

Creating an enabling environment

This note provides guidance on how to create an investment climate that is conducive to attracting high-quality, responsible investment in agriculture.

The investment climate needs to enable investors to survive, to thrive, and to contribute to the local community and the broader economy in a socially and environmentally responsible way. Investors in the agriculture sector noted a variety of factors that inhibit their ability to run successful operations. Failed or struggling investments have consequences that extend well beyond the financial losses that investors incur. An effective enabling environment contributes to the chances of investor success, which is in the interests of all stakeholders.



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RESPONSIBLE AGRICULTURAL INVESTMENT (RAI)

KNOWLEDGE INTO ACTION NOTES

The **UNCTAD–World Bank Knowledge Into Action Note Series** is a compendium of practical, thematic guidance documents for use by governments, investors, and other stakeholders in the implementation of responsible agricultural investment principles. Background and a complete list of notes are in *Note 1: Introduction*.



WHAT DOES FIELD RESEARCH SHOW?

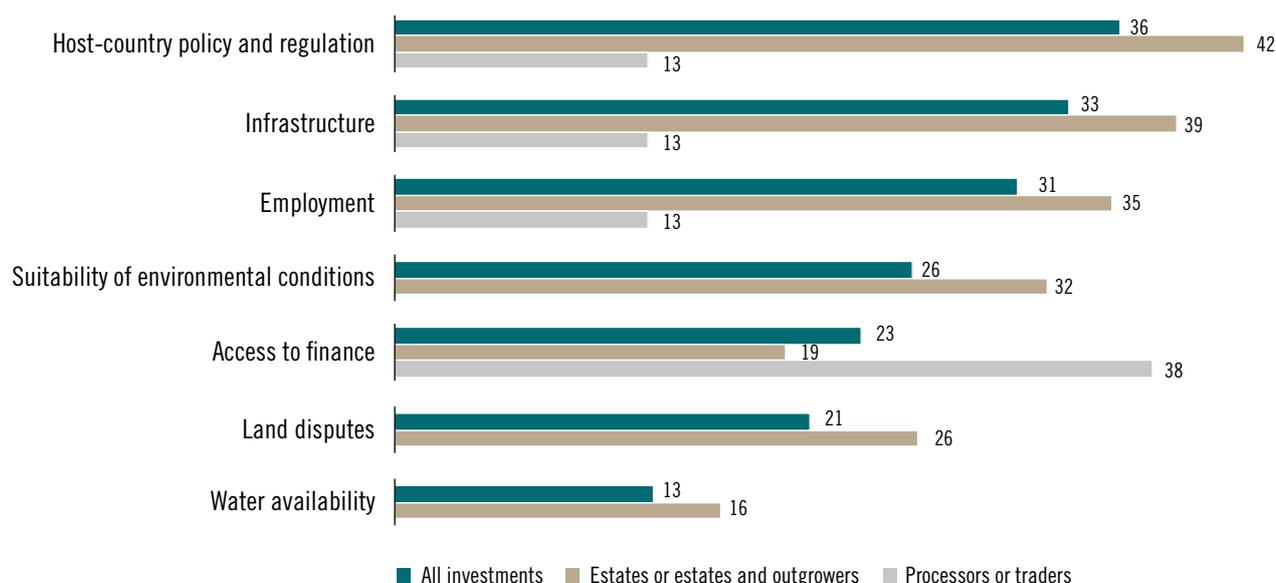
Regulatory constraints. Host-country policy and regulation was the most commonly cited constraint on investor operations (see figure 1). Excessive or poorly designed regulations, such as cumbersome procedures for importing replacement parts or obtaining export licenses, affect the costs and risks that investors face. The investment climate can also be too conducive, for example where overly generous investment incentives attract investors who have the financial capacity to acquire land at low (incentivised) prices, but not the subsequent funding to develop operations as promised.

Investment application procedures. In most countries, investors noted confusing and insufficient information about how to apply to establish an investment, what the procedural and informational requirements are, and which government agencies the investor needs to deal with. Information on investor screening and selection procedures was perceived to be inadequate (*Note 6: Screening prospective investors* covers guidance on screening procedures).

Process for land acquisition. Lack of clarity regarding the process for land acquisition was a frequent complaint. Several investors had been allocated land by governments but subsequently found their titles impossible to enforce in the face of existing claims on the land by local communities. In these cases, investors felt misled about the status of the allocated land and felt that in resolving the disputes that subsequently arose governments provided insufficient assistance, in part because the issue became politically sensitive and problems were easier to ignore than to address.

Government-conducted feasibility studies. Some investors felt that government-produced feasibility studies were overly optimistic so as to attract investors. As such, investors had difficulty implementing the business plans devised by governments. One investor, relying on a

Figure 1. Percentage of investors mentioning particular constraints on operations (Per cent)



Source: UNCTAD-World Bank Survey of Responsible Agricultural Investment Database.

deficient government-led feasibility study, acquired the rights to develop a rubber plantation on soil that was completely unsuited to growing the crop.

Government-conducted consultations. In some cases, governments claimed to have “prepared the land” in advance for investors—that is, to have resolved all community issues so investors could establish operations. But often, claims that all land conflicts had been resolved proved spurious, as investors arrived to find people living or working on the land and subsequently became embroiled in land disputes. This underscores the need for investors to retain primary responsibility for community consultation, as discussed in *Note 15: Community engagement strategies*.

Contract enforcement. Weak justice systems and the inability to enforce contracts exacerbated problems such as the land disputes reported in some cases. Investors who had been allocated land often faced competing claims to access rights. Weak justice systems made it difficult to address and resolve such claims.

Responsibilities of different bodies. Some investors thought that coordination between national and provincial authorities could have been better. Authorizations provided or incentives offered by local governments were not respected at the national level, and vice versa. Moreover, conflicts often appeared in the regulatory requirements and approval processes of the ministries with links to agriculture, such as those for land, environment, and investment.

Investment incentives. Many investors were confused about their eligibility for investment incentives and the process to apply for them, and received conflicting information from different ministries or tiers of government.

Regulatory changes. In some cases, the lack of stability of government requirements created problems for investors. Delays in approvals or licensing resulted in requirements shifting as policies changed, continually imposing a new set of requirements on investors. One investor claimed that its entire business model was undermined by an overnight reversal of tariff policy.

Access to infrastructure and social services. Investors thought that more could be done by governments to relax the constraints on developing an investment in a developing country—such as access to finance, infrastructure, sourcing of inputs, and employment. Investors said that too often much of the burden of providing services (for example, road construction or electricity) that would normally be the function of government fell on investors.

Import/export administration. Investors complained about excessive bureaucracy associated with obtaining authorization to export produce or to import inputs or equipment essential to operations. In one case, an investor was required to follow 33 steps to get its produce certified for export. This gave rise to rent-seeking activity from government officials, which negatively affected the investment climate.

✓ ELEMENTS OF GOOD PRACTICE FOR GOVERNMENTS

Investment facilitation is an important role played by all governments, and many institutions, including the World Bank and UNCTAD, support and guide this process. The World Bank’s Enabling the Business of Agriculture project, for instance, aims to help governments improve fundamental factors essential to raise the efficiency and quality of agricultural activity,

especially through policy dialogue and reform (box 1). UNCTAD's Global Action Menu for Investment Facilitation provides an overall approach to making improvements in investment facilitation in many sectors, including agriculture (box 2). Some measures specific to the agriculture sector and agribusinesses are worthy of note.

Investment applications and screening investors. It is preferable to maintain a single window or special enquiry point for all enquiries about investment policies and all applications to invest. There should be clear criteria and procedures for administrative decisions with respect to investment screening, appraisal, and approval mechanisms. As observed in *Note 6: Screening prospective investors*, for ease of doing business, it is preferable to have investors deal with one screening body, which may coordinate approvals from relevant ministries and agencies, rather than seeking separate approvals from multiple departments.

Box 1. Enabling the Business of Agriculture

The World Bank Group's Enabling the Business of Agriculture (EBA) project measures and monitors regulations that affect the functioning of agriculture and agribusinesses. The 2017 EBA report covers eight topics: seed, fertilizer, machinery, finance, markets, transport, information and communication technology (ICT), and water. Two overarching themes—gender and environmental sustainability—are also included in the EBA analysis, with a view to promoting inclusive and sustainable practices. Two additional topics—land and livestock—are being developed, and initial results are presented in the 2017 report.

Scored for EBA 2017



Cross-Cutting



The EBA aims to foster a more conducive environment for agribusiness. By providing key data on regulatory frameworks that are globally comparable and actionable, the EBA strengthens the information base that can be used for policy dialogue and reform. Such efforts can stimulate private sector activity and lead to more efficient and effective agriculture value chains.

Source: World Bank (2017).

Community relations. Governments can establish mechanisms for regular consultation and effective dialogue with investment stakeholders so as to identify and address issues encountered by investors and affected communities. Governments can support communities in their engagement with investors and act as a resource for information that promotes positive engagement, such as regulatory requirements, maps, resource plans, and the like. *Note 15: Community engagement strategies* provides further information.

Regulatory changes. As explained in *Note 8: Investment contracts*, stabilization provisions in investment contracts generally should be avoided. These clauses in the contracts freeze domestic laws at the time the contract is signed. That said, a reasonable degree of regulatory stability is important for investors to be able to plan, especially during implementation years, so as to break even.

Support infrastructure development. Agricultural investments must be supported by adequate rural infrastructure, such as power, irrigation, and transport and storage networks, to enable investors to run operations and transport produce to market. Although examples exist of investors funding of infrastructure facilities benefitting smallholders and promoting rural development in general, in many developing countries rural infrastructure is inadequate. Improving it requires promoting public-private partnerships for agro-infrastructure.

Clear and transparent process for land acquisition. Governments should ensure that their land policy is a clear, legislated framework, operating in a regulatory and administrative environment catering to the various acceptable forms of land tenure with appropriate legal recognition. It is important to create a legal environment suitable for the enforcement of land rights, be they formal or informal, and ensure the legal process is easily accessible by remote and poor rights-holders. For details, refer to *Note 11: Respecting land rights and averting land disputes*.

Box 2. UNCTAD's Global Action Menu for Investment Facilitation

An enabling environment is primarily related to investment facilitation—that is, making it easier for investors to establish or expand their investments, as well as to conduct their day-to-day business in host countries (UNCTAD, 2016). Investment facilitation works hand in hand with investment promotion—that is, the promotion of a location as an investment destination. Both activities must function in concert with the broader investment for development agenda.

1. Promote accessibility and transparency in investment policies and regulations and procedures relevant to investors.
2. Enhance predictability and consistency in the application of investment policies.
3. Improve the efficiency of investment administrative procedures.
4. Build constructive stakeholder relationships in investment policy practice.
5. Designate a lead agency, focal point, or investment facilitator with a mandate.
6. Establish monitoring and review mechanisms for investment facilitation.
7. Enhance international cooperation on investment facilitation.
8. Strengthen investment facilitation efforts in developing-country partners, through support and technical assistance.
9. Enhance investment policy and proactive investment attraction in developing-country partners through capacity building.
10. Complement investment facilitation by enhancing international cooperation for the promotion of investment for development, including through provisions in international investment agreements.

Source: Adapted from UNCTAD (2016). See document for details.

Smallholder access to finance and financial services. It is advisable to improve and expand schemes that provide access to finance for smallholders, to enable them to link with investors through outgrower schemes and contract farming. Governments should prioritize improvements in women's access to finance. Included here are the design of and support for appropriate multi-peril insurance products and effective financial transaction services.

Establishment of producer organizations. Support for cooperative arrangements among outgrowers can improve economies of scale and collective bargaining power, redressing to some extent the relational power difference between investors and producers—and can make it easier for investors to work with outgrowers.

Digital adoption. Although agriculture is perceived as a traditional sector in developing countries, it is becoming increasingly integrated with the digital economy. Smallholders can use mobile phones and applications to access information on weather and climatic conditions, to find market prices, to hire equipment, and to link with customers and suppliers along the value chain. Governments can enact policies that speed up digital adoption in the broader economy through investment in infrastructure and skills development, to provide smallholders with the ability to adopt and use Internet technology and services efficiently.

Import/export administrative procedures. Governments can reduce or streamline the time, cost, and administrative burdens involved in importing and registering seed, fertilizer, and machinery. Governments can also improve administrative procedures for the export of produce.

REFERENCES AND RESOURCES

This Note is complementary to the literature and guidance documents to which many organizations have contributed, a selection of which is provided below. Further resources are provided in *Note 2: Additional resources*.

DE LA MEDINA SOTO, C. & T. GHOSSEIN. (2013). [Starting a Foreign Investment across Sectors: Benchmarking the Ease of Establishing a Foreign Subsidiary across Economies](#). (World Bank: Washington).

GIZ & ODI. (2015). [Agricultural Development Policy: A Contemporary Agenda](#). (GIZ: Bonn and Eschborn).

UNCTAD. (2016). [UNCTAD's Global Action Menu of Investment Facilitation](#). (UNCTAD: Geneva).

UNCTAD. (2015). [Investment Policy Framework for Sustainable Development](#). (UNCTAD: Geneva).

WORLD BANK. (2017). [Enabling the Business of Agriculture 2017](#). (World Bank: Washington).



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