Land Policy and Maximizing Finance for Development

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RAI RESPONSIBLE AGRICULTURAL INVESTMENT


RAI • KN 11

Respecting land rights and averting land disputes

This note provides guidance on how to ensure that agricultural investments respect existing land rights, both formal and informal, and thereby avert land disputes.

Failure to respect land rights—in particular country- or region-specific land tenure systems and history, including use by pastoralists—has negative consequences for communities and other stakeholders. It is also financially damaging for investors who shortcut due process and end up spending time and money dealing with land disputes.

For the full Notes series please go to the Notes web page: www.worldbank.org/responsibleinvestment Alternatively use the QR code above.

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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?

Reduced access to land by local communities is the main negative impact of investments. The most common source of conflict between an investor and local communities arises when governments grant formal rights to land to investors over local people who have been living on and/or using the land. Such conflicts arise when local people's rights to land have not been surveyed, demarcated, or formally registered. In addition, the rights of pastoralists are seldom recognized. Consequently, many investors spend significant time and resources dealing with land disputes that could and should have been identified through a proper preparatory process, including good communication and a land audit.

Undocumented rights pose challenges and risks to investors. Many land investments in developing countries occur where there may be current use of or claims on the land by resource-poor farmers, communities, or pastoralists, who rely on the land for their subsistence. Every country has its own tenure system, with different levels of formalization of land rights and their protection in law. However, traditional societies within countries often do not have formal, documented land rights that investors can easily confirm at arm's length. Land managed under customary law is usually allocated on the basis of physical features and relational conventions within the community. Such rights are often weakly protected by national law but upheld under local customary conventions. Investors who do not understand both statutory and customary tenure regimes at the local level, have not undertaken a due diligence audit of the range of use rights (instead relying on government records or unverified verbal reporting) are likely to encounter land disputes. Some of these disputes have long-term negative impacts on the investor's reputation and on community–investor relations. Investors that communicated well with local people and undertook proper land audits of use rights, although costing time and money, had fewer land disputes.

Respecting land rights and averting land disputes | 1

1. Land Policy

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Challenges of land tenure in Africa

Customary Tenure

Recognition and protection of customary lands (90%)

Conflict

Land issues played significant role in almost all 30+ intra-state conflicts in Africa since 1990

Resettlement

Valuation and compensation

Gender

Women account for 70% of Africa's food production, but often do not have secure access to land.

Why land tenure matters for investment

- Undocumented rights and unsecured tenure pose challenges and risks to investors.
- Reduced access to land by local communities is the main negative impact of investments.
- Land issues played significant role in conflicts.
- Secure tenure provides incentives for land-attached investments and discourage unsustainable practices.

Complicated actors

Function	Government bodies in charge
Land administration	Executive agencies
Land management	Municipalities, Ministry of Land, Agriculture, Environment, Mining, Transportation…

Other stakeholders include:
local communities, local “users” of the land, traditional authorities, state government

What offers

- Land sector diagnostics
- Land law and policy advice
- Demarcation/surveying with new technologies
- Land rights information management systems
- Land valuation and taxation
- Public land management
- Monitoring & Evaluation
- Resettlement expertise

Examples of World Bank projects

Ghana Land Administration Project 2

- Strengthening Policy, Legal, and Regulatory Framework for Land Administration
- Decentralizing Business and Service Delivery Processes
- Improving Maps and Spatial Data

Uganda Competitiveness and Enterprise Development Project

- Modernizing the Geodetic network; producing digital maps
- Developing computer assisted mass appraisal for property valuation
- Registering communal and individual land
- Strengthening land administration and dispute resolution institutions

Ethiopia: Sustainable Land Management Project-II

- Rural Land Administration and Certification
- Supporting the process of awarding individual land certificates, as an incentive to increase the adoption of sustainable land and water management technologies and practices

Examples of World Bank projects (2)

Senegal: Sustainable and Inclusive Agribusiness Project

- Support to land management reforms
- Technical assistance to rural communities and local small-scale farmers to engage with private investors

Burkina Faso: Third Phase Community Based Rural Development Project

- Implementation of the Rural Land Legislation
- Enhancement of Local Dispute Resolution Mechanisms

Kenya: Informal Settlements Improvement Project

- Detailed mapping and demarcation of boundaries for existing slums
- Preparation of local physical development plans
- Establishment of GIS database for slums
- Surveying of individual plots and preparation of registry index maps

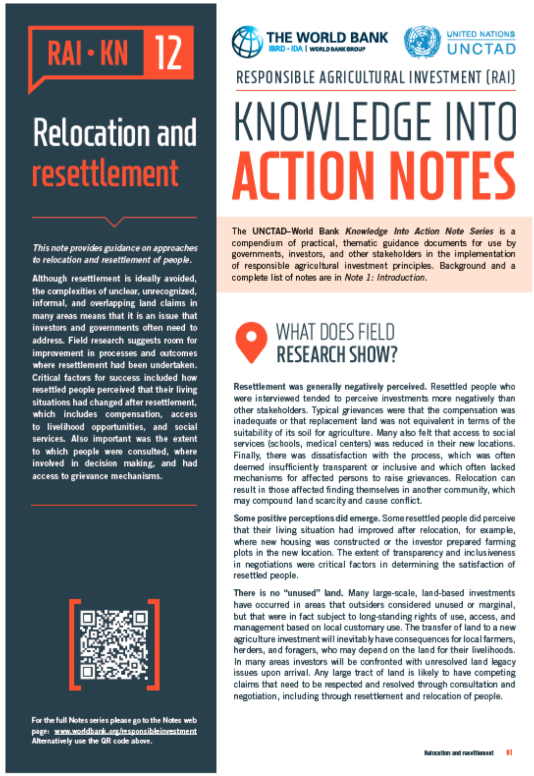
What RAI research shows

www.worldbank.org/responsibleinvestment

How to ensure that agricultural investments respect existing land rights, both formal and informal, and thereby avert land disputes.

Key good practices for investors:

- Research the context
- Engage with communities
- Establish Free, Prior, and Informed Consent of communities
- Conduct land audits
- Undertake mitigation measures
- Collaborate
- Compensate fairly
- Be prepared to walk away
- Set up grievance mechanisms



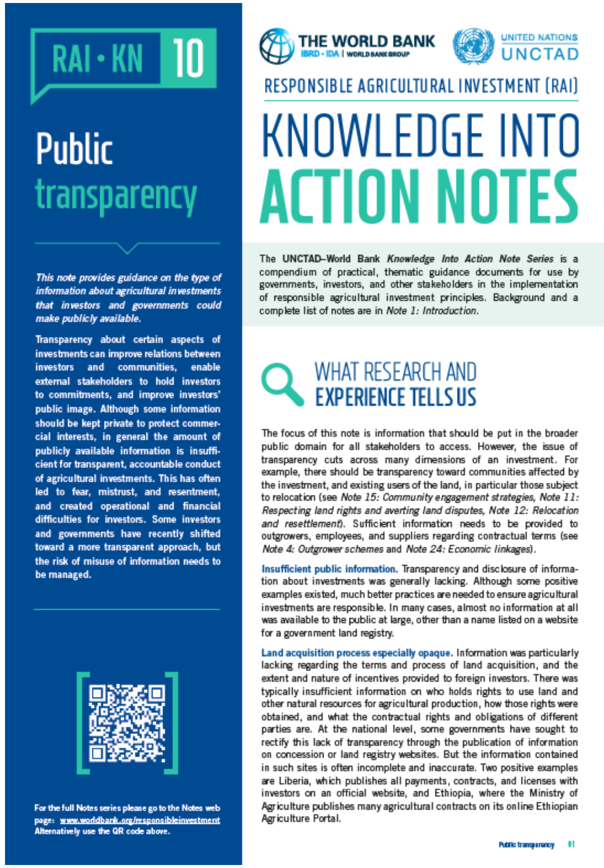
Guidance on approaches to relocation and resettlement of people affected by investments.

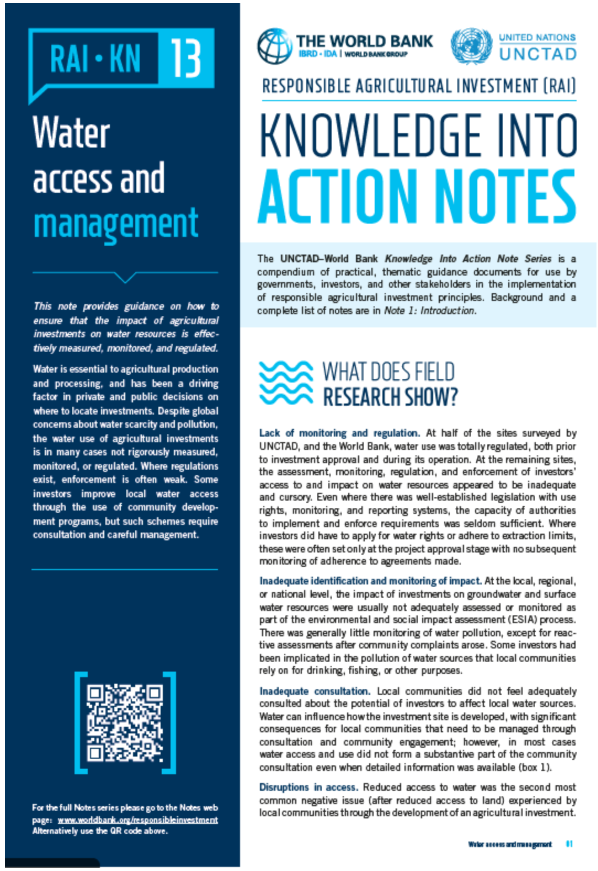
Key good practices for governments:

- Establish national guidance in line with international best practice
- Monitor resettlement conduct by investors
- Support programs for resettled persons
- Use of the contract

What RAI research shows (2)

Related topics include: Public transparency, Water access, and Environmental and social impact assessments





What EBA land indicators measures

http://eba.worldbank.org/

- Enabling the Business of Agriculture (EBA) examines and monitors regulations that impact how markets function in the agriculture and agribusiness sectors.
- EBA land indicators measure laws and regulations that impact access to land markets for producers and agribusinesses.

COVERAGE, RELEVANCE AND CURRENCY OF RECORDS FOR PRIVATE LAND

Coverage and ease of use
- Type of system for archiving information on land ownership
- Type of system for archiving maps
- Link between property ownership registry and mapping system
- How immovable property is identified

Visibility of restrictions on land records
- Online linkage to bans for registering mortgages
- Online linkage to enter public encumbrances
- Online linkage for the judiciary to record civil disputes pertaining to a parcel

STATE LAND MANAGEMENT

Record information on state-managed land
- State land is registered
- State land is mapped
- Field-based process

Transfer of state land for commercial use
- Public tender mechanism
- Transparency and monitoring of contractual obligations

EQUITY AND FAIRNESS

Gender dimension of land records
- Gender information kept at the registry
- Regular reporting on gender-disaggregated statistics

Freedom of leasing
- Standardized lease contracts
- Negotiation on rental rates
- Legal restrictions on minimum duration on the leases

Procedural safeguards in case of expropriation
- Eligibility of compensation
- Out-of-court arbitration process
- Market value compensation (land, improvements, standing crops)
- Appeal process
- Safeguard on compensation

Where we are

- Broader recognition that land tenure is crucial
- Introduction of land policy at national level
- Implementation of land policy
  - Pilot
  - Scaling up: <u>real up-take</u>

We are here!
African governments requesting WB support for scaling programs to national scale

Challenges:

- Numerous pilots: small, dispersed and lacking integration
- Risk of failure or money poorly spent if conditions for scaling go unmet

Key Questions:

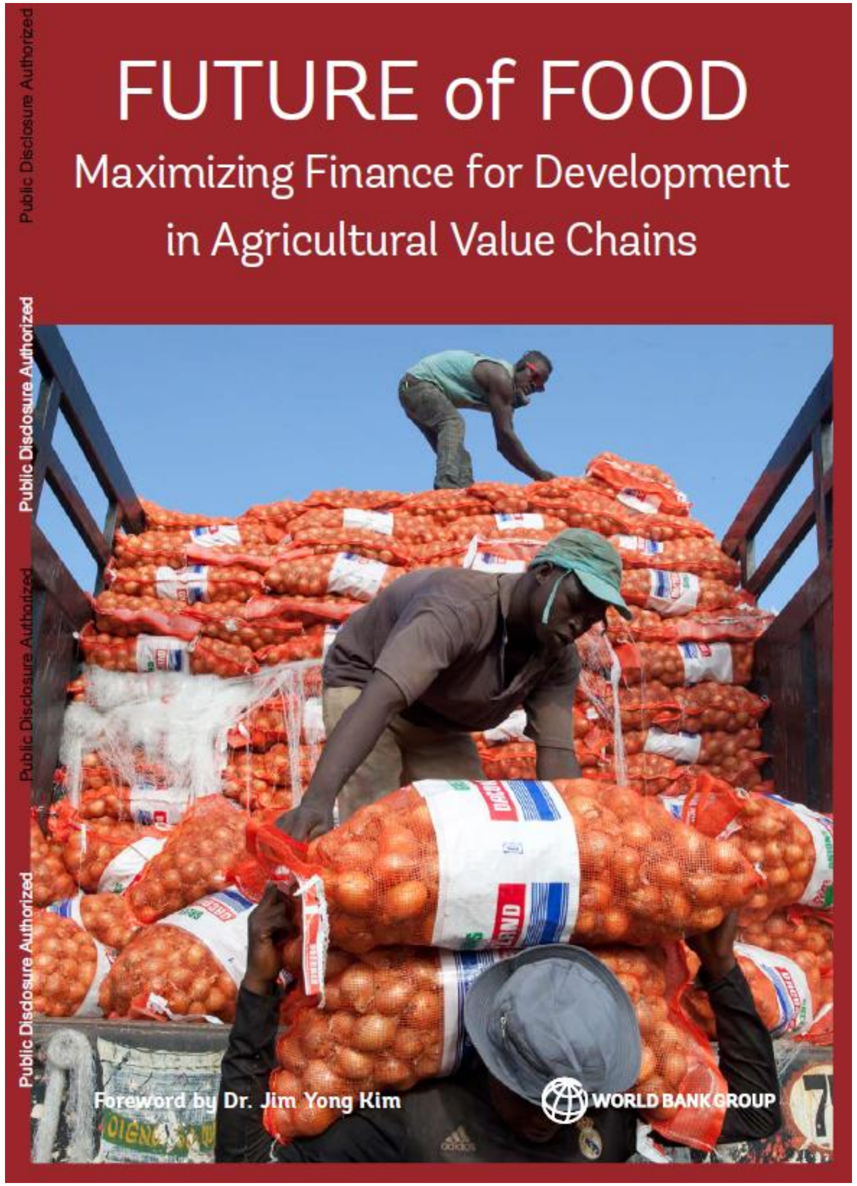
- How to transition from pilots to national coverage
- How to confront challenges, constraints & risks in scaling
- What are conditions & prerequisites for successful scaling and mass registration

What is needed?

- Global and bilateral dialogue
- Global guidelines such as VGGT(*) and CFS-RAI(**)
- Numerous researches

=> But still, relatively limited uptake in regional level.

We need to think/approach differently to tackle with this issue.



2. Maximizing Finance for Development in Agricultural Value Chains

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Maximization of Finance for Development (MFD)

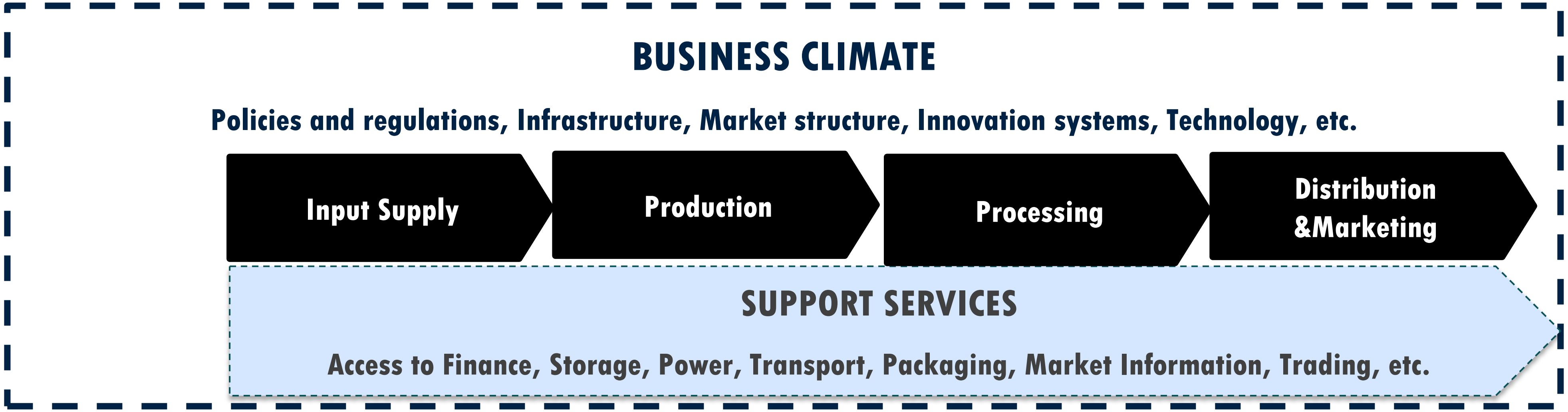
- Commercial agriculture is not a standalone sector it is dependent on water, energy, infrastructure and ICT.
- Furthermore, private finance for the sector is limited primarily due to these factors (among others):
    - Risk Profile – including climactic and market risks, especially with perishable products.
    - Political interference – importance to economies and food security.
    - Scale – commercial investments are small in relation to other sectors (on-farm are even smaller).
    - Fragmentation – supply chains are disjointed and rely on multiple intermediaries.
- MFD is not just about finance

MFD – WHY, WHAT and HOW

- Current levels of investment in agriculture value chains are insufficient to achieve the potential contribution of agriculture to key development goals.
  - Need to increase from billions to trillions in investments, spanning public and private, local and global.
- Crowding-in private investment requires:
  - Increasing space for private sector activities by, including by better focusing scarce public finance on public goods/services
  - Improving policy and regulatory environment which contribute to market failures and limited private sector participation
  - Improving incentives and reducing transaction costs and risks for private investment
- Requires diagnostics that are more oriented to private sector, and include a structured, inclusive public-private dialogue to inform a robust reform and investment program.

Agricultural Value Chain “Ecosystem”

- Agriculture value chains comprised largely of small-scale and some large-scale participants
  - 450 million private smallholder farmers—subsistence and commercial
  - SMEs dominate input suppliers, traders, processors, distributors and marketers
- Value chain is an interdependent “ecosystem”
- Potential “disruptive” changes to agriculture value chains:
  - Urbanization and changing dietary preferences
  - Technology – digital, physical, scientific



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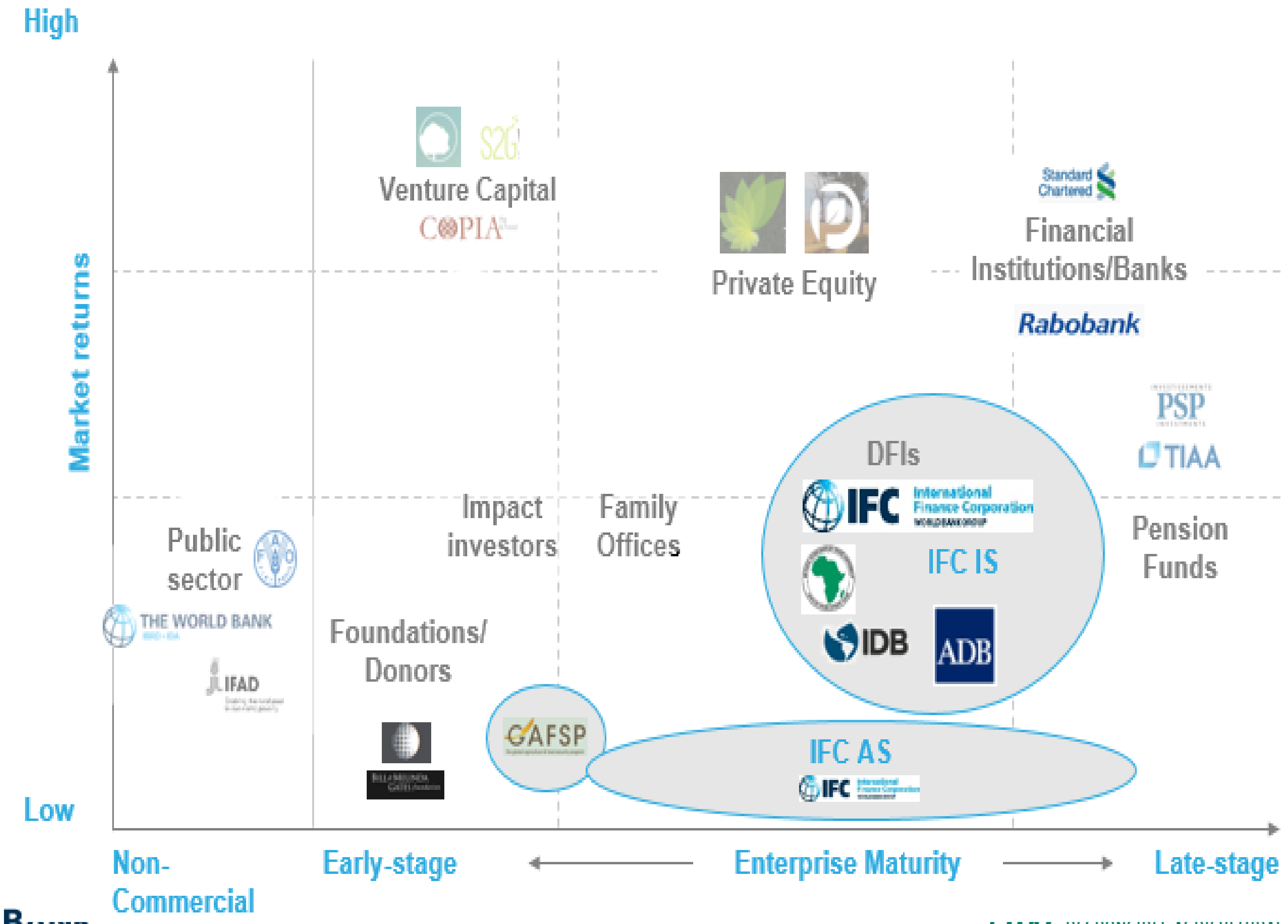
Agriculture Sector Financiers – current position (for illustrative purposes)



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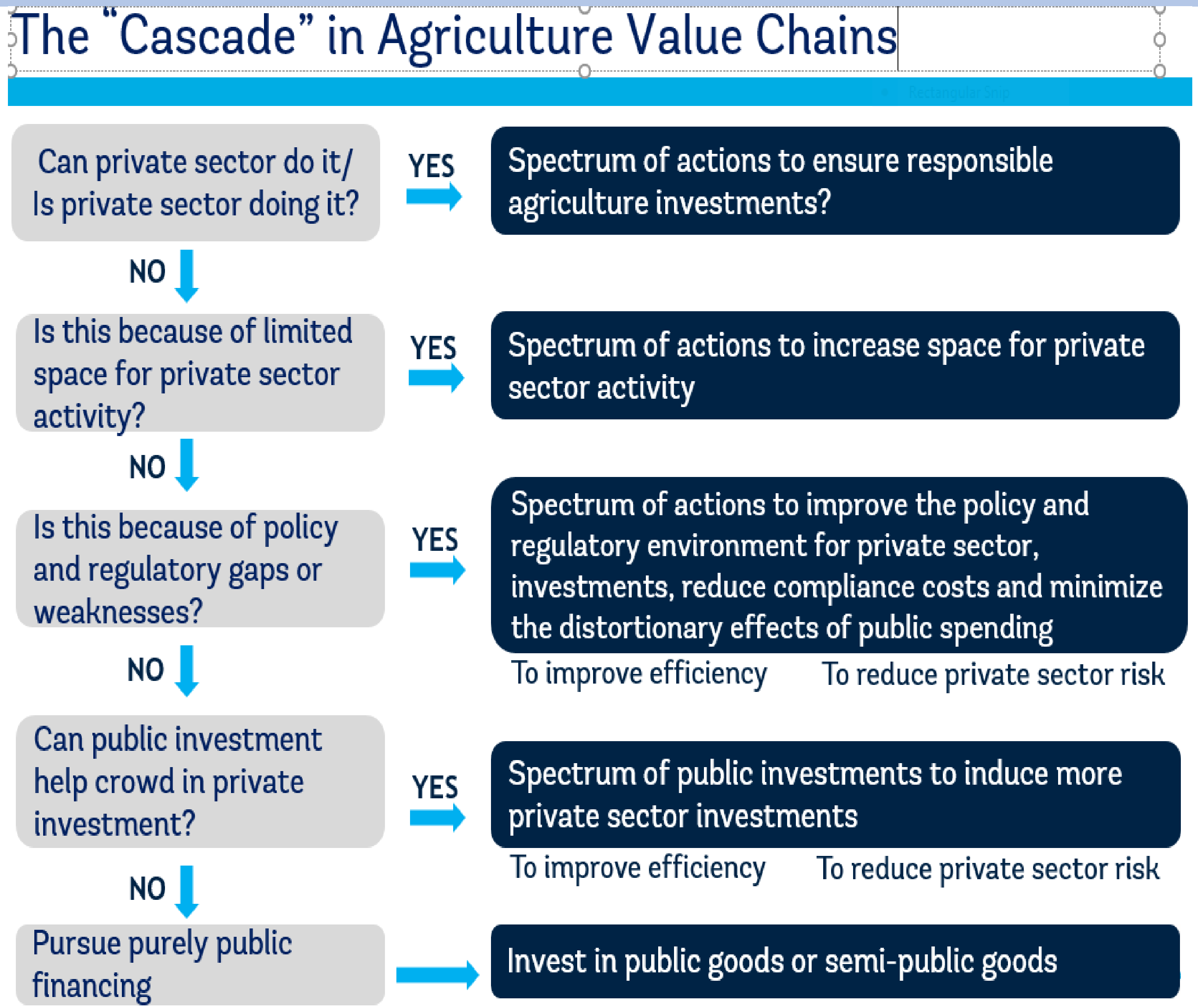
Assessing underlying causes of market failure

- Environmental and social concerns
- Concentrated market power, and reduced competition due to direct public participation
- Public policies and regulations that exacerbate market failures
- High transactions costs and risks
- Limited public goods and service



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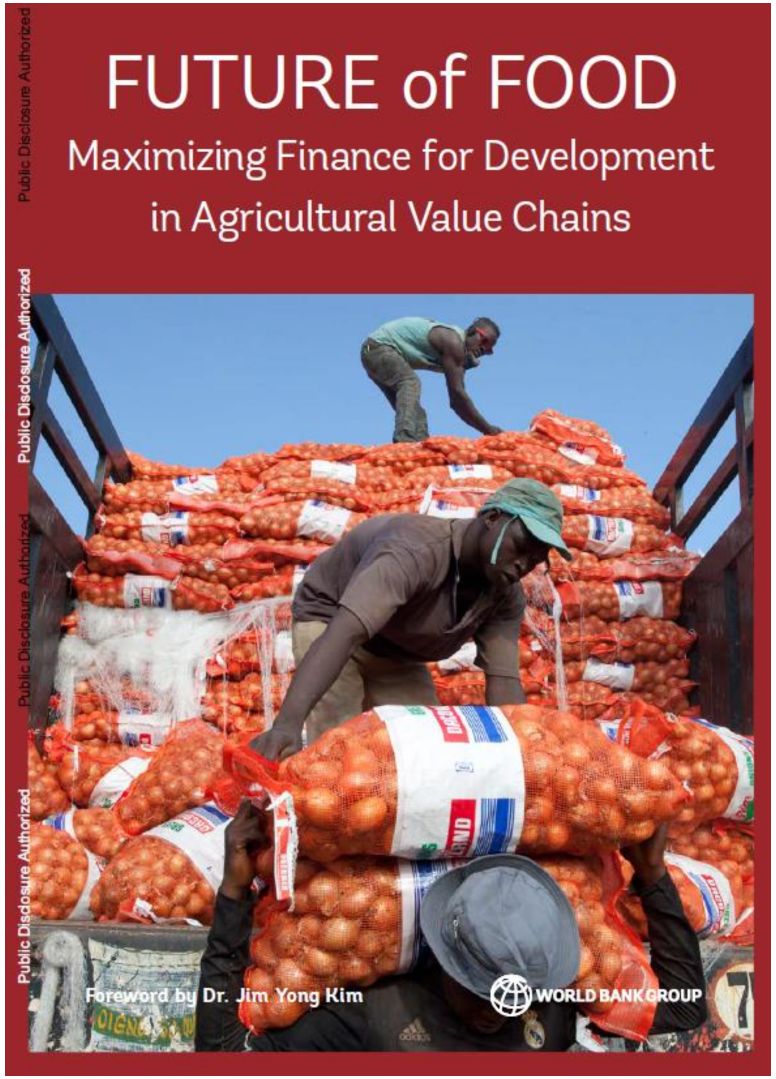
Future of Food: MFD in Agricultural Value Chains



Townsend, Robert; Ronchi, Loraine; Brett, Chris; Moses, Gene. 2018.

Future of Food : Maximizing Finance for Development in Agricultural Value Chains.

World Bank, Washington, DC.

https://openknowledge.worldbank.org/handle/10986/29686

Thank you

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