

# Politique Foncière et Maximisation des financements pour le développement

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## Respecter les droits fonciers et éviter les conflits fonciers

*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](http://www.worldbank.org/responsibleinvestment)  
Alternatively use the QR code above.

## Le savoir dans des Fiches d'action

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*.



### Que renseigne la recherche sur le terrain?

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.

# 1. Politique Foncière

# Défis des régimes fonciers en Afrique

Mode d'occupation traditionnel

Reconnaissance et protection des terres coutumières (90%)

Conflit

Les problèmes fonciers ont joué un rôle important dans presque tous les conflits (30 et +) internes en Afrique depuis 1990

Réinstallation

Évaluation et compensation

Genre

Les femmes représentent 70% de la production alimentaire de l'Afrique, mais n'ont souvent pas accès à la terre.

# Pourquoi le régime foncier est important pour l'investissement ?

- Les droits non documentés et les droits fonciers non garantis représentent des défis et des risques pour les investisseurs.
- Le faible accès à la terre par les communautés locales est le principal impact négatif des investissements.
- Les questions foncières ont joué un rôle important dans les conflits.
- La sécurité d'occupation offre des incitations pour les investissements fonciers et décourage les pratiques non durables.

# Acteurs complexes

Fonction	Organismes gouvernementaux en charge
Administration Foncière	Agences d'exécution
Gestion foncière	Municipalités, Ministères en charge du Foncier, de l'Agriculture, de l'environnement des Mines, du Transport,...

Les autres parties prenantes comprennent:  
communautés locales, "utilisateurs" locaux des terres, autorités traditionnelles,  
Gouvernement Central

# Qu'est ce qui est offert ?

- Diagnostic du secteur foncier
- Conseils sur le droit et la politique foncière
- Délimitation / nouvelles technologies de levée
- Systèmes de gestion de l'information sur les droits fonciers
- Évaluation foncière et fiscalité
- Gestion des terres publiques
- Suivi et évaluation
- Expertise de réinstallation

# Exemples de projets de la Banque mondiale

## Projet d'administration foncière du Ghana 2

- Renforcement du cadre politique, juridique et réglementaire pour l'administration des terres
- Décentralisation des processus opérationnels et de prestation de services
- Amélioration des cartes et des données spatiales

## Projet d'amélioration de la compétitivité et du développement des entreprises en Ouganda

- Moderniser le réseau géodésique pour la production de cartes numériques
- Réalisation d'une évaluation de masse assistée par ordinateur pour l'évaluation des propriétés
- Enregistrement des terres communales et individuelles
- Renforcement des institutions d'administration foncière et de règlement des différends

## Ethiopie: Projet de gestion durable des terres-II

- Administration du foncier rural et délivrance de titres
- Soutenir le processus d'attribution des titres fonciers individuels, comme incitation à augmenter l'adoption de technologies et de pratiques de gestion durable des terres et des eaux

# Exemples de projets de la Banque mondiale (2)

## **Sénégal: Projet agroalimentaire durable et inclusif**

- appui aux réformes de la gestion foncière
- Assistance technique aux communautés rurales et aux petits agriculteurs locaux pour dialoguer avec des investisseurs privés

## **Burkina Faso: Projet de développement rural communautaire, troisième phase**

- Mise en place d'une législation foncière rurale
- Amélioration des mécanismes locaux de règlement des litiges (conflits)

## **Kenya: Projet d'amélioration des établissements informels**

- Cartographie détaillée et détermination des limites des bidonvilles existants
- Préparation de plans locaux d'aménagement spatial (physique)
- Mise en place d'une base de données SIG pour les bidonvilles
- Enquêtes sur les parcelles individuelles et préparation de cartes d'indexation du registre




# Ce que la recherche IAR a montré

**RAI - KN 11**

## Respecting land rights and averting land disputes

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**WHAT DOES FIELD RESEARCH SHOW?**

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Respecting land rights and averting land disputes 11

Comment faire en sorte que les investissements agricoles respectent les droits fonciers existants, tant formels qu'informels, et éviter ainsi les conflits fonciers ?  
Principales bonnes pratiques pour les investisseurs:


- Rechercher le contexte
- S'engager avec les communautés
- Établir un consentement libre, préalable et éclairé avec les communautés
- Effectuer des audits fonciers
- Entreprendre des mesures d'atténuation
- Collaborer
- Compenser équitablement
- Soyez prêt à partir
- Mettre en place des mécanismes de réclamation

**RAI - KN 12**

## Relocation and resettlement

*This note provides guidance on approaches to relocation and resettlement of people.*

Although resettlement is ideally avoided, the complexities of unclear, unrecorded, informal, and overlapping land claims in many areas means that it is an issue that investors and governments often need to address. Field research suggests room for improvement in processes and outcomes where resettlement had been undertaken. Critical factors for success included how resettled people perceived that their living situations had changed after resettlement, which includes compensation, access to livelihood opportunities, and social services. Also important was the extent to which people were consulted, where involved in decision making, and had access to grievance mechanisms.



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**WHAT DOES FIELD RESEARCH SHOW?**

Resettlement was generally negatively perceived. Resettled people who were interviewed tended to perceive investments more negatively than other stakeholders. Typical grievances were that the compensation was inadequate or that replacement land was not equivalent in terms of the suitability of its soil for agriculture. Many also felt that access to social services (schools, medical centers) was reduced in their new locations. Finally, there was dissatisfaction with the process, which was often deemed insufficiently transparent or inclusive and which often lacked mechanisms for affected persons to raise grievances. Relocation can result in those affected finding themselves in another community, which may compound land scarcity and cause conflict.

Some positive perceptions did emerge. Some resettled people did perceive that their living situation had improved after relocation, for example, where new housing was constructed or the investor prepared farming plots in the new location. The extent of transparency and inclusiveness in negotiations were critical factors in determining the satisfaction of resettled people.

There is no "unused" land. Many large-scale, land-based investments have occurred in areas that outsiders considered unused or marginal, but that were in fact subject to long-standing rights of use, access, and management based on local customary use. The transfer of land to a new agricultural investment will inevitably have consequences for local farmers, herders, and foragers, who may depend on the land for their livelihoods. In many areas investors will be confronted with unresolved land legacy issues upon arrival. Any large tract of land is likely to have competing claims that need to be respected and resolved through consultation and negotiation, including through resettlement and relocation of people.

Relocation and resettlement 11

Conseils sur les méthodes de transfert et de réinstallation des personnes impactées par les investissements.  
Principales bonnes pratiques pour les gouvernements:

- Élaborer un guide nationale conforme aux meilleures pratiques internationales
- Suivre la réinstallation conduite par les investisseurs
- Programmes de soutien aux personnes réinstallées
- Utilisation du contrat

# Ce que la recherche IAR a montré (2)


Les sujets associés comprennent: la transparence publique, l'accès à l'eau et les études d'impact environnemental et social

**RAI • KN 10**

## Public transparency

*This note provides guidance on the type of information about agricultural investments that investors and governments could make publicly available.*

Transparency about certain aspects of investments can improve relations between investors and communities, enable external stakeholders to hold investors' public image. Although some information should be kept private to protect commercial interests, in general the amount of publicly available information is insufficient for transparent, accountable conduct of agricultural investments. This has often led to fear, mistrust, and resentment, and created operational and financial difficulties for investors. Some investors and governments have recently shifted toward a more transparent approach, but the risk of misuse of information needs to be managed.



For the full Notes series please go to the Notes web page: [www.worldbank.org/rairesponsibleinvestment](http://www.worldbank.org/rairesponsibleinvestment). Alternatively use the QR code above.

Public transparency 11

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RESPONSIBLE AGRICULTURAL INVESTMENT (RAI)

## KNOWLEDGE INTO ACTION NOTES


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**WHAT RESEARCH AND EXPERIENCE TELLS US**

The focus of this note is information that should be put in the broader public domain for all stakeholders to access. However, the issue of transparency cuts across many dimensions of an investment. For example, there should be transparency toward communities affected by the investment, and existing users of the land, in particular those subject to relocation (see Note 15: Community engagement strategies, Note 11: Respecting land rights and averting land disputes, Note 12: Relocation and resettlement). Sufficient information needs to be provided to outgrowers, employees, and suppliers regarding contractual terms (see Note 4: Outgrower schemes and Note 24: Economic linkages).

Insufficient public information. Transparency and disclosure of information about investments was generally lacking. Although some positive examples existed, much better practices are needed to ensure agricultural investments are responsible. In many cases, almost no information at all was available to the public at large, other than a name listed on a website for a government land registry.

Land acquisition process especially opaque. Information was particularly lacking regarding the terms and process of land acquisition, and the extent and nature of incentives provided to foreign investors. There was typically insufficient information on who holds rights to use land and other natural resources for agricultural production, how those rights were obtained, and what the contractual rights and obligations of different parties are. At the national level, some governments have sought to rectify this lack of transparency through the publication of information on concession or land registry websites. But the information contained in such sites is often incomplete and inaccurate. Two positive examples are Liberia, which publishes all payments, contracts, and licenses with investors on an official website, and Ethiopia, where the Ministry of Agriculture publishes many agricultural contracts on its online Ethiopian Agriculture Portal.



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**RAI • KN 13**

## Water access and management

*This note provides guidance on how to ensure that the impact of agricultural investments on water resources is effectively measured, monitored, and regulated.*

Water is essential to agricultural production and processing, and has been a driving factor in private and public decisions on where to locate investments. Despite global concerns about water scarcity and pollution, the water use of agricultural investments is in many cases not rigorously measured, monitored, or regulated. Where regulations exist, enforcement is often weak. Some investors improve local water access through the use of community development programs, but such schemes require consultation and careful management.


**WHAT DOES FIELD RESEARCH SHOW?**

Lack of monitoring and regulation. At half of the sites surveyed by UNCTAD, and the World Bank, water use was totally regulated, both prior to investment approval and during its operation. At the remaining sites, the assessment, monitoring, regulation, and enforcement of investors' access to and impact on water resources appeared to be inadequate and cursory. Even where there was well-established legislation with use rights, monitoring, and reporting systems, the capacity of authorities to implement and enforce requirements was seldom sufficient. Where investors did have to apply for water rights or adhere to extraction limits, these were often set only at the project approval stage with no subsequent monitoring of adherence to agreements made.

Inadequate identification and monitoring of impact. At the local, regional, or national level, the impact of investments on groundwater and surface water resources were usually not adequately assessed or monitored as part of the environmental and social impact assessment (ESIA) process. There was generally little monitoring of water pollution, except for reactive assessments after community complaints arose. Some investors had been implicated in the pollution of water sources that local communities rely on for drinking, fishing, or other purposes.

Inadequate consultation. Local communities did not feel adequately consulted about the potential of investors to affect local water sources. Water can influence how the investment site is developed, with significant consequences for local communities that need to be managed through consultation and community engagement; however, in most cases water access and use did not form a substantive part of the community consultation even when detailed information was available (box 1).

Disruptions in access. Reduced access to water was the second most common negative issue (after reduced access to land) experienced by local communities through the development of an agricultural investment.



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Water access management 11

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**RAI • KN 14**

## Environmental and social impact assessments

*This note provides guidance on the conduct of environmental and social impact assessments (ESIAs) and the implementation of associated environmental and social management plans (ESMPs).*

Crop and livestock production, forestry, fisheries, and aquaculture all depend on the use of land, water, and other natural resources that are inextricably linked to rural livelihoods, social systems, values, and culture. ESIAs and ESMPs are key tools for identifying and assessing social and environmental risks and benefits at the planning stage of an investment, and for building risk mitigation measures into project design and implementation. Although usually legislative requirements, too often they have been treated as box-ticking exercises. There remains significant room for improvement in the conduct of assessment and the rigor with which findings are incorporated into management plans.



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Environmental and social impact assessments 11

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**WHAT DOES FIELD RESEARCH SHOW?**

Project risks. Many projects fail due to risks that should have been identified (and in some cases, were identified but ignored) and managed through the proper conduct of ESIAs and ESMPs. For example, a rice farm had its crop repeatedly eaten by birds and had to hurriedly employ 500 bird chasers. The presence of a large endemic bird population was identified in the impact assessment, but it was conducted by a consultant and stored on a shelf at the corporate head office, without the farm managers ever having seen or read it.

Legislation and enforcement. Most countries have sufficient regulatory requirements to ensure the proper conduct of ESIAs and ESMPs, and there has been much improvement to legislation in this area with respect to agriculture. However, enforcement continues to be lacking in many cases, thereby limiting monitoring of whether investors are meeting legislative requirements.

Implementation. Seventy percent of investors surveyed conducted an ESIA, and almost 50 percent developed an ESMP. But in most cases they were treated as box-ticking exercises, meaning they were largely symbolic or investors sought to do the bare minimum. The quality of ESMPs was weak, and for the most part they did not inform business plans or operations.

Scope of the ESIA. Different agricultural investments have different environmental and social impacts (box 1). The scope of an ESIA needs to be sufficiently broad to cover major impacts but also be practical, relevant, and efficient by focusing on key potential areas of concern. The scoping stage of the assessment is critical in determining the quality of the entire process and investors should be intimately involved. ESIAs have strengthened investors' focus on the social components, especially when the local communities affected are dependent on the same natural resources as the investor.



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Environmental and social impact assessments 11

# Que mesure des indicateurs fonciers de PDEA <http://eba.worldbank.org/>

- Permettre le Développement des Entreprises dans l'Agriculture (PDEA) examine et surveille les réglementations qui influencent le fonctionnement des marchés dans les secteurs de l'agriculture et de l'agroalimentaire.
- Les indicateurs fonciers de PDEA mesurent les lois et les réglementations qui ont un impact sur l'accès aux marchés fonciers pour les producteurs et les agro-industries.

couverture,  
pertinence et  
enregistrement  
des terres  
privées

## Couverture et facilité d'utilisation

- type de système d'archivage d'informations sur la propriété foncière
- type de système d'archivage des cartes
- lien entre propriété et système cartographique
- comment les biens immobiliers sont identifiés

## Visibilité de la restriction sur les registres fonciers

- Liens numériques sur les interdictions relatives aux hypothèques d'enregistrement
- liens numériques pour introduire les charges publiques
- liens numérique pour que la justice enregistre les litiges civils liés aux parcelles

Gestion  
foncière  
Etatique

## Enregistrer des informations sur des terres gérées par l'État

- terres Etatiques enregistrées
- les terres de l'État sont cartographiées
- processus basé sur le terrain

## Transfert de terres domaniales à des fins commerciales

- mécanisme d'appel d'offres public
- transparence et suivi des obligations contractuelles

Equité et  
Justice

## dimension genre des registres fonciers

- informations sur le genre conservées au registre
- rapports réguliers sur les statistiques ventilées par genre

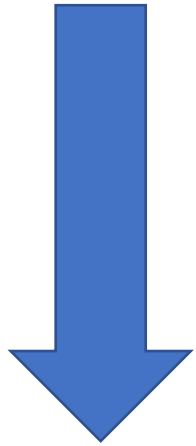
## Liberté de crédit-bail

- contrat de location standardisé
- négociation sur le tarif de location
- restriction légale sur la durée minimale du bail

## Sauvegardes en cas d'expropriation

- éligibilité à une indemnisation
- processus d'arbitrage hors tribunal
- Compensation selon la valeur marchande (terrains, améliorations, cultures sur pied, ...)
- Processus d'appel
- Sauvegarde sur la compensation

# Où en sommes nous ?



- Reconnaissance de l'importance du régime foncier
- Introduction de la politique foncière au niveau national
- Mise en œuvre de la politique foncière
  - Pilote
  - Mise à l'échelle: une réelle prise en main

## Nous sommes ici!

Les gouvernements africains demandant le soutien de la BM pour la mise à l'échelle des programmes sur le plan nationale

### Défis:

- De nombreux pilotes: petits, dispersés et sans intégration
- Risque d'échec ou d'argent mal dépensé si les conditions de mise à l'échelle ne sont pas satisfaites

### Questions clés:

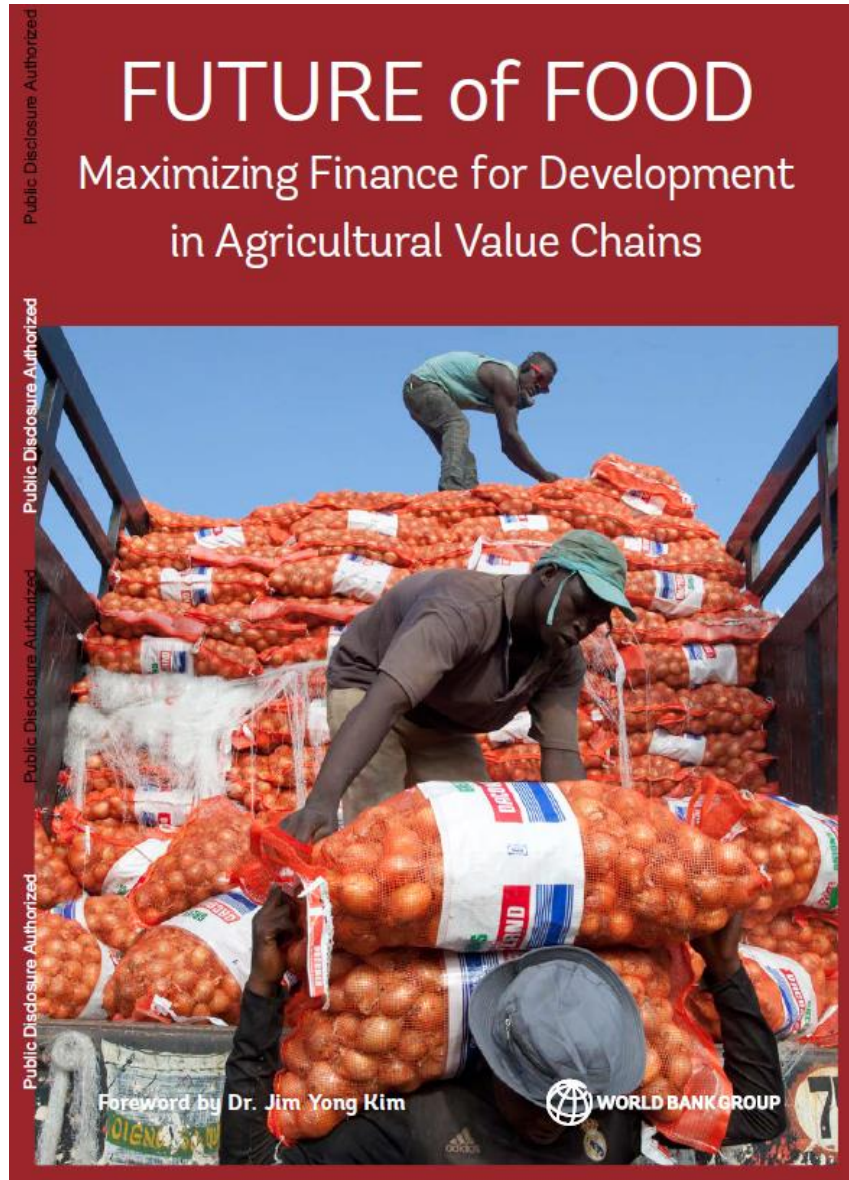
- Comment passer des pilotes à la mise à l'échelle nationale
- Comment faire face aux défis, aux contraintes et aux risques liés à la mise à l'échelle
- Quelles sont les conditions et les conditions préalables à une mise à l'échelle et à un enregistrement de masse réussis?

# Qu'est ce qui est nécessaire ?

- Dialogue mondial et bilatéral
- Directives globales telles que VGGT (\*) et CFS-RAI (\*\*)
- De nombreuses recherches

=> Mais encore, une adoption relativement limitée au niveau régional.

Nous devons penser / travailler différemment pour faire face à ce problème.



## 2. Maximiser les financements du développement dans les chaîne de valeurs agricoles

# Maximiser les Financements du Développement (MFD)

- L'agriculture commerciale n'est pas un secteur autonome, elle dépend de l'eau, de l'énergie, des infrastructures et des TIC.
- En outre, le financement privé du secteur est limité principalement en raison de ces facteurs (entre autres):
  - Profil de risque - y compris les risques climatiques et de marché, en particulier pour les produits périssables.
  - Interférence politique - importance pour les économies et la sécurité alimentaire.
  - Echelle - les investissements commerciaux sont faibles par rapport aux autres secteurs (à la ferme sont encore plus petits)..
  - La fragmentation - les chaînes d'approvisionnement sont fragmentées et s'appuient sur de multiples intermédiaires.
- MFD ne concerne pas uniquement la finance

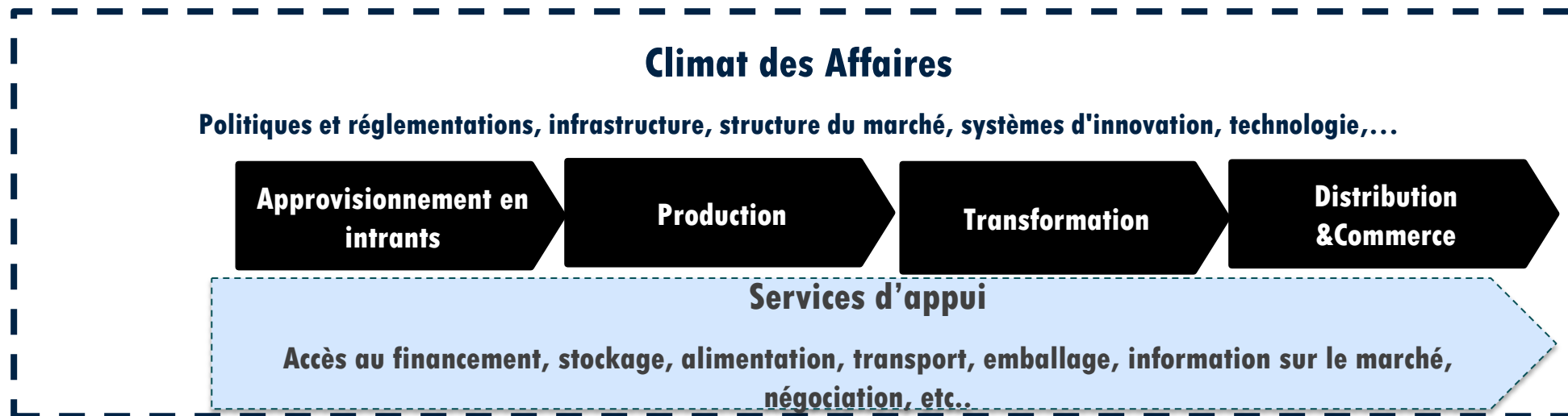
# MFD - POURQUOI, QUOI et COMMENT

- Les niveaux actuels d'investissement dans les chaînes de valeur agricoles sont insuffisants pour atteindre la contribution potentielle de l'agriculture aux principaux objectifs de développement.
  - Il est nécessaire de passer de milliards à des milliers de milliards d'investissements, tant publics que privés, locaux et mondiaux.
- L'investissement privé dans la foulée nécessite :
  - Accroître l'offre des activités du secteur privé, notamment en concentrant les financements publics limités sur les biens/services publics
  - Améliorer l'environnement politique et réglementaire qui contribue aux défaillances du marché et à la participation limitée du secteur privé
  - Améliorer les incitations et réduire les coûts de transaction et les risques pour les investissements privés
- Nécessite des diagnostics plus orientés vers le secteur privé et incluant un dialogue public-privé structuré et inclusif pour éclairer un solide programme de réforme et d'investissement.



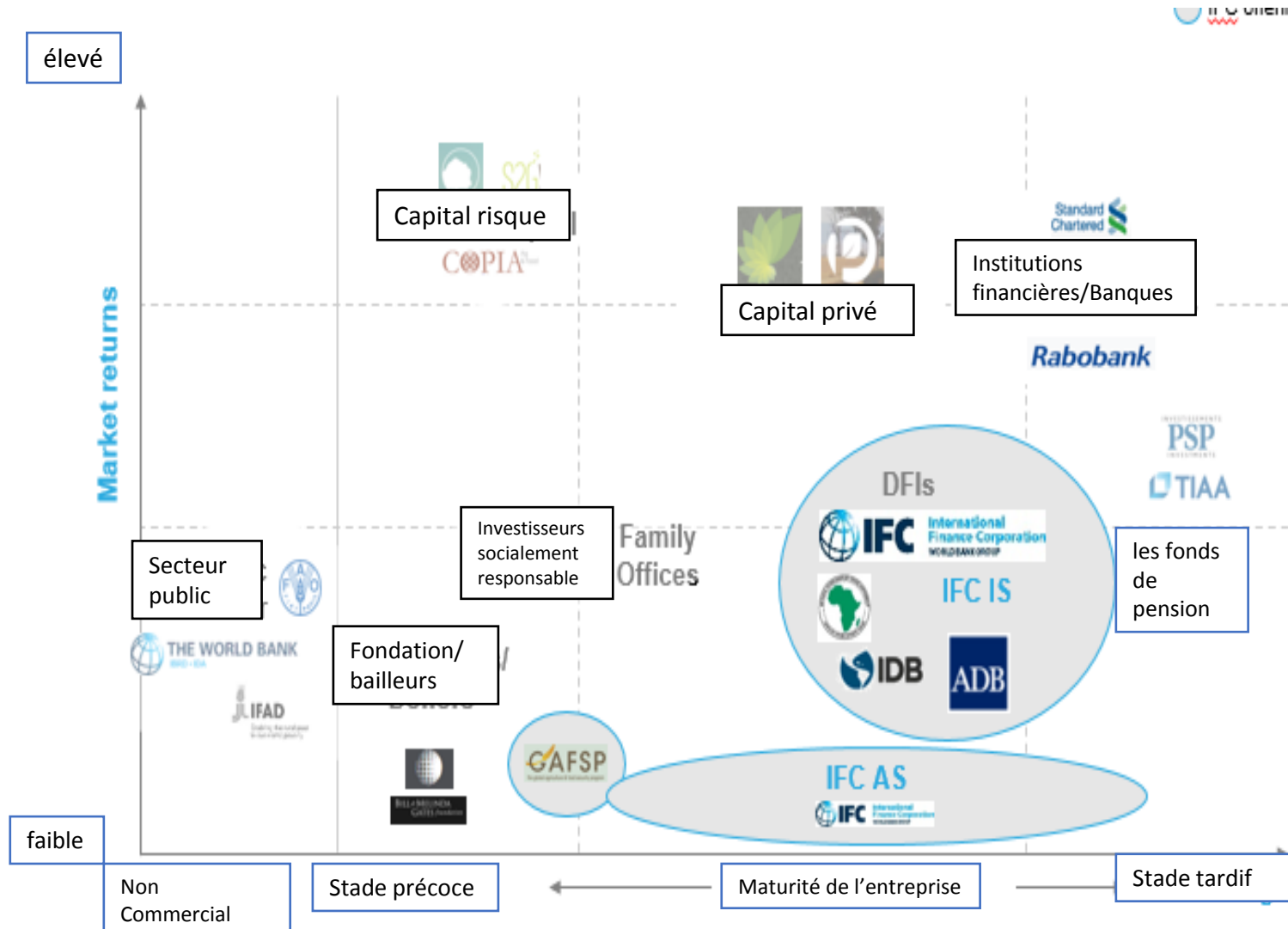
# « Environnement (Écosystème) » de la chaîne de valeur agricole

- Chaînes de valeur agricoles composées en grande partie de petits acteurs et de quelques grands acteurs
  - 450 millions de petits agriculteurs privés - subsistance et commercial
  - Les PME dominent les fournisseurs d'intrants, les négociants, les transformateurs, les distributeurs et les négociants
- La chaîne de valeur est un "écosystème" interdépendant
- "perturbateurs" potentiels changent dans les chaînes de valeur agricoles :
  - Urbanisation et évolution des préférences alimentaires
  - Technologie - numérique, physique, scientifique



# Secteur agricole Financiers – situation actuelle

(à des fins d'illustration)

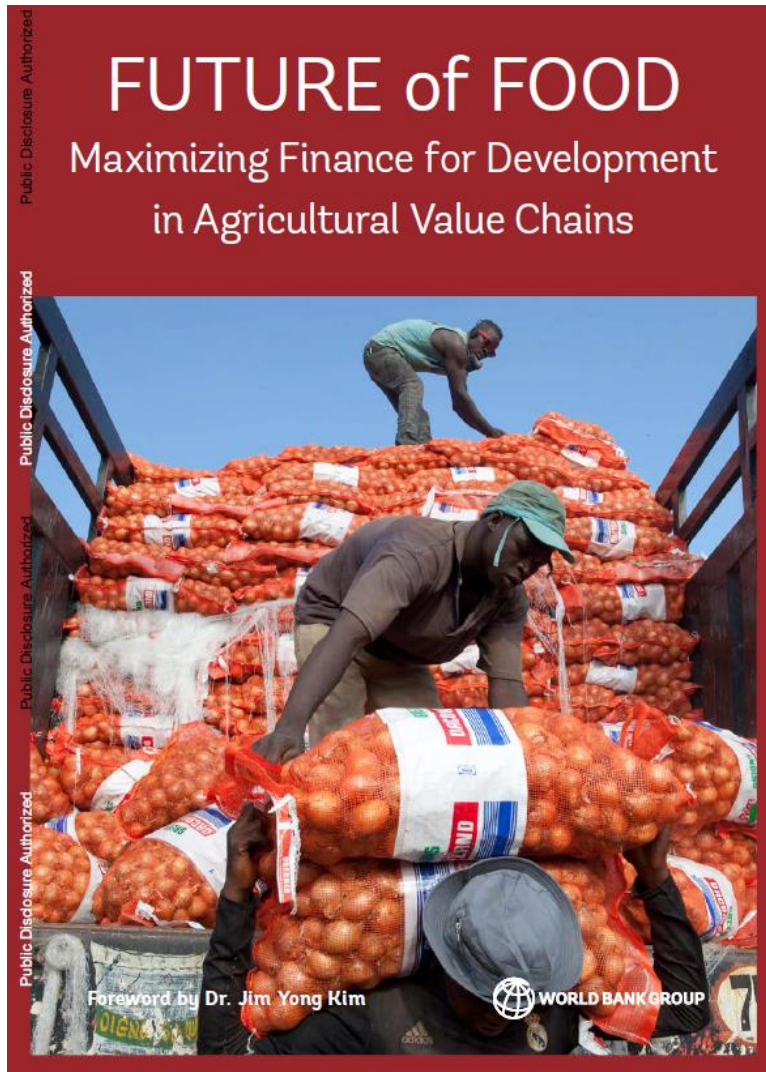


# Évaluation des causes sous-jacentes de la défaillance du marché

- Préoccupations environnementales et sociales
- Un pouvoir de marché concentré et une concurrence réduite grâce à la participation directe du public
- Politiques et réglementations publiques qui aggravent les défaillances du marché
- Coûts de transaction et risques élevés
- Biens et services publics limités



# L'avenir de l'alimentation: MFD dans les chaînes de valeur agricoles



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

L'avenir de l'Alimentation: Maximiser les financements du Développement dans les chaînes de valeurs agricoles.

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# Merci

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