

Política Agrária e Maximizando o Financiamento para Desenvolvimento

Chris Brett

Especialista Chefe em Agronegócios

Asuka Okumura

Diretor de Operações

**Práticas Globais de Agricultura e
Alimentos**

Banco Mundial

3 de outubro de 2018

7ª Assembleia Geral do CARD

Tóquio

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.



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.

1. Política Agrária

Desafios da propriedade da terra em África

Regime Fundiário

Reconhecimento e protecção de terras costumeiras (90%)

Conflito

Questões de terra representaram um papel significativo em quase todos os mais de 30 conflitos regionais em África desde 1990

Reassentamento

Avaliação e compensação

Sexo

As mulheres representam 70% da produção alimentar africana, mas em geral não têm acesso seguro à terra.

Por que o regime fundiário é importante para os investimentos

- Direitos não documentados e regimes inseguros trazem desafios e riscos para os investidores.
- O acesso reduzido à terra pelas comunidades locais é o principal impacto negativo dos investimentos.
- As questões de terra tiveram um papel significativo nos conflitos.
- O regime seguro oferece incentivos para investimentos ligados à terra e desestimula práticas insustentáveis.

Actores complicados

Função	Órgãos governamentais responsáveis
Administração de terras	Agências de execução
Gestão da terra	Municipalidades, Ministério da Terra, Agricultura, Meio-ambiente, Mineração, Transportes...

Outras partes interessadas incluem:

comunidades locais, "utilizadores" locais da terra, autoridades tradicionais, governo do estado

Ofertas

- Diagnóstico dos terrenos
- Assessoria jurídica e política da terra
- Demarcação/levantamento com novas tecnologias
- Sistemas de gestão da informação sobre direitos da terra
- Avaliação de terras e tributação
- Gestão pública da terra
- Monitoração & Avaliação
- Expertise em reassentamento

Exemplos de projectos do Banco Mundial

Projeto 2 de Administração de Terras em Gana

- Fortalecimento da Política, o Marco Legal e Regulatório para a Administração de Terras
- Descentralização de Processos Comerciais e Entregas de Serviços
- Melhora de mapas e dados geográficos

Projeto de Competitividade e Desenvolvimento Empresarial em Uganda

- Modernizando a rede Geodésica; produzindo mapas digitais
- Desenvolvimento de avaliação em massa assistida por computador para avaliação de propriedades
- Registro de terras comunais e individuais
- Fortalecimento da administração fundiária e as instituições de resolução de litígios

Etiópia: Projeto II de Gestão Sustentável da Terra

- Administração e Certificação de Terras Rurais
- Apoio ao processo de concessão de certificados de terras individuais, como um incentivo para aumentar a adoção de tecnologias e práticas sustentáveis de gestão da terra e da água

Exemplos de projectos do Banco Mundial (2)

Senegal: Projeto de Agronegócio Sustentável e Inclusivo

- Apoio a reformas de gestão fundiária
- Assistência técnica a comunidades rurais e pequenos agricultores locais para o envolvimento com investidores privados

Burkina Faso: Projeto de Desenvolvimento Rural Baseado na Comunidade da Terceira Fase

- Implementação de Legislação Fundiária Rural
- Melhoria dos Mecanismos Locais de Resolução de Litígios

Quênia: Projeto de Melhoria de Assentamentos Informais

- Mapeamento detalhado e demarcação de limites para as favelas existentes
- Preparação de planos de desenvolvimento físico local
- Estabelecimento de base de dados GIS para as favelas
- Levantamento de terrenos individuais e preparação de mapas de índice de registro

O que a pesquisa RAI mostra

www.worldbank.org/responsibleinvestment

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.



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 11

Como assegurar que os investimentos agrícolas respeitam os direitos da terra em vigor, tanto formais quanto informais, e assim evitar disputas de terras.

Boas práticas chave para investidores:


- Pesquisar o contexto
- Envolver-se com as comunidades
- Estabelecer Consentimento Livre, Prévio e Informado das comunidades
- Conduzir auditorias terrestres
- Tomar medidas de atenuação
- Colaborar
- Remunerar de forma justa
- Estar preparado para ir embora
- Criar mecanismos de reclamação

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, unregistered, 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.



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



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?

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 agriculture 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

Orientação sobre métodos de realocação e reassentamento de pessoas afetadas pelos investimentos.

Boas práticas chave para os governos:

- Estabelecer orientação nacional em linha com as melhores práticas internacionais
- Monitorar a conduta de reassentamento pelos investidores
- Apoiar programas para pessoas reassentadas
- Uso do contrato

O que a pesquisa RAI mostra (2)


Alguns tópicos relacionados: Transparência pública, Acesso à água, e Relatórios de impacto ambiental e 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 to commitments, and improve 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. Alternatively use the QR code above.

Public transparency 11

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

UNITED NATIONS
UNCTAD

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 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.

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.



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

Water access management 11

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

UNITED NATIONS
UNCTAD

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?

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 investments 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.

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.



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

Environmental and social impact assessments 11

THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP

UNITED NATIONS
UNCTAD

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?

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.

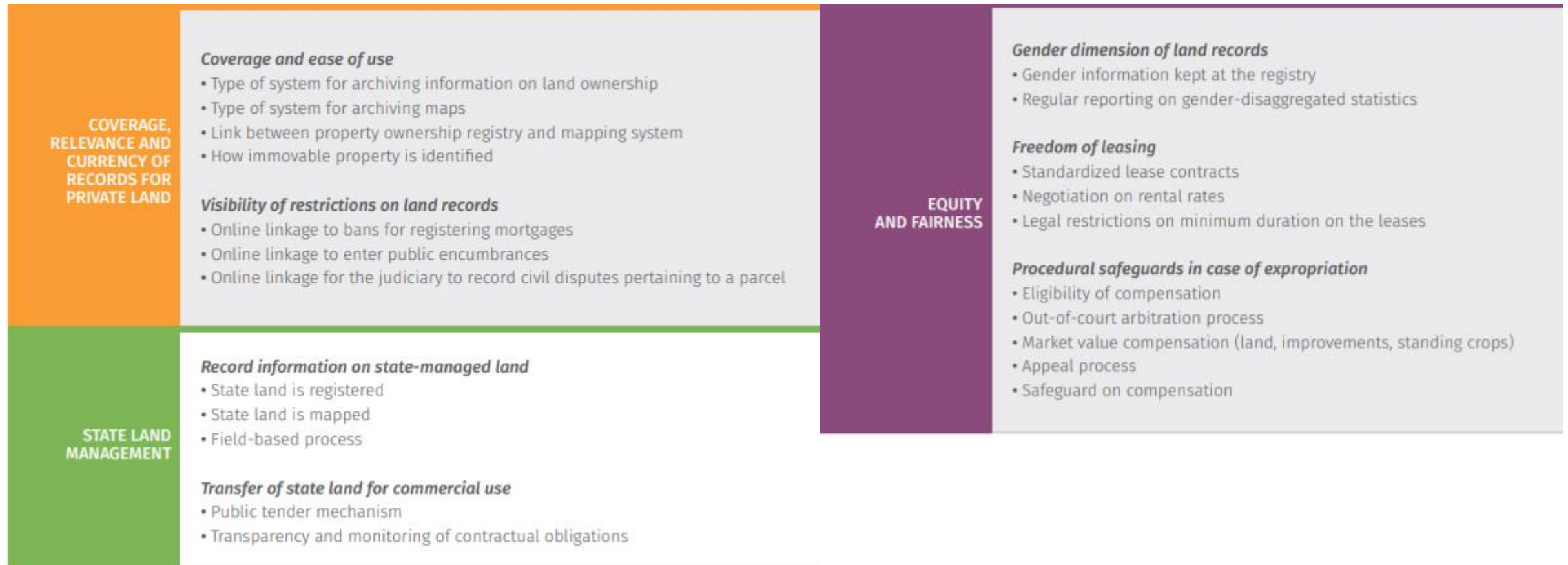
Implementation. Seventy percent of investors surveyed conducted an ESIA, and almost 50 percent developed an ESMP. But in most cases they were treated as box-ticking exercises, meaning they were largely symbolic or investors sought to do the bare minimum. The quality of ESMPs was weak, and for the most 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.

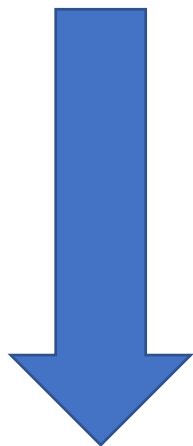
O que os indicadores de terra EBA medem

<http://eba.worldbank.org/>

- O EBA (Enabling the Business of Agriculture) examina e monitora regulamentos que impactam o funcionamento dos mercados nos setores agrícola e agronegócios.
- Os indicadores de terra do EBA medem leis e regulamentos que impactam o acesso a mercados fundiários para produtores e agronegócios.



Onde estamos



- Um reconhecimento mais amplo de que o regime fundiário é crucial
- Introdução de política fundiária em nível nacional
- Implementação de política fundiária
 - Piloto
 - Crescimento: retomada real

Nós estamos aqui!

Governos africanos solicitando suporte WB para programas de crescimento em escala nacional

Dificuldades:

- Inúmeros pilotos: pouca, dispersa ou falta de integração
- Risco de falha ou pouco dinheiro gasto se as condições de crescimento não forem atendidas

Questões Básicas:

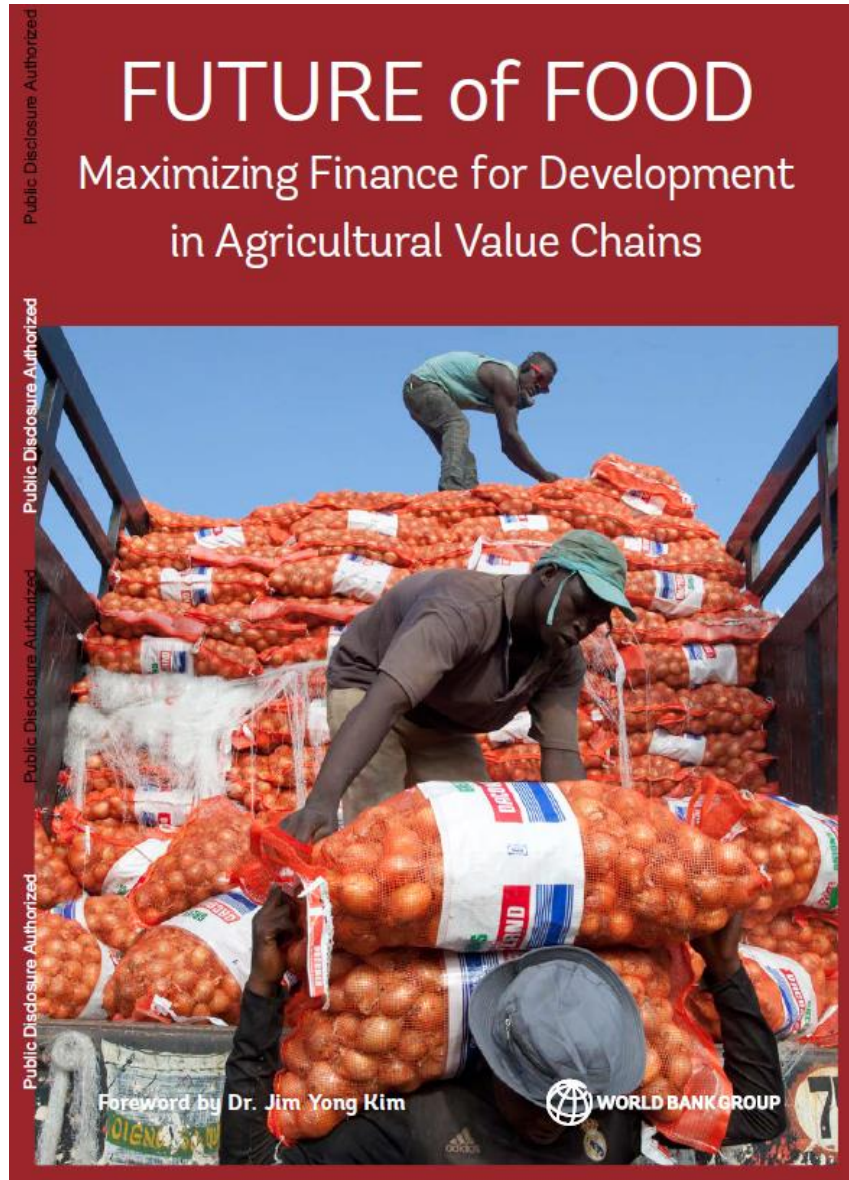
- Como fazer a transição de pilotos para cobertura nacional
- Como confrontar desafios, restrições e riscos durante o crescimento
- Quais são as condições & os pré-requisitos para um crescimento bem sucedido e inscrição maciça

O que é necessário?

- Diálogo global e bilateral
- Diretrizes globais como a VGGT(*) e a CFS-RAI (**)
- Inúmeras pesquisas

=> Porém com captação ainda relativamente limitada em nível regional.

Precisamos pensar/abordar o problema para resolvê-lo.



2. Maximizando o Financiamento para Desenvolvimento em Cadeias de Valor Agrícolas

Maximização de Financiamento para Desenvolvimento (MFD)

- A agricultura comercial não é um setor independente: depende da água, da energia, de infraestrutura e ICT.
- Além disso, o financiamento privado para o setor é limitado principalmente devido a esses fatores (entre outros):
 - Perfil de Risco – incluindo riscos climáticos e de mercado, principalmente com produtos perecíveis.
 - Interferência política – importância para a economia e segurança alimentar.
 - Escala – investimentos comerciais pequenos em relação a outros setores (no setor agrícola ainda menores).
 - Fragmentação – cadeias de suprimento são desarticuladas e dependem de múltiplos intermediários.
- MFD não se limita a financiamento

MFD – POR QUE, O QUE e COMO

- Os níveis actuais de investimento nas cadeias de valor agrícola são insuficientes para atingir o potencial de contribuição da agricultura para as metas de desenvolvimento.
 - É necessário aumentar de bilhões para trilhões em investimentos, abrangendo público e privado, local e global.
- Reunir investimento privado requer:
 - Aumentar o espaço para atividades do setor privado, inclusive por meio de um enfoque mais eficaz das escassas finanças públicas em bens/serviços públicos
 - Melhorar a política e o ambiente regulatório que contribuem para as falhas do mercado e a participação limitada do setor privado
 - Melhorar os incentivos e reduzir os custos de transação e os riscos para o investimento privado
- Requer diagnóstico que seja mais orientado para o setor privado, e inclui um diálogo estruturado, inclusive público-privado, para informar um programa robusto de reforma e investimento.

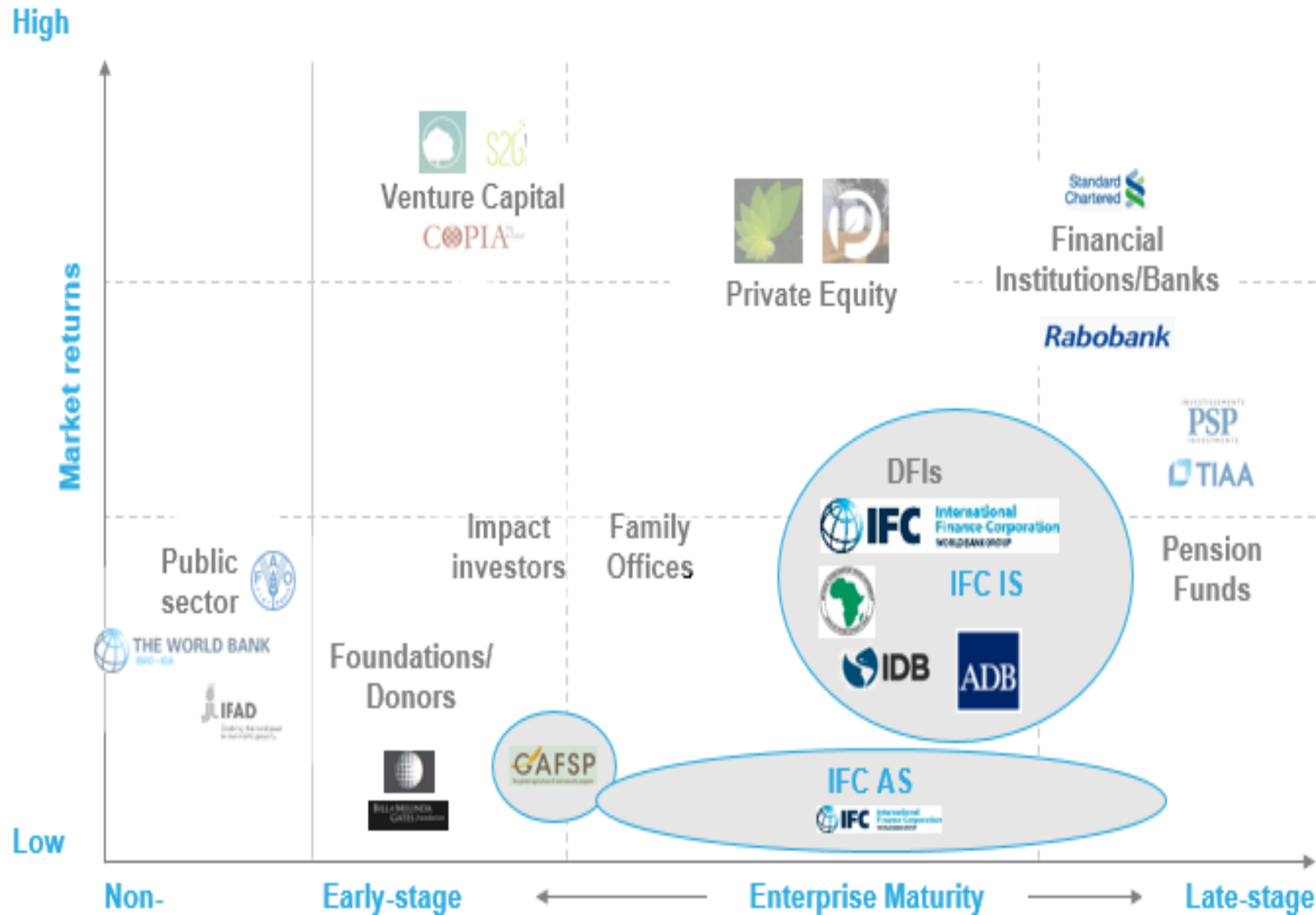
"Ecosistema" da Cadeia de Valor Agrícola

- As cadeias de valor agrícolas compreendem em grande parte participantes de pequena escala e alguns de grande escala
 - 450 milhões de pequenos agricultores privados—subsistência e comercial
 - SMEs dominam fornecedores de insumos, traders, processadores, distribuidores e comerciantes
- A cadeia de valor é um "ecossistema" interdependente
- Mudanças “disruptivas” potenciais nas cadeias de valor agrícolas:
 - Urbanização e mudança nas preferências alimentares
 - Tecnologia – digital, física e científica



Financiadores do Setor Agrícola - posição atual

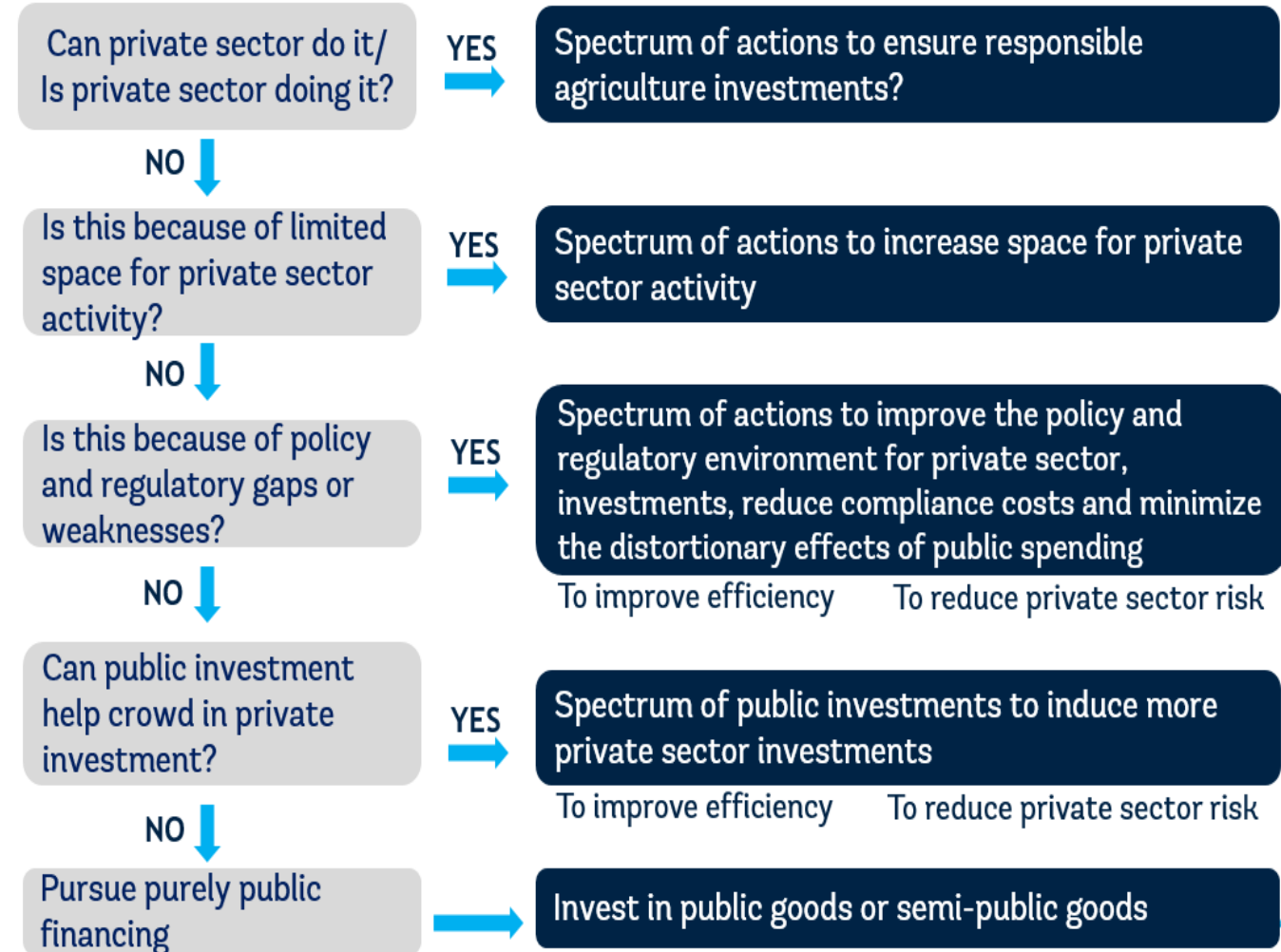
(para fins ilustrativos)



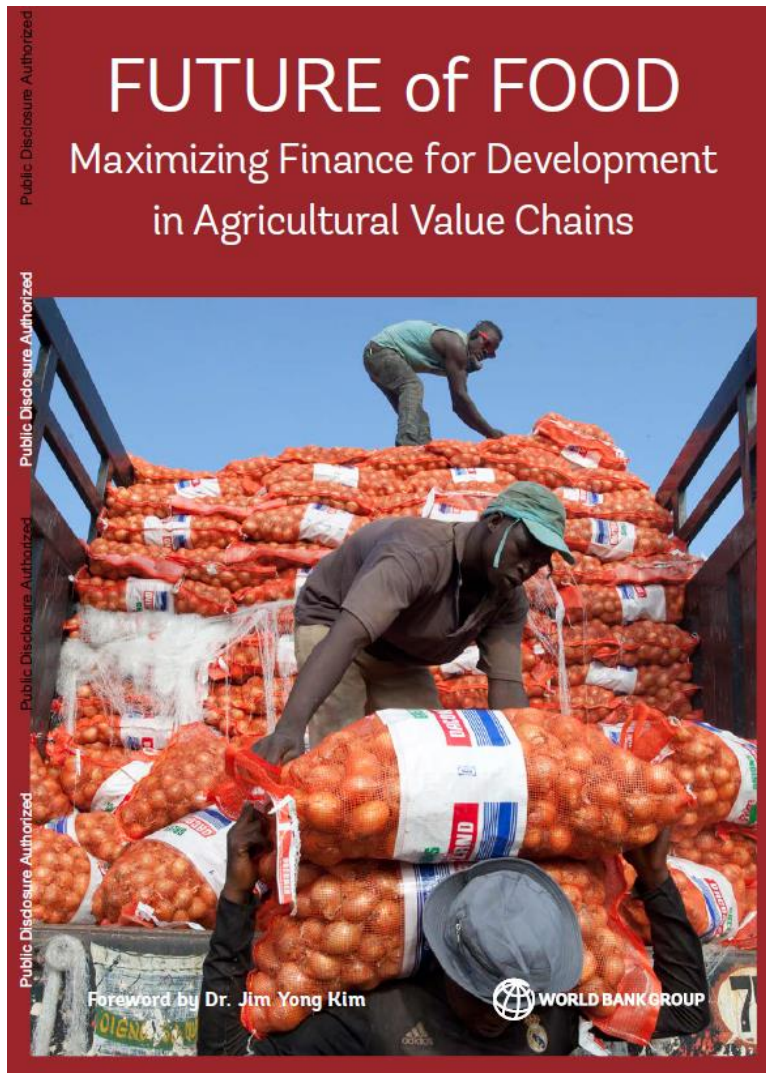
Avaliação das causas adjacentes da disfunção de mercado

- Questões ambientais e sociais
- Poder de mercado concentrado e redução da concorrência devido à participação pública direta
- Políticas e regulamentos públicos que exacerbam falhas de mercado
- Altos custos das transações e riscos
- Bens e serviços públicos limitados

The “Cascade” in Agriculture Value Chains



Futuro dos Alimentos: MFD nas Cadeias de Valor Agrícolas



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

Futuro dos alimentos: Maximizando o Financiamento para Desenvolvimento em Cadeias de Valor Agrícolas.

Banco Mundial, Washington, DC.
© Banco Mundial.

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

Muito obrigado

Chris Brett, Especialista Chefe em Agronegócios:

cbrett@worldbank.org

Asuka Okumura, Diretor de Operações:

aokumura@worldbankgroup.org