights? And how does that affect the investments and communal/customary rights?
3. Do you have any recommendations on this issue?

#### Documentation, recording and registration of land rights

1. Do you document or record land rights? How? When? Triggers for documentation?
2. Is any documentation required for land for investments purposes? What kind of documentation?
3. Who bears responsibility for documentation? (the business enterprise? The seller/landlord?)
4. What are the costs involved? Who bears the cost? Is there a schedule of fees?
5. Does the cost influence allocation of land for investment purposes? Do cost prompt people to avoid registration?
6. What capacity exists within the existing community structures for land documentation?
7. Have you seen any effects of land documentation on investments? On local communities and customary rights holders? Has it changed how much land people acquire? Anything else?
8. Are land documents on lands you have allocated registered?
9. Benefits of registration? Effects of non-registration?
10. Who registers the land documents?
11. What are the associated costs for land rights registration? Who bears the cost?
12. Does registration trigger taxation? Does this discourage registration?
13. How accessible is the Lands Commission in your area?
14. What kind of linkages exists between you and the Lands Commission? Any special arrangement for registration of land document emanating from you?
15. What are the challenges?
16. Do you have any recommendations on this issue?

#### Land use planning

1. What roles do you play in land use planning in jurisdiction?
2. How does your role in land use planning influence allocation of land for investments decisions?
3. To what extent does planning decisions by the district government influence granting of land rights for investments? How does the regulation on land use work in practice?
4. What are the challenges?
5. Do you have any recommendations on this issue?

#### Consultation and engagement practices

1. Describe the consultation and engagement process used by business enterprises in your area
	* Who should be consulted and how?
	* In practice, how are the above mentioned consulted?
2. Are any efforts made to engage women?
	* What types of efforts? Is it important to engage women? Why or why not?
3. Are any efforts made to engage vulnerable groups such as pastoralists and youth?
	* What types of efforts? Which groups? Why those groups and not others?
4. How is information about agricultural investments disseminated?
	* How do men access information? Do women access information? How do women access information?
	* Do you believe men and women have equal access to information regarding planned and ongoing land-related investments?
5. How can women’s participation in land and investment deals be promoted? Any good practice examples from your experience?
6. Have you heard of the concept of Free, Prior, Informed Consent (FPIC)?
	* How is this understood and practiced locally?

#### Stakeholder roles (in practice) in land and agricultural investments in your area

1. When an investment in land or agriculture is being proposed, what are the steps to its approval?
	* What established customs underpin these steps?
	* Who are involved in the allocation and disposition of land? What informs their involvement?
	* What are their roles and responsibilities?
	* Do laws and/or policies inform how customary land is allocated or documented? How?
	* Is this allocation process (that you have described) standard to all customary areas, or does it vary from place to place?
	* What are the challenges with the current mode of allocation from your perspective? From the perspective of land users?
2. In practice, what role does the government play? (District? Regional? National?) Which offices or officers are engaged, and how?
3. Do CSOs play a role? At what point in the investment process? What is it?
4. Are there women in leadership positions in CSOs? Are they involved in the investment process? Do any of those CSOs represent the interests of women? How?
5. How do the different stakeholders that have been identified interact? How could these interactions be improved?
6. Are women represented in traditional or customary leadership?
	* Do those women take part in meetings on land-related investments? If so, what role do they play? Should that role be strengthened? If not, how can women be engaged? Should they be?

#### Land acquisition and compensation practices

1. How do business enterprises acquire land in your area? Does it depend on the amount of land acquired? Does acquisition vary in practice from the ways business enterprises should acquire land?
2. How do men in the community participate in land acquisition processes?
3. How do women in the community participate in land acquisition processes?
4. Do women participate in land acquisition decision making processes to the same extent as men?
	* Should women’s participation be increased?
	* How can women’s participation be increased?
5. Is a business enterprise required to undertake an impact assessment? When?
6. In practice, do business enterprises undertake investment impact assessments? Which? Why?
7. Who participates in undertaking impact assessments?
8. How do land acquisitions for agricultural investments impact men in your area?
9. How do land acquisitions for agricultural investments impact women in your area?
10. Have villagers in your area received compensation for any loss of land?
	* In what form(s) was the compensation paid?
	* Who pays? Government? Business enterprise?
	* How was the level of compensation determined and by whom?
	* Who received compensation? Families? Individuals? Villages?
	* Who controls how to use compensation?
	* Are women ever compensated directly/in their own names?
11. Have business enterprises paid compensation to community land owners before land acquisitions?
	* Was that compensation adequate and fair? How is that determined?
12. Are villagers paid compensation for their land?
	* Is that compensation fair, adequate, and timely? How is that determined? Are women’s land uses and rights (either or both formal and customary) recognized, valued, and compensated during the compensation process?
13. Do village men and women participate in the determination of compensation levels?
14. If village men and women are not satisfied with compensations, what do they do?
15. How would you rate the transparency and fairness of land acquisition deals in your area?
16. Do you believe there are opportunities for meaningful feedback on proposed land acquisition deals?
	* Are there any open dialogue forums between business enterprises and villagers?
	* If so, do women attend these as well as men? Are they encouraged to attend? Are their opinions heard?

#### Community mobilization, engagement and voice

1. What customary arrangements exist for community organization? Who leads?
2. How does the community engage with new and existing business enterprises? Who initiates engagement process; community or business enterprise? What issues prompt community engagements?
	* Where there are existing business enterprises:
		+ What are the challenges with community-initiated engagement with the company?
		+ Is any priority given to community members by the company in terms of permanent jobs, seasonal jobs, etc? What influence does the traditional authority have over this?
		+ Is there any community development intervention by the existing companies? What role do you play?
3. How successful has community-initiated engagement been? How does this influence land allocation for investment?
4. What are the major environmental issues in the community?
5. Do you have any recommendations?

#### Pastoralists

1. Are there pastoralists in the area?
2. What is the relationship between the fixed community and pastoralists?
3. What are the most common issues for pastoralists?
4. Any pastoralist leaders in the community in any capacity?
5. Do pastoralists attend village meetings? Actively engage? If not, why not?
6. Were there pastoralists using land being given to existing companies?
	* What were women using it for?
	* What were men using it for?
	* What time of the year were women using it?
	* What time of the year were men using?
7. Were pastoralist women and men consulted and engaged with during the process?
8. Were pastoralist women and men a part of the negotiations?
9. Did pastoralist women and men give their consent? What would happen if they said “no” to the investment?
10. How is pastoral land valued?
11. Was there compensation? Who determined the compensation?
12. Was the pastoral community involved in determining the compensation?
13. Where do pastoralists go if they need help resolving a land dispute about an investment?

#### Negotiation and contracting practices

1. What is the current process for negotiating a land contract?
	* Who participates and how?
	* In what ways do men in community participate in land-related investment negotiation and contracting?
	* In what ways do women in community participate in land-related investment negotiation and contracting?
	* Are these negotiations sensitive to the different needs and desires of women and men? How can this sensitivity be improved?
	* Are there opportunities for men and women to give meaningful feedback on proposed contracts? What types? Do women participate as well as men?
2. How can community needs be incorporated into the contracts?
3. Have you seen a land-related investment contract? What was included in the contract?
4. Who are parties to the contracts?
5. Was the community satisfied with the contracting process?
6. How long does it take for the contract to be completed?
7. Do you have access to land contracts?
8. Are final contracts publicized and who has access to the contracts?
9. Are there any investment oversight, liaison, or monitoring initiatives? What are they?
	* Who participates? Do women participate?
10. Have any interim agreements, such as memoranda of understanding (MOU) been made between business enterprises and local communities? District and business enterprises? Do any MOUs exist in this area currently?
11. How are investment contracts or any MOUs enforced and monitored? How could or should they be enforced or monitored?

#### Dispute resolution mechanisms

1. Are there land-related disputes between business enterprises and villagers in your area? What types of disputes?
2. If there are disputes of this type, how are they resolved? Which mechanisms exist?
* Do women ever access these dispute resolution mechanisms? Why or why not?
* Are these mechanisms considered fair? Are they fair for both men and women?
* Are these mechanisms accessible to all? What barriers are there? What do they cost to access?
* Are these mechanisms considered effective? Are their resolutions appropriate? How long does it take?
* Can decisions be appealed? To where and by who?
* How can these mechanisms be improved?
* Are there alternative dispute resolution mechanisms other than formal mechanisms?

#### Key challenges and opportunities

1. How well is the overall land and agricultural investment process working? What are some successes? Challenges?
2. What are the main challenges faced by villagers in the vicinity of investment areas?
	* + Are these challenges different for men and women? What are women’s challenges? How can these challenges be addressed?
3. Are there any initiatives to build the capacity of villagers in the vicinity of investment areas to enhance their ability to engage agricultural business enterprises? In this area, has any village land reverted back to villagers after an business enterprise failed to meet development conditions or the land lease ended?
4. Are there any other challenges, successes, or ideas for improvement you would like to share?

#### Technology considerations for communication strategies

1. What types of technology do you use (computers (laptop? desktop? tablet?), mobiles, etc.)
	* How do you connect to the internet?
	* Do you use apps on your phone? How many?
	* Do you use social media? Which sites?
2. How do you get information on the law? On land laws? Do you ever use technology? Which websites?
3. Do you like to get information by SMS? By email? Which do you prefer?
4. How do you prefer to get information (radio, TV, online, word of mouth, etc.)?
5. What are your biggest barriers to accessing information online? What has been the biggest help?

## Village Leaders and Traditional Authorities: Key Informant Interview Guide

#### Customary governance setup

1. Hierarchy of the village leaders / chieftaincy structure
2. Roles and responsibilities
3. Land decision-making
4. Role of queen mothers/family women
5. Do queen mothers/family women have any role in land allocation or decisions?
6. Village / customary leadership’s interaction with community
7. Village / customary leadership’s interaction with government agencies
8. Village / customary leadership’s interaction with companies
9. Village / customary leadership’s interaction with CSOs

#### Nature of land rights granted and implications for investment activities and communal land rights

1. What are the types of land rights granted for investments?
2. Who participates in decisions about the granting of the land rights? And how does that affect the investments and communal/customary rights?
3. Do you have any recommendations on this issue?

#### Documentation, recording and registration of land rights

1. Do you document or record land rights? How?
2. If not documented, how do you remember who has what land?
3. Is your land documented? Whose name is on the documents?
4. Is any documentation required for land for investments purposes? What kind of documentation?
5. Who bears responsibility for initiating documentation? (the business enterprise? The seller/landlord?)
6. What are the cost elements involved? Who bears the cost?
7. Does the cost influence allocation of land for investment purposes?
8. What capacity exists within the customary system for land documentation?
9. What are the effects of land documentation on investments in general?
10. What are the effects on local communities and customary rights holders?
11. Are land documents on lands you have allocated registered?
12. Benefits of registration? Effects of non-registration?
13. Who registers the land documents?
14. What are the associated costs for land rights registration? Who bears the cost?
15. How accessible is the Lands Commission in your area?
16. What kind of linkages exists between you and the Lands Commission? Any special arrangement for registration of land document issued by you?
17. What are the challenges?
18. Do you have any recommendations on this issue?

#### Land use planning

1. What roles do you play in land use planning?
2. How does your role in land use planning influence allocation of land for investments decisions?
3. To what extent does planning decisions by the district government influence granting of land rights for investments? How does the regulation on land use work in practice?
4. What are the challenges?
5. Do you have any recommendations on this issue?

#### Consultation and engagement practices

1. Describe the consultation and engagement process used by business enterprises in your area
	* Who should be consulted and how?
	* In practice, how are these people/groups now consulted?
2. Are any efforts made to engage women?
	* What types of efforts? Is it important to engage women? Why or why not?
3. Are any efforts made to engage vulnerable groups such as pastoralists and youth?
	* What types of efforts? Which groups? Why those groups and not others?
4. How is information about agricultural investments disseminated?
	* How do men access information? How do women access information?
	* Do you believe men and women have equal access to information regarding planned and ongoing land-related investments?
5. How can women’s participation in land and investment deals be promoted? Any good practice examples from your experience?
6. Have you heard of the concept of Free, Prior, Informed Consent (FPIC)?

Stakeholder roles (in practice) in land and agricultural investments in your area

1. When an investment in land or agriculture is being proposed, what are the steps to its review and approval?
	* Do established customs drive the different approaches?
	* Who are involved in the allocation and disposition of land? What informs their involvement?
	* What are their roles and responsibilities?
	* Do laws and/or policies inform how customary land is allocated or documented? How?
	* Is this allocation process (that you have described) standard to all customary areas, or does it vary from place to place?
	* What are the challenges with the current mode of allocation from your perspective? From the perspective of land users?
2. In practice, what role does the government play? (Village? District? Regional? National?) Which offices or officers are engaged, and how?
3. Do CSOs play a role? At what point in the process? What is it?
4. Are women in leadership positions in CSOs involved in the investment process? Do any of those CSOs represent the interests of women? How?
5. How do the different stakeholders that have been identified interact? How could these interactions be improved?
6. Are women represented in traditional or customary leadership?
	* Do those women take part in meetings on land-related investments? If so, what role do they play? Should that role be strengthened? If not, how can women be engaged? Should they be?

#### Land acquisition and compensation practices

1. How do business enterprises acquire land in your area? Does this vary in practice from the ways business enterprises should acquire land?
2. How do men in the community participate in land acquisition processes?
3. How do women in the community participate in land acquisition processes?
	* Do women participate in land acquisition decision making processes to the same extent as men?
	* How can women’s participation in land-related investments be increased?
4. Is a business enterprise required to undertake an impact assessment? When?
5. In practice, do business enterprises undertake investment impact assessments? Which? Why?
6. Who participates in undertaking impact assessment?
7. How do land acquisitions for agricultural investments impact men in your area?
8. How do land acquisitions for agricultural investments impact women in your area?
9. Have villagers in your area received compensation for any loss of land?
	* In what form(s) was the compensation paid?
	* Who pays? Government? Business enterprise?
	* How was the level of compensation determined and by whom?
	* Who received compensation? Families? Individuals? Villages?
		+ What compensation was paid? New land? New house? Money? Community projects? Jobs?
		+ Who controls how to use compensation?
		+ Are women ever compensated directly/in their own names?
10. Have business enterprises paid compensation to community land owners before land acquisitions?
	* Was that compensation adequate and fair? How is that determined?
11. Are villagers paid compensation when their land is transferred to general land?
	* Is that compensation fair, adequate, and timely? How is that determined?
12. Do village men and women participate in the determination of compensation levels?
13. If village men and women are not satisfied with compensations, what do they do?
14. How would you rate the transparency and fairness of land acquisition deals in your area?
15. Do you believe there are opportunities for meaningful feedback on proposed land acquisition deals?
	* Are there any open dialogue forums between business enterprises and government and community members?
	* If so, do women attend these as well as men?

Community mobilization, engagement and voice

1. What customary arrangements exist for community organization? Who leads?
2. How does the community engage with new and existing business enterprises? Who initiates engagement process; community or business enterprise? What issues prompt community engagements?
	* Where there are existing business enterprises:
		+ What are the challenges with community-initiated engagement with the company?
		+ Is any priority given to community members by the company in terms of permanent jobs, seasonal jobs, etc.? What influence does the traditional authority have over this?
	* Is there any community development intervention by the company? What role do you play?
3. How successful has community-initiated engagement been? How does this influence land allocation for investment?
4. What are the major environmental issues in the community?
5. Do you have any recommendations?

#### Pastoralists

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2. What is the relationship between the fixed community and pastoralists?
3. What are the most common issues for pastoralists?
4. Any pastoralist leaders in the community in any capacity?
5. Do pastoralists attend village meetings? Actively engage? If not, why not?
6. Were there pastoralists using land being given to existing companies?
	* What were women using it for?
	* What were men using it for?
	* What time of the year were women using it?
	* What time of the year were men using?
7. Were pastoralist women and men consulted and engaged with during the process?
8. Were pastoralist women and men a part of the negotiations?
9. Did pastoralist women and men give their consent? What would happen if they said “no” to the investment?
10. How is pastoral land valued?
11. Was there compensation? Who determined the compensation?
12. Was the pastoral community involved in determining the compensation?
13. Where do pastoralists go if they need help resolving a land dispute about an investment?
14. Where do pastoralists go if they need help resolving a land dispute about an investment?

Negotiation and contracting practices

1. What is the current process for negotiating a land contract?
	* Who participates and how?
	* In what ways do men in community participate in land-related investment negotiation and contracting?
	* In what ways do women in community participate in land-related investment negotiation and contracting?
	* Are these negotiations sensitive to the different needs and desires of women and men? How can this sensitivity be improved?
	* Are there opportunities for men and women to give meaningful feedback on proposed contracts? What types? Do women participate as well as men?
2. How can community needs be incorporated into the contracts?
3. Have you seen a land-related investment contract? What was included in the contract?
4. Who are parties to the contracts?
5. Was the community satisfied with the contracting process?
6. How long does it take for the contract to be completed?
7. Do you have access to land contracts?
8. Are final contracts publicized and who has access to the contracts?
9. Are there any investment oversight, liaison, or monitoring initiatives? What are they?
	* Who participates? Do women participate?
10. Have any interim agreements, such as memoranda of understanding (MOU) been made between business enterprises and local communities? District and business enterprises? Do any MOUs exist in this area currently?
11. How are investment contracts or any MOUs enforced and monitored? How could or should they be enforced or monitored?

#### Dispute resolution mechanisms

1. Are there land-related disputes between business enterprises and villagers in your area? What types of disputes?
2. If there are disputes of this type, how are they resolved? Which mechanisms exist?
	* Do women ever access these dispute resolution mechanisms? Why or why not?
	* Are these mechanisms considered fair? Are they fair for both men and women?
	* Are these mechanisms accessible to all? What barriers are there? What do they cost to access?
	* Are these mechanisms considered effective? Are their resolutions appropriate? How long does it take?
	* Can decisions be appealed? To where and by who?
	* How can these mechanisms be improved?
	* Are there alternative dispute resolution mechanisms other than formal mechanisms?

#### Key challenges and opportunities

1. How well is the overall land and agricultural investment process working? What are some successes? Challenges?
2. What are the main challenges faced by villagers in the vicinity of investment areas?
	* + Are these challenges different for men and women? What are women’s challenges? How can these challenges be addressed?
3. Are there any initiatives to build the capacity of villagers in the vicinity of investment areas to enhance their ability to engage agricultural business enterprises? In this area, has any village land reverted back to villagers after an business enterprise failed to meet development conditions or the land lease ended?
4. Are there any other challenges, successes, or ideas for improvement you would like to share?

#### Technology considerations for communication strategies

1. What types of technology do you use (computers (laptop? desktop? tablet?), mobiles, etc.)
	* How do you connect to the internet?
	* Do you use apps on your phone? How many?
	* Do you use social media? Which sites?
2. How do you get information on the law? On land laws? Do you ever use technology? Which websites?
3. Do you like to get information by SMS? By email? Which do you prefer?
4. How do you prefer to get information (radio, TV, online, word of mouth, etc)?
5. What are your biggest barriers to accessing information online? What has been the biggest help?

## Women and Men Smallholder and Community Members: Key Informant Interview and Focus Group Discussion Guide

In some cases, a focus group (group interview and discussion) can be the most effective means of understanding community dynamics and potential issues. In planning the discussion, it is important to carefully consider the participants’ roles and relationships in order to ensure that the conversation is as open as possible and does not put participants at risk. Holding separate focus groups for men and women is a good practice that can help to generate more open and nuanced discussions.

#### Household decision making

1. Who makes decisions in your household about your livelihood – about how you will feed yourselves and buy what you need?
2. What do you grow? Who grows it? Do you sell it? Do you consume it?
3. What are your family needs? For food? For your home? For health? For education? Transportation?
4. Who in your household made the decision to grow [*your crop(s)*]?
5. Regarding [*your crop(s)*] production in this area, are there specific activities that are the husband’s responsibility? The wife’s responsibility?
6. Who within the family makes decisions about how to spend income from [*your crop(s)*] production?
7. When do you receive income from [*your crop(s)*] production? From whom?
8. What is the income from [*your crop(s)*] production used for?
9. How important to your families’ livelihoods/survival is [*your crop(s)*] production? Does that income meet your families’ needs?

#### Ownership of land and other assets

1. Who owns your land?
2. How did you acquire the land you are farming (inherit, allocated, purchased, leased)? If inherited, who did it come to? Do you both own it? If the husband dies, can the wife keep it? Some of it? All of it?
3. Size of land?
4. Acquisition processes same for indigenes and strangers? Differences?
5. Do both women and men own land in your community?
6. Do both women and men lease in land? Lease out land? Who decides?
7. Any land disputes within community? How addressed? Same for men and women?
8. Any land disputes with neighboring communities (adjacent)? If so, how addressed?
9. What impact do land disputes have on acquiring land for investment by indigenes? Strangers? Companies?

#### Custom related to land

1. Who inherits the farmland being used for the outgrower scheme when a husband passes before wife? Widow and/or son/daughter? Does it depend on whether the couple has children?

#### Documentation, recording and registration of land rights

1. Do you document or record land rights? How?
2. If not documented, how do you remember who has what land?
3. Is your land documented? Whose name is on the documents?
4. Is any documentation required for land for investments purposes? What kind of documentation?
5. Who bears responsibility for initiating documentation? (the business enterprise? The seller/landlord?)
6. What are the cost elements involved? Who bears the cost?
7. Does the cost influence allocation of land for investment purposes?
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9. What are the effects of land documentation on investments in general?
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15. How accessible is the Lands Commission in your area?
16. What kind of linkages exists between you and the Lands Commission? Any special arrangement for registration of land document issued by you?
17. What are the challenges?
18. Do you have any recommendations on this issue?

#### Land use planning

1. What roles do you play in land use planning?
2. How does your role in land use planning influence allocation of land for investments decisions?
3. To what extent does planning decisions by the district government influence granting of land rights for investments? How does the regulation on land use work in practice?
4. What are the challenges?
5. Do you have any recommendations on this issue?

#### Consultation and engagement practices

1. Describe the consultation and engagement process used by business enterprises in your area
	* Who should be consulted and how?
	* In practice, how are these people/groups now consulted?
2. Are any efforts made to engage women?
	* What types of efforts? Is it important to engage women? Why or why not?
3. Are any efforts made to engage vulnerable groups such as pastoralists and youth?
	* What types of efforts? Which groups? Why those groups and not others?
4. How is information about agricultural investments disseminated?
	* How do men access information? How do women access information?
	* Do you believe men and women have equal access to information regarding planned and ongoing land-related investments?
5. How can women’s participation in land and investment deals be promoted? Any good practice examples from your experience?
6. Have you heard of the concept of Free, Prior, Informed Consent (FPIC)?

Stakeholder roles (in practice) in land and agricultural investments in your area

1. When an investment in land or agriculture is being proposed, what are the steps to its review and approval?
	* Do established customs drive the different approaches?
	* Who are involved in the allocation and disposition of land? What informs their involvement?
	* What are their roles and responsibilities?
	* Do laws and/or policies inform how customary land is allocated or documented? How?
	* Is this allocation process (that you have described) standard to all customary areas, or does it vary from place to place?
	* What are the challenges with the current mode of allocation from your perspective? From the perspective of land users?
2. In practice, what role does the government play? (Village? District? Regional? National?) Which offices or officers are engaged, and how?
3. Do CSOs play a role? At what point in the process? What is it?
4. Are women in leadership positions in CSOs involved in the investment process? Do any of those CSOs represent the interests of women? How?
5. How do the different stakeholders that have been identified interact? How could these interactions be improved?
6. Are women represented in traditional or customary leadership?
	* Do those women take part in meetings on land-related investments? If so, what role do they play? Should that role be strengthened? If not, how can women be engaged? Should they be?

#### Land acquisition and compensation practices

1. How do business enterprises acquire land in your area? Does this vary in practice from the ways business enterprises should acquire land?
2. How do men in the community participate in land acquisition processes?
3. How do women in the community participate in land acquisition processes?
	* Do women participate in land acquisition decision making processes to the same extent as men?
	* How can women’s participation in land-related investments be increased?
4. Is a business enterprise required to undertake an impact assessment? When?
5. In practice, do business enterprises undertake investment impact assessments? Which? Why?
6. Who participates in undertaking impact assessment?
7. How do land acquisitions for agricultural investments impact men in your area?
8. How do land acquisitions for agricultural investments impact women in your area?
9. Have villagers in your area received compensation for any loss of land?
	* In what form(s) was the compensation paid?
	* Who pays? Government? Business enterprise?
	* How was the level of compensation determined and by whom?
	* Who received compensation? Families? Individuals? Villages?
		+ What compensation was paid? New land? New house? Money? Community projects? Jobs?
		+ Who controls how to use compensation?
		+ Are women ever compensated directly/in their own names?
10. Have business enterprises paid compensation to community land owners before land acquisitions?
	* Was that compensation adequate and fair? How is that determined?
11. Are villagers paid compensation when their land is transferred to general land?
	* Is that compensation fair, adequate, and timely? How is that determined?
12. Do village men and women participate in the determination of compensation levels?
13. If village men and women are not satisfied with compensations, what do they do?
14. How would you rate the transparency and fairness of land acquisition deals in your area?
15. Do you believe there are opportunities for meaningful feedback on proposed land acquisition deals?
	* Are there any open dialogue forums between business enterprises and government and community members?
	* If so, do women attend these as well as men?

Community mobilization, engagement and voice

1. What customary arrangements exist for community organization? Who leads?
2. How does the community engage with new and existing business enterprises? Who initiates engagement process; community or business enterprise? What issues prompt community engagements?
	* Where there are existing business enterprises:
		+ What are the challenges with community-initiated engagement with the company?
		+ Is any priority given to community members by the company in terms of permanent jobs, seasonal jobs, etc.? What influence does the traditional authority have over this?
	* Is there any community development intervention by the company? What role do you play?
3. How successful has community-initiated engagement been? How does this influence land allocation for investment?
4. What are the major environmental issues in the community?
5. Do you have any recommendations?

#### Pastoralists

1. Are there pastoralists in the area?
2. What is the relationship between the fixed community and pastoralists?
3. What are the most common issues for pastoralists?
4. Any pastoralist leaders in the community in any capacity?
5. Do pastoralists attend village meetings? Actively engage? If not, why not?
6. Were there pastoralists using land being given to existing companies?
	* What were women using it for?
	* What were men using it for?
	* What time of the year were women using it?
	* What time of the year were men using?
7. Were pastoralist women and men consulted and engaged with during the process?
8. Were pastoralist women and men a part of the negotiations?
9. Did pastoralist women and men give their consent? What would happen if they said “no” to the investment?
10. How is pastoral land valued?
11. Was there compensation? Who determined the compensation?
12. Was the pastoral community involved in determining the compensation?
13. Where do pastoralists go if they need help resolving a land dispute about an investment?
14. Where do pastoralists go if they need help resolving a land dispute about an investment?

Negotiation and contracting practices

1. What is the current process for negotiating a land contract?
	* Who participates and how?
	* In what ways do men in community participate in land-related investment negotiation and contracting?
	* In what ways do women in community participate in land-related investment negotiation and contracting?
	* Are these negotiations sensitive to the different needs and desires of women and men? How can this sensitivity be improved?
	* Are there opportunities for men and women to give meaningful feedback on proposed contracts? What types? Do women participate as well as men?
2. How can community needs be incorporated into the contracts?
3. Have you seen a land-related investment contract? What was included in the contract?
4. Who are parties to the contracts?
5. Was the community satisfied with the contracting process?
6. How long does it take for the contract to be completed?
7. Do you have access to land contracts?
8. Are final contracts publicized and who has access to the contracts?
9. Are there any investment oversight, liaison, or monitoring initiatives? What are they?
	* Who participates? Do women participate?
10. Have any interim agreements, such as memoranda of understanding (MOU) been made between business enterprises and local communities? District and business enterprises? Do any MOUs exist in this area currently?
11. How are investment contracts or any MOUs enforced and monitored? How could or should they be enforced or monitored?

#### Dispute resolution mechanisms

1. Are there land-related disputes between business enterprises and villagers in your area? What types of disputes?
2. If there are disputes of this type, how are they resolved? Which mechanisms exist?
	* Do women ever access these dispute resolution mechanisms? Why or why not?
	* Are these mechanisms considered fair? Are they fair for both men and women?
	* Are these mechanisms accessible to all? What barriers are there? What do they cost to access?
	* Are these mechanisms considered effective? Are their resolutions appropriate? How long does it take?
	* Can decisions be appealed? To where and by who?
	* How can these mechanisms be improved?
	* Are there alternative dispute resolution mechanisms other than formal mechanisms?

#### Key challenges and opportunities

1. How well is the overall land and agricultural investment process working? What are some successes? Challenges?
2. What are the main challenges faced by villagers in the vicinity of investment areas?
	* + Are these challenges different for men and women? What are women’s challenges? How can these challenges be addressed?
3. Are there any initiatives to build the capacity of villagers in the vicinity of investment areas to enhance their ability to engage agricultural business enterprises? In this area, has any village land reverted back to villagers after an business enterprise failed to meet development conditions or the land lease ended?
4. Are there any other challenges, successes, or ideas for improvement you would like to share?

#### Technology considerations for communication strategies

1. What types of technology do you use (computers (laptop? desktop? tablet?), mobiles, etc.)
	* How do you connect to the internet?
	* Do you use apps on your phone? How many?
	* Do you use social media? Which sites?
2. How do you get information on the law? On land laws? Do you ever use technology? Which websites?
3. Do you like to get information by SMS? By email? Which do you prefer?
4. How do you prefer to get information (radio, TV, online, word of mouth, etc)?
5. What are your biggest barriers to accessing information online? What has been the biggest help?

## Farmers Associations – Focus Group Discussion Guide

#### Background and history

1. When was your association formed and why?
2. What are the objectives of the association?
3. What are the current activities of the association?
4. What benefits does the association provide?
5. How many members belong to the association?
6. How many of that number are women?
7. Women heads of household?

#### Functional and managerial structure

1. What are the main functions of the association?
2. Does the association have a constitution and bylaws? Has the constitution ever been reviewed? If so, why and when?
3. What is the organizational and leadership structure of the organization?
4. Who created the organizational structure? How do the leaders get selected?
5. Are there any women leaders in the association? If so, how many and what type of leadership position(s) do they occupy?
6. How is the association financed to perform its functions? Fees? Percentage of crops? How is this collected? All at once?
7. What are the main strengths of the association?
8. What are the main challenges facing the association?
9. What steps are being taken to address the challenges?

#### Land use planning

1. What roles do you play in land use planning?
2. How does your role in land use planning influence allocation of land for investments decisions?
3. To what extent does planning decisions by the district government influence granting of land rights for investments? How does the regulation on land use work in practice?
4. What are the challenges?
5. Do you have any recommendations on this issue?

#### Functional relationship with the company

1. Describe the association’s working relationship with the company?
2. Is the association’s working relationship with the company governed by its by-laws or other formal legal provisions?
3. In what ways does the association engage the company?
4. How does the association receive information from the company?
5. Does the association and or its members receive any services from the company? What type of services?
6. Are any such services adequate? Where are the gaps?
7. What are the main services that you currently need from the company? Are such services being provided?
8. What about the relationship with the company: is it going well?
9. What are the main challenges that the association has faced working with the company?
10. How does the association address any grievances with the company?
11. Do you work with other association or institutions other than the company? If so, in what areas do you engage other associations or institutions?

#### Functional relationship with association members

1. What are the membership requirements?
2. What are the dues/fees and when are they due?
3. What services and/ or support does the association provide to its members?
4. How does the association communicate with members? Frequency?
5. About what issues does the association at times communicate?
6. What are the key challenges facing members of the association?
7. How is the association addressing these challenges?
8. What types of grievances do members have?
9. What types of disputes do members have?
10. How does the association address out-grower grievances and disputes?

#### Produce supply agreements

1. Who are your main buyers?
2. Do you have any written contract with your buyers?
3. Who is involved in the contract negotiations?
4. What is the frequency of renegotiating contract?
5. What are the main terms of the contract with the company?
6. How does the association address any contract challenges between association and members?
7. How does the association address any contract challenges between the association and the company?

Technology considerations for communication strategies

1. What types of technology do you use (computers (laptop, desktop, tablet, etc.), mobiles, etc.)?
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## Pastoralists

#### Customary governance setup

1. Hierarchy of the leadership structure
2. Roles and Responsibilities
3. Land decision-making
4. Leadership’s interaction with farming communities
5. Leadership’s interaction with government agencies
6. Leadership’s interaction with companies
7. Leadership’s interaction with CSOs

#### Nature of land rights granted and implications for investment activities and communal land rights

1. What are the types of land rights granted for investments?
2. Who participates in decisions about the granting of the land rights? And how does that affect the investments and communal/customary rights?
3. Do you have any recommendations on this issue?

#### Documentation, recording and registration of land rights

1. Do you document or record land rights? How?
2. If not documented, how do you remember who has what land?
3. Is your land documented? Whose name is on the documents?
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14. How would you rate the transparency and fairness of land acquisition deals in your area?
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1. African Union, *Guiding Principles on Large Scale Land Based Investments in Africa* 6 (2014), *available at* <https://www.uneca.org/sites/default/files/PublicationFiles/guiding_principles_eng_rev_era_size.pdf>; (“Decisions on the desirability and feasibility of LSLBI are made based on independent, holistic assessment of the economic, financial, social and environmental costs and benefits associated with the proposed investment, throughout the lifetime of the investment.”); *see also* Food and Agricultural Organization, *Voluntary Guidelines on the Governance of Tenure, Fisheries, and Forests in the Context of Food Security* 4 (2012), *available at* <http://www.fao.org/docrep/016/i2801e/i2801e.pdf> (“Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others.”); UN Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights* 5 (UN Human Rights Council 2011), *available at*: <http://www.business-humanrights.org/Documents/UNGuidingPrinciples> (“In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”); World Bank Group, *Human Rights Impact Assessments: A Review of the Literature, Differences with Other Forms of Assessments and Relevance for Development* (2013), *available at* <http://siteresources.worldbank.org/PROJECTS/Resources/40940-1331068268558/HRIA_Web.pdf>. [↑](#endnote-ref-1)
2. Namati, *Community Land Facilitators Guide* 29 (2016). [↑](#endnote-ref-2)