



**THE ASEAN GUIDELINES ON PROMOTING RESPONSIBLE
INVESTMENT IN FOOD, AGRICULTURE AND FORESTRY**

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1. BACKGROUND

1.1 THE NEED FOR RESPONSIBLE INVESTMENT IN FOOD, AGRICULTURE & FORESTRY

As the demand for food increases due to a growing population, rising incomes, and urbanization, the member states of the Association of South East Asian Nations (ASEAN) will continue to attract foreign and domestic investment in the food, agriculture—including fisheries,¹ and forestry (FAF) sectors. Increased investment in FAF in ASEAN is needed to help achieve food and nutrition security, to improve food safety, and to create economic growth, jobs and opportunities at large.

1.2 BACKGROUND TO THE DEVELOPMENT OF THESE GUIDELINES

In September 2017, the ASEAN Ministers on Agriculture and Forestry (AMAF) agreed to develop the ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (the “Guidelines”) at their 39th annual meeting. The Guidelines are grounded in the Committee on World Food Security, Principles for Responsible Agriculture and Food Systems (CFS-RAI) and reflect the specificities and characteristics of ASEAN Member States (AMS). They are a tool to support the implementation of the CFS-RAI in ASEAN.

The Guidelines are part of a broad range of initiatives aimed at ensuring that investments in agriculture meet global standards and promote responsible and sustainable investment (See Annex: Table 1). In addition, ASEAN has already begun a systematic process to adhere to global standards, for example with the adoption of the Vision & Strategic Plan for Food, Agriculture & Forestry (2016); the related four Strategic Plans of Action for FAF; the Regional Guidelines on Food Security & Nutrition Policy (2017), and PPP Regional Framework for Technology Development in FAF (2017).

1.3 ASEAN ECONOMY, DEMOGRAPHY, GEOGRAPHY AND CLIMATE

Established in 1967, ASEAN has today grown to a membership of 10 States, comprising the entire territorial expanse of South East Asia. ASEAN’s average per capita income of over \$11,000 puts it at the top end of upper-middle-income economies in the World Bank’s 2017 classification; and while the range of average incomes between AMS is very wide, Cambodia – the poorest – is considered to be in the lower-middle-income group (See Annex: Table 2). The life expectancy at birth of ASEAN Member States’ populations – both men and women – are among the highest in the world, reflecting the level of development of the region. ASEAN is also today highly urbanized (54 per cent of the people in ASEAN’s most populous country, Indonesia, live and work in urban areas) and with rising per capita incomes, and thereby a large and significant middle class. Nevertheless, hunger remains a challenge. The number of people in East and South East Asia who are severely food insecure rose from 48 million people in 2015 to 71 million people in 2016 (FAO, 2017).

Although ASEAN’s population growth is slowing, the region’s population will still grow from 643 million people in 2017 to nearly 800 million in 2050. This will make it one of the most populous regions in the world, with consequent issues vis-à-vis food and nutrition security. Furthermore, there are currently 213 million youth (aged between 15 – 34 years) in ASEAN countries, constituting the largest ever cohort of ASEAN youth; and the youth population will peak at just over 220 million around 2040, with implications for youth employment including in rural areas.

¹ Agriculture includes crops, livestock and fisheries

Population pressures will be amplified over succeeding decades by climate change impacts. These include impacts related to the fact that ASEAN is an archipelagic region – with vast coastlines and countless small islands. It also sits physically between the Indian Ocean and the Pacific, which are forecast to see ever more turbulent extreme weather events, such as cyclones. Investment in FAF needs to take such issues into account. While the region must pay heed to the likely dangers and risks, the scale and diversity of its agricultural and forest wealth can be an asset, if well managed, in combatting greenhouse gas emissions and protecting endangered environments, fauna and flora. Responsible and sustainable use of such natural wealth should be of prime consideration for AMS.

Sustainable forest management is crucial both for achieving sustainable agriculture and food and nutrition security. Forests contribute to sustainable agriculture in a number of ways; by stabilizing soils and climate, regulating water flows, giving shade and shelter, and providing a habitat for pollinators and the predators of agricultural pests. When carefully integrated into agricultural landscapes, forests can increase agricultural productivity, and also protect the food security of the many people who rely on them as important sources of food, energy and income.

1.4 FOOD AGRICULTURE AND FORESTRY IN ASEAN

Agriculture remains important as a share of the gross domestic product (GDP) in Cambodia, Lao PDR, Myanmar, Viet Nam, Indonesia and the Philippines (because of the sheer size of the population working in agriculture; many of whom were youth even as late as 2015) (See Annex: Table 2). But at the same time there is a diminishing share of the population that depends on agriculture and forestry for employment (See Annex: Figure 1). How the guidelines are applied by AMS will need to reflect the distinctive characteristics of each country and the role and importance of agriculture to people's livelihoods.

ASEAN is home to a large number of agribusinesses and forestry companies – including some of the world's largest multinational enterprises (MNEs) (See Annex: Table 3). In the case of Malaysia, large agribusinesses and forestry companies represent about a quarter of all enterprises in the industry and have extremely large investments. Large companies are also prevalent in other ASEAN countries, such as in Thailand, Viet Nam, Philippines, Indonesia and Singapore (See Annex: Table 5). Many are active internationally; and most are significant investors in other AMS. Indeed, for ASEAN as a whole, 80 per cent of all foreign direct investment (FDI) in agriculture and forestry is from other AMS (See Annex: Figure 2). While the guidelines will apply to most AMS as FDI host countries, they also need to reflect ASEAN's unique situation among developing regions as both a source and host of FDI in agriculture and forestry. As such, a number of AMS should consider complementary guidelines on responsible investment for their MNEs operating in other ASEAN economies (as well as non-ASEAN locations).

1.5 INTRA-ASEAN INVESTMENT & SUPPLY CHAINS

Cambodia, Indonesia, Lao PDR and the Philippines (and to a lesser extent Viet Nam) have a significant inflow of FDI in agriculture and forestry compared with other ASEAN economies (See Annex: Figure 2). To some degree this reflects the home bases of larger ASEAN MNEs (for example, Malaysia, Singapore, Philippines and Thailand) and where they prefer to invest in the region (See Annex: Table 4). But the situation is more complex; for example, many Vietnamese and Indonesian small and medium-sized enterprises (SMEs) in agriculture and forestry – and, indeed from other AMS – are investing in neighboring countries as well (sometimes informally).

Because ASEAN is a large and economically integrated community, the impact of any sector on sustainable development must be viewed through the prism of local, regional and global supply and value chains (Mirza et al 2017ⁱ). Such value chains – including those linking rural and urban communities with the supply of processed foods through a chain stretching from production through storage, logistics, manufacturing, warehousing, and retail to consumers – are central to both food and nutrition security and the role of agriculture and forestry as engines for growth and development. For instance, the export of crops to international markets generates incomes for small-scale producers that can be used to purchase food, to pay for education or as capital investments in new businesses. However, there is also the risk that local food prices may rise as a result of high demand in international markets diverting food crops into exports.

Investors, companies and small-scale producers along value chains are all stakeholders in ensuring responsible investment in agriculture and forestry (See sections 6 and 7). The Guidelines embrace the centrality of supply and value chains, including through promoting fair pricing of produce sold by farmers; supporting the improvement of quality and safety standards across value chains; and recognizing that investment does not have to directly contribute to food production to meet the objectives of food and nutrition security. Supply and value chains in agriculture and forestry also mean that the key investors and investments are not necessarily directly involved in farming or plantation operations, and they could even be based overseas. Furthermore, a manufacturer can contract small-scale producers to supply crops, livestock, fish and forest products for its processing facilities. The Guidelines address this diversity of business relations by including guidance on contract farming in its various forms.

Ultimately it is essential both to attract investments and to ensure that investments are responsible. ASEAN Member States have been very successful in boosting investment in manufacturing and services by attracting overseas investors and encouraging domestic enterprises. However, their performance in terms of agriculture and forestry has been less satisfactory in both absolute and per capita terms (See Annex: Figure 3). It is essential to increase investment in FAF sectors to achieve sustainable economic development. The Guidelines can help boost investment and promote longer-term rewards and incentives that will improve investment decision-making and the quality of investments.

2. OBJECTIVES

The primary purpose of the Guidelines is to promote investment in FAF in the ASEAN region that contributes to regional economic development, food and nutrition security, food safety, equitable sharing of benefits, and the sustainable use of natural resources. Achieving all this in practice is very complex, requiring smart and effective government intervention. The Guidelines seek to support that government intervention by setting out guiding principles, with corresponding practical guidance for realizing those principles. Other objectives include:

- i. Establishing favorable conditions to attract responsible investment in FAF through a clear policy and regulatory framework nationally and a more coherent approach across ASEAN; clarity of roles for the various agencies and institutions involved; and a well-designed, transparent system of institutions and processes for investment promotion, screening, selection, monitoring, and accountability.
- ii. Encouraging the development of a mindset which considers all stakeholders in responsible investment in FAF as part of an ecosystem that needs to be carefully nurtured. Promotion of large-scale investment may be one goal, but the interests of all stakeholders, including local and indigenous communities, small-scale producers,

vulnerable or marginalized groups, and youths, is critical. Consequently, striking a balance between interests – including strengthening the capacities of other stakeholders, contractually requiring investors to meet certain obligations and creating instruments and tools to further cooperation – supports the primary purpose of the Guidelines.

- iii. For ASEAN as a whole, contributing to a framework to guide AMS, large and small investors, and other actors in the development of responsible and sustainable agricultural investment and value chains in the region.
- iv. Ultimately, creating a set of principles and guidelines, which serves as a reference for decisions, behaviors and actions over the mid- to long- term.

The Guidelines are voluntary in nature and should be interpreted and applied in accordance with existing national laws and regulations and with binding international treaties. They do not replace the need for improved legal and policy frameworks at the national level. Indeed, a stronger and more equitable regulatory environment is the best guarantee to achieve social, economic and environmental benefits from investment. The Guidelines may also help AMS to identify and address gaps and can strengthen and inform national legislation, social and environmental responsibility strategies of companies and public action.

3. SCOPE & DEFINITIONS

3.1 SCOPE

The Guidelines should be seen as a living document, aiming at the highest local, national, regional and international standards with respect to responsible investment. They are also in line with the United Nations Sustainable Development Goals (SDGs), including ‘No poverty’ (goal 1 to end poverty in all forms and dimensions by 2030), ‘Zero hunger’ (goal 2 to be achieved by the same date), ‘Gender equality’ (goal 5, ending all forms of discrimination against women and girls), ‘Decent work and economic growth’ (goal 8), ‘Reduce inequalities’ (goal 10), ‘Responsible consumption and production’ (goal 12), ‘Climate action’ (goal 13), and ‘Life below Water’ (goal 14).

The Guidelines draw upon major existing principles, standards and norms, in particular the Committee on World Food Security’s Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI), the CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries (VGGT), the FAO Code of Conduct for Responsible Fisheries (the Code), the Voluntary Guidelines for Securing Sustainable Small-scale Fisheries (SSF Guidelines) (See Annex: Table 1). The Guidelines also build upon AMS regional experience and international best practice. The Guidelines are in line with the ASEAN Integrated Food Security Framework and Strategic Plan of Action on Food Security in the ASEAN Region (AIFS SPA-FS), which aims to ensure long-term food security and nutrition in the region. The Guidelines adhere to the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework.

Importantly, small-scale producers and SMEs likely constitute the majority of investments in agriculture and forestry in AMS, but the size of each project is far smaller than those by large companies. The guidelines recognize this disparity, especially because ‘equal treatment’ may present challenges to resource-constrained farmers and SMEs. Responsibilities on investors in the Guidelines are commensurate with size and potential degree of impact. At the same time, the Guidelines consider the nature of the impacts by different stakeholders; and recognize that small does not automatically equate with resource-constrained: digital and bio technologies, among others, are facilitating the establishment of cutting edge small and micro-enterprises. The Guidelines therefore ensure that, while small-scale producers

and SMEs' are fully responsible in their agricultural investments, how they meet their obligations may need to be differentiated; noting that at the same time food safety should not be jeopardized nor the environment endangered. Governments, larger firms, farmers' organizations and others can develop support mechanisms to assist small-scale producers and SMEs in meeting the necessary standards.

Finally, the guidelines set out policy and institutional options that serve as references for AMS in their efforts to promote responsible investment in FAF but are not intended to be a full or binding statement on responsible investment in FAF.

3.2 INTENDED USERS

The ultimate responsibility for achieving responsible investment in FAF rests with governments and policymakers. As such, the primary roles for operationalising the Guidelines lie with the public sector in ASEAN, including governments and subsidiary agencies and institutions in each AMS and supranational organizations such as the ASEAN Secretariat and other pertinent regional bodies (see section 5).

Every investment in FAF has the potential to have a positive and negative impact on people, the environment and economy, and as such investors also play a key role in ensuring responsible investment. There are also key roles for the governments of the home countries of investors, financial sector actors, civil society, indigenous peoples and communities, cooperatives, small-scale producers and SMEs (see sections 6 and 7).

3.3 DEFINITIONS

For the purposes of the Guidelines, the following definitions and terminology apply:

- i. **Agriculture and forestry.** ASEAN considers agriculture as comprising three sub-sectors: crops, livestock and fisheries. Forestry is treated as a separate sector (unlike the FAO which includes forestry in its definition of agriculture). The guidelines thus also apply to livestock and fisheries, recognizing the specificities of these two subsectors.
- ii. **Host and home country:** Where an investment is international, the economy in which an investment occurs is the 'host country'; nearly all AMS are FAF host countries. The economy in which the investor is based is the 'home country'. Several AMS are home countries by this definition. Moreover, a few AMS are simultaneously significant recipients and sources of investment. Given significant levels of intra-ASEAN FDI some elements of the guidelines will be relevant only to specific sub-groups.
- iii. **Customary tenure systems:** Local rules, institutions and practices governing land, fisheries and forests that have, over time and use, gained social legitimacy and become embedded in the fabric of a society. Although customary rules are not often written down, they may enjoy widespread social sanction and may be generally adhered to by members of a local population. Customary tenure is usually associated with indigenous communities and administered in accordance with their customs.
- iv. **Free, prior and informed consent (FPIC):** refers to the FPIC process as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples, specifically:
 - a. Free refers to a consent given voluntarily and without coercion, intimidation or manipulation. It also refers to a process that is self-directed by the community

from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.

- b. Prior means that consent is sought sufficiently in advance of any authorization or commencement of activities, at the early stages of a development or investment plan, and not only when the need arises to obtain approval from the community.
- c. Informed refers mainly to the nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process. Information should be accessible, clear, consistent, accurate, and transparent. It should also be objective, complete, delivered in a local language and in a culturally appropriate and timely way.
- d. Consent refers to the collective decision made by the rights-holders and reached through the customary decision-making processes of the affected Indigenous Peoples or communities. Consent must be sought and granted or withheld according to the unique formal or informal political-administrative dynamic of each community. Indigenous peoples and local communities must be able to participate through their own freely chosen representatives, while ensuring the participation of youth, women, the elderly and persons with disabilities as much as possible.

While FPIC is a specific right that pertains to Indigenous Peoples, these Guidelines share the position of the FAO and others that all project-affected peoples have the right to be part of decision-making processes in ways that are consistent with the principles underlying the right of FPIC.

- v. **Indigenous peoples.** While there is no officially adopted international definition of indigenous peoples, the accepted working definition is: “communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.” The international instruments that pertain to indigenous peoples in line with this working definition are ILO Indigenous and Tribal Peoples Convention, 1989 or the ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). In particular, indigenous peoples are generally recognized to comprise: ‘tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations’. Moreover, they also include, ‘peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions’ as well as peoples who self-identify as indigenous or tribal (ILO Convention 169, ‘United Nations Declaration on the Rights of Indigenous Peoples 2007’). The United Nations Permanent Forum on Indigenous Issues has, in addition, stressed a strong link to land, territories and surrounding natural resources. In some AMS, indigenous peoples are referred to as ethnic minorities, ethnic nationalities, masyarakat adat and hill tribes, and are considered to belong to the most vulnerable and marginalized.

- vi. **Investor:** An investor is a company which implements a commercial project. Investors can be public or private, domestic or foreign, large or small.
- vii. **Private sector:** The private sector includes small-scale producers, small and medium-sized enterprises (SMEs), and larger companies.
- viii. **Small-scale producer:** for the purpose of these Guidelines, and due to the current unavailability of a recognized standard definition, the term “small-scale producers” will be used to encompass small-holder farmers, family farmers, artisanal fisherfolk, small-scale aquaculturalists, pastoralists, foresters and forest harvesters.
- ix. **Youth:** ASEAN Member States (AMS) agreed on an age range of population categorized as youth which are between 15 - 35 years for the purpose of the ASEAN Youth Development Indexⁱⁱ.

4. RESPONSIBLE INVESTMENT IN FOOD, AGRICULTURE & FORESTRY (FAF) AND ITS CHALLENGES

Investment in FAF is one of the most critical ways for ASEAN countries to provide employment and livelihoods, reduce poverty, and improve food and nutrition security. Responsible investment requires both the public and private sectors. Public investment from AMS is vital to provide public goods like agricultural research, rural infrastructure and extension services, and create an enabling environment for a strong private sector (Wieck et al, 2014). Private investments in FAF can increase export revenues, boost productivity, generate employment, and provide access to new technologies, capital and markets (Karlsson, 2014; Picard, et. al, 2017). The Guidelines focus on addressing the challenges from private sector investment. The private sector spans small-scale producers, SMEs, and large private investors and includes both domestic and foreign sources of investment (Mirza, et al. 2014.ⁱⁱⁱ).

There are risks associated with investments in agriculture, in particular with large-scale private sector investment. Development benefits are not automatic (Mirza et al, 2014) and in Southeast Asia involve ‘a complex web of interests and struggles’ (Shohibuddin et al, 2016)^{iv}. When done badly, investment can exacerbate existing inequalities, undermine the tenure security and livelihoods of indigenous peoples and local communities, and deplete land, water, soils, forests and other natural resources (Karlsson, 2014; Picard. et al, 2017^v). But when well integrated with the local economy, increased investment can help generate employment and promote economic development (Karlsson, 2014; Picard. et al, 2017^{vi}). All stakeholders have a role to play in ensuring positive outcomes, and each faces a unique yet interlocking set of risks and challenges.

Investment in FAF presents challenges for AMS in six key areas: (1) food and nutrition security, (2) tenure rights, (3) jobs & livelihoods, (4) Climate change, natural resources and the environment, (5) technical and institutional capacity, and (6) project failure and investor-state contracts. Gender equality, women’s empowerment, youth engagement and the rights of indigenous peoples are treated as cross-cutting challenges.

4.1 Food and nutrition security

Investment in FAF is essential for food and nutrition security. Investments, particularly by farmers and the government, which improve farm productivity and diversity, can increase the affordability and availability of food on the market (Liu, 2014^{vii}). Large-scale agribusiness investments that integrate small-scale producers as outgrowers have had positive outcomes for food security, through higher incomes and technology transfer (Mirza et al, 2014). Additionally, the improvements in reliability of supply chains has led to more stable food security for urban populations which generally do not grow their own food.

When done badly, investment in FAF can pose substantial risks for indigenous peoples’ and local communities’ food security and wellbeing. Where land is used for non-food crops or to produce food mainly for export, including as part of the home state’s food security strategy, this can pose a challenge to local food security (UNCTAD, FAO & IFAD, 2010^{viii}) particularly in predominantly rural AMS. While investments can increase production in a country, they may divert food from indigenous peoples and local communities (Mirza et al, 2014). At the same time, these challenges can be offset by a boost to farmers’ incomes from export crops, which can be used to purchase food locally.

Displacement and resettlement can threaten food security by disrupting communities’ ability to preserve their native seeds, grow food based on traditional knowledge and access

traditional food sources, as well as grazing land and other livelihood resources that are important for food and nutrition security, cultural diversity, and wellbeing.

Food and nutrition security may also be endangered if gender issues are not taken into consideration. Women tend to have important responsibilities in the food and nutrition security of their households. Sometimes investment creates competition among household members for limited natural resources such as land, creating trade-offs between the crops cultivated by the various members of the household. Investment can also result in diminished women's access to non-timber forest products, which can endanger food security and nutrition.

4.2 Tenure rights

Access to land and natural resources is fundamental for the food and nutrition security and well-being of rural people. Securing rights over these key resources is a fundamental condition of household food security and equitable economic development. Secure land tenure also provides a valuable safety net as a source of shelter, food and income, especially in times of hardship.

Unfortunately, nowadays these rights are not so secure. More than two billion people worldwide access land and natural resources through customary tenure systems (USAID, 2011). Even if official figures in relation to Southeast Asia are not available, it is safe to say that millions of people in ASEAN countries access land and other natural resources through customary tenure systems. This means they have had access to and control of land and natural resources, sometimes for generations, while lacking formal or legal recognition of these de facto rights. Specific legal and policy frameworks might be absent – for instance, Cambodia and the Philippines are the only AMS with specific legislation recognizing and protecting customary tenure rights. Even where these frameworks are available, challenges related to implementation jeopardize the enjoyment of land rights by small-scale producers, indigenous peoples and other communities.

Due to the lack of formal/de jure recognition, legitimate tenure rights holders might not be recorded and included in the national cadastre system. In this context, large areas of land considered “free of occupation” by government authorities are being granted to investors. Small-scale producers, indigenous peoples and other communities, however, occupy these areas. Not surprisingly, this issue has been the root cause of land conflicts and social unrest. Furthermore, land tenure insecurity among vulnerable groups has been exacerbating rural poverty, hunger and food insecurity.

As such, land disputes frequently arise in the context of large-scale agribusiness investments in FAF, adversely affecting all stakeholders, with a particularly negative impact for indigenous peoples and local communities (Fiedler & Iafrate, 2016).^{ix} Negative impacts on land rights were the most prominent impact arising from 10 large agribusiness investments in AMS² (Mirza et al, 2014). Resettlement can cause households to lose access to their land entirely, and the demarcation of project sites can cut off indigenous peoples and local communities' access to natural resources, water, and foraged food sources. UN treaty bodies monitoring the impacts of large-scale land acquisitions in four AMS found particularly negative impacts on marginalized populations; indigenous peoples, women, children, rural communities, and small-scale producers (Golay, 2015).^x Land disputes and insecurity of tenure adversely affect investors as well, in some cases incentivising behaviour that compounds the negative impacts on local communities. Reputational risks for private

² Cambodia, Vietnam, Indonesia, Malaysia and Lao PDR

investors perceived to be involved in 'land grabs' is growing, as global supply chains become increasingly transparent including for key ASEAN commodities such as palm oil, timber, sugar, rubber and maize (Dwyer, Polack & So, 2015)^{xi}.

In the context of forestry concessions, a host state policy environment which undermines security of tenure is cited as, at best, a disincentive for the investors to invest in more sustainable production methods, and at worst an incentive to 'cut and run' before losing the concession (Chan, 2016; Schönweger & Üllenberg, 2009). Similarly, investment in fisheries in the absence of durable tenure systems creates perverse incentives directly leading to overinvestment, overcapitalization and overfishing. Conversely, secure and well-functioning tenure systems can encourage long-term, environmentally sustainable investment.

Insufficient consultation, a lack of transparency and disclosure, and a failure to properly involve all affected community members in planning and decision-making have been found in land investments in some AMS (Zhan, et al. 2015.^{xii}) Case studies of FAF investments in AMS have found confusion caused by overlapping responsibilities at different levels of government (Mekong Regional Land Governance Programme, 2016),^{xiii} as well as a lack of transparency and a sense of unpredictability for investors with regards to land acquisition procedures (Sylvester & Phaophongsavath, 2017). Furthermore, among low income AMS, modern land administration systems may not be in place, which makes recording of land rights an extremely challenging task.

Women's land rights tend to be more adversely affected than men's – both when land is acquired by a private enterprise and when collaborative business models take place. For instance, in many occasions women's land rights are not recognized and so they are excluded from consultation processes between investors and local communities. Consequently, their capacities for protecting their rights is more limited than men, including the possibility of getting compensation or participating in the schemes as outgrowers in their own right (Osorio and Gallina, 2018).

Improved transparency and better governance are emerging to counter the negative impacts. Some AMS are moving towards greater transparency in large-scale FAF investments, with Malaysia publishing environmental and social impact assessments on the Department of Environment website (Zhan et al, 2015). A meta-analysis of 15 case studies of large-scale land based agricultural investments in Laos and Cambodia concluded increasing land scarcity, investor competition, and the learning processes of stakeholders at different policy levels lead to more inclusive implementation of investments (Messerli, et al. 2015).^{xiv} There is also a growing trend towards use of technology, such as satellite imagery and drone photography to monitor investment-related activities. Yet there remain improvements to be made in terms of transparency, anti-corruption measures and good governance in respect of investment in FAF in some AMS.

4.3 Jobs & livelihoods

Jobs and livelihood creation is one of the most important benefits from investment in FAF. For instance, 10 large-scale agribusiness investments in five AMS found job creation was the benefit most frequently cited, and the projects directly employed around 7,000 people (Mirza et al, 2014). Such investments add to the large share of existing employment in agribusiness value chains accounted for by SMEs; and generate further SME employment, for example through forward and backward linkages along supply chains. Many of these jobs paid wages that were higher than the local job market. Importantly, job creation was not linked to the size of land but rather to the type of business model. Investments where processing facilities are built create more jobs per hectare (Zhan et al, 2015).

But not all jobs are stable and well paying, nor are they equitably distributed between men and women. A significant gender gap exists in the agribusiness investments studied in the ASEAN region. Only around one-third of jobs went to women, and these jobs were more likely to be casual, temporary, or seasonal (Zhan et al, 2015). Women tend to be clustered in a narrow range of occupations; and often are employed in lower-skilled, lower-paid and more insecure jobs than men (Osorio and Gallina 2018). In terms of contract farming opportunities women also tend to be disadvantaged as they are often ignored by private enterprises as potential business partners, although they play a very important role as working as unpaid family farmers. As a result, in the context of investment in FAF, women tend to experience an increasing workload and loss of access to their piece of land, while not reaping the benefits from increased investment (Osorio and Gallina, 2018), thanks in part to women's burden of unpaid care work.

The sustainability of jobs is also questionable; in several case studies, the number of jobs created decreased over time and was lower than what the investor had initially promised (FAO, 2012). For foreign investors, managerial positions tended to be held by expats or people from outside the local community (Liu, 2014). In some cases, labouring jobs on rubber plantations were given to migrant labourers from outside the local area who were seen as more efficient, leading to tensions with the local community (Gironde & Senties Portilla^{xv}, 2015; Schönweger & Üllenberg, 2009).

The livelihood impacts of large-scale agricultural investment are closely linked to land, displacement and resettlement. Where indigenous groups and local communities are displaced from their land, they also lose traditional livelihoods; often moving into livelihoods where they have less knowledge and technical support, and insufficient market information. Changing livelihoods can also impact the division of labour at the household level; households or small-scale producers might switch to another crop requiring additional workforce, which may not be available or affordable. As a result, children may be pulled out of school and into work. This coping strategy is generally not temporary; once children are out of school, they tend to remain child labourers. Children working in plantations in ASEAN, for crops such as rubber, tobacco and palm oil, are also not rare.

Contract farming schemes can improve livelihoods while leaving farmers in control of their land, but again the benefits are not equitably distributed between men and women. Business models that involve small-scale producers as business partners can minimize the risks and maximize the benefits of FAF investments, creating income opportunities and enhancing food security. For example, 11 large-scale agribusiness investors in AMS contracted with over 30,000 outgrowers in more inclusive business models (Mirza et al, 2014). These investments were well received because the presence of a reliable buyer for local farmers produce contributed positively to increasing rural incomes. Outgrowers generally thought they received better than market prices for produce as well as useful training and technical support from the investor. On the other hand, selecting the largest farmers for contracts can lead to increased inequality and tension in communities. In many cases gender outcomes are dismal; less than 5 percent of outgrowers were women (Mirza et al, 2014; Smaller et. al, 2015^{xvi}). In addition, power asymmetries between the producers and buyers persist, there is an unequal distribution of risks, and producers often have weaker bargaining power.

Furthermore, with contract farming opportunities come risks for farmers, especially for some key ASEAN crops. The price volatility of traded industrial crops can make contract farming households vulnerable to price crashes, like the 2012 drop in rubber prices (Sylvester & Phaophongsavath 2017). Such crops have long lags between planting and harvest, so farmers bear the risk of events like fire, disease, and weather, wiping out stocks before they mature (Schönweger & Üllenberg, 2009). Unclear pricing, quality assessment, and

processing delays can also disadvantage farmers. Some key ASEAN crops – rubber, sugar, and palm oil—must be processed quickly after harvest, putting the farmer at the mercy of the investor making timely pickups and having sufficient storage and processing capacity (Zhan et al, 2015). Meanwhile women do most of the work under farming contracts, but they are usually signed by the male head of household (Daley, 2013^{xvii}), and contracted crops can displace food crops which are grown by women to feed the household (Vermeulen & Cotula 2010^{xviii}; Eaton & Shepherd 2001.^{xix}).

4.4 Climate change, natural resources and the environment

Climate change impacts and associated natural disasters and shocks are global and local, immediate and long term; they affect all sectors, including FAF; and they respect no border or human agency. Responsible investment in FAF to help prevent, reduce and mitigate their impact, and adapt to it, requires unprecedented, collaborative action on the part of governments and policymakers (local, regional and international), investors (domestic and foreign), communities and other stakeholders. The actions for climate change adaptation and mitigation are incomplete without recognizing, respecting and promoting traditional knowledge and collective land rights of indigenous peoples as an important part of climate solutions.

FAF investments can damage the local environment through the over-exploitation of natural resources. Logging and clearing forests to convert to agricultural production is a major cause of land and water degradation, biodiversity loss, and increased carbon emissions. The value of the timber for immediate sale within the region is often high, attracting investors who then fail to further develop the land after clearing it, compounding losses to the local community (Zhan et al, 2015; Chan, 2016). Agriculture is still the major driver of deforestation globally, and agricultural expansion and deforestation are strongly correlated in ASEAN. Cambodia, Indonesia, Myanmar, Philippines, and Thailand all experienced net gains in agricultural area and net losses in forest area from 2000 to 2010, according to the FAO's State of the World's Forests report of 2016. Large-scale commercial agriculture accounts for about 40 percent of deforestation in the tropics and subtropics, and local subsistence agriculture for 33 percent. Fisheries and aquaculture also face risks from agriculture, such as contamination of waterways, competition for fresh water sources, and threats to habitats to fish nurseries such as mangroves.

Despite the negative impacts on the environment, there is insufficient attention to the effective management of land, forests and fisheries. The effort and cost to manage soil fertility, forests and fisheries for the long term is a key consideration. Large-scale commercial production of one or two crops can be chemicals intensive, contributing to land and water degradation and biodiversity loss through chemical drift, aerial spraying and water contamination (Mirza et al, 2014). And it is not limited to large operations (ADB, 2014)^{xx}. Underlying factors affecting the conversion of forests to agriculture include population growth, but also changes in market conditions and policies that increase profitability of agriculture, uncertain or insecure land tenure, and poor governance of land-use change. Fisheries are threatened by poor governance, management and practices, including illegal, unreported and unregulated fishing and inefficient aquaculture operations (FAO State of the World's Fisheries and Aquaculture, 2016.)

Market premiums for organic and other certified products are helping to drive investments in sustainable production practices. One investor in Cambodia has established a farm compliant with organic certification requirements, which uses no agrochemicals or chemical fertilizers, manual weeding and minimal tillage (Mirza et al, 2014). However, certification can be expensive for small-scale producers and SMEs, the price premiums paid not substantial enough to provide incentives, and corporations, not the small-scale producer, can capture

the major share of the value. Other certification approaches, such as participatory guarantee systems against costly third-party certification should be encouraged.

4.5 Technical and institutional capacity

One of the key measures governments can take to identify and mitigate the risks outlined above is to develop policies to ensure responsible investments, including screening investors and their investment proposals. Yet the process for screening and selecting investors in some AMS has been found to be hasty and superficial. This is in part because comprehensive financial and technical screening requires specialized expertise (including negotiation skills vis-à-vis investors), human resources, and coordination amongst various government agencies; which may be lacking in some AMS. Agencies responsible for screening may also be put under political pressure and the influence of patronage dynamics to 'get the deal done'. This can especially be an issue when the screening is not transparent or inclusive (i.e. does not involve relevant stakeholders). Additionally, governments may emphasize attracting investment, but a balance between attraction and effective screening must be struck.

Monitoring the implementation of FAF investment projects to ensure their compliance with the terms of the investment contract and local laws is also a key challenge for host countries. Inadequate monitoring can mean the government misses early warning signs of a failing investment needing remedial action or sanction, or fails to pick up on unapproved changes, such as planting a different crop or alterations to the business plan (World Bank/UNCTAD). Government monitoring is often insufficient to properly assess the investor's compliance with its contractual and legal obligations. Oversight of investment activities is often focused on productivity targets, with limited monitoring of an investment's socioeconomic and environmental impacts (Mirza et al, 2014). Overlapping powers between government departments can also result in monitoring obligations 'falling between the cracks' (Chan, 2016). Continuous and effective oversight of investment projects is resource-intensive and may be under-prioritized by governments (ADB, 2014). Yet, oversight on compliance with contractual and legal obligations is crucial, especially when fiscal, financial or other types of incentives have been granted to attract investment. While incentives may be a useful tool to induce responsible business conduct, it may be necessary to minimize the risks of non-compliance. One potential solution is to tie incentives to investors meeting predefined criteria and targets.

4.6 Project failure and investor-state contracts

'It is a complicated business to make large-scale agricultural investments a success, especially in a developing country context' (Mirza et. al, 2015, p.17), yet financial and operational success is essential if FAF investments are to achieve positive development outcomes. Further, FAF investments tend to take a long time to become cash flow positive compared to other sectors. Typically, the more successful investors are experienced, well financed and with a clear understanding of their targeted market. Nevertheless, project failure can be lose-lose-lose for the local community, investor and host country. The guidelines help to address this risk. A significant proportion of ASEAN investments in the study cited above were unprofitable or behind schedule because of operational and financial challenges like difficulties accessing finance and working capital, poor roads limiting market access and other infrastructural deficits, human resources issues, and technical feasibility issues like unsuitable soils (Mirza et al, 2015).

Where resettlement takes place it is vital that the right to free, prior and informed consent (FPIC) is upheld, allowing indigenous peoples and local communities to give or withhold consent to a project that may affect them or their territory. Indigenous peoples and

communities with customary rights may not be properly empowered and technically prepared to engage in negotiations with private companies in the context of significant power asymmetries, leading to negative outcomes for them.

Properly enforced domestic laws are the best way for governments to help realize the positive impacts of FAF investments, but in practice, contracts between a state and an investor, known as investor-state contracts, play a major role in AMS. This is especially so in developing countries where the necessary domestic laws may not be in place or may not be sufficiently detailed (Smaller, 2014), or where there is insufficient capacity to monitor and enforce compliance with the laws that are in place. Host states may lack the legal expertise and negotiating capacity to ensure they enter into contracts of sufficient depth and quality to protect the interests of the government, local community and investor. A particularly problematic clause often sought by foreign investors is a 'stabilization' provision, which freezes the domestic laws at the time the contract is signed for that particular investor (Smaller, 2014). Such a clause may exempt the investor from the application of new laws, or may require the government to compensate the investor for financial losses arising from the application of new laws. This could include new environmental measures and increases to the minimum wage (Smaller, 2014).

Finally, in many cases grievance mechanisms for indigenous peoples and local communities are lacking in large-scale investments, and indigenous peoples and communities are unaware of how to raise concerns or seek redress. In addition, in the early stages of an investment, investors should be watchful for unresolved grievances, which they may inherit from 'legacy issues' (Interlaken Group 2017, CDC and DEG 2016).^{xxi} Such issues may be inherited from, for example, a past owner of the land or operation; political conflict leading to displacement; or inadequate consultation processes or perceived compensation in the investor's own land acquisition procedures. Investor grievance mechanisms are important tools that allow the investor to receive and resolve concerns and grievances by indigenous peoples and local communities on social and environmental issues and by employees on workplace issues (Smaller, 2014). In many cases, grievance mechanisms are absent, and some states simply do not consider that individuals or communities without a formal land claim have real land tenure rights. Therefore, the importance of the legal recognition of customary tenure rights.

5. THE ASEAN GUIDELINES FOR RESPONSIBLE INVESTMENT IN FOOD, AGRICULTURE AND FORESTRY

The ASEAN Guidelines for Responsible Investment in Food, Agriculture and Forestry are addressed to AMS governments (including subsidiary agencies, central and regional) and adapted to the specific challenges facing ASEAN that are identified in section 4, with an emphasis on large-scale agribusiness investments. Defining 'large-scale' agribusiness investments is a matter for individual AMS in accordance with their specific national context, and is critical to determine the sphere of influence over such investments. Given the emphasis on large-scale agribusiness investments, section 6 sets out their specific roles and responsibility, while section 7 sets out the roles and responsibilities for other stakeholders.

The Guidelines are voluntary in nature, and do not replace the need for binding laws and regulations, which when effectively implemented constitute the best guarantee to achieve social, economic and environmental benefits from investment. Each guideline has two parts, the first setting out the overarching principles, and the second containing measures that AMS can take to achieve those principles. The action plan contained in section 8 provides examples of how to operationalize those measures.

Guideline 1: Food and nutrition security

Responsible investment in FAF in ASEAN contributes to food and nutrition security by:

- i. Recognizing and respecting the right of everyone to have access to sufficient, safe, diverse, culturally acceptable, appealing, affordable and nutritious food, consistent and in line with:
 - a. The right to adequate food and the fundamental right of everyone to be free from hunger;
 - b. AMS' commitments to achieving Sustainable Development Goal 2 and contributing to the objectives and goals of the ASEAN Regional Guidelines on Food Security & Nutrition Policy, and the ASEAN Integrated Food Security Framework and Strategic Plan of Action 2015 – 2020.
- ii. Recognizing the unique role and influence of women in respect of family and community level food and nutrition security, and supporting women to translate investments in FAF into positive nutritional and food security outcomes for their family and community.
- iii. Recognizing and respecting the rights of indigenous peoples to continue their traditional food systems based on natural resources.
- iv. Acknowledging the enormous potential of well-managed forests, fisheries and aquaculture to promote food and nutrition security, by providing food, income and employment to millions of people, particularly in rural areas.

To achieve this, AMS may consider the following measures:

- v. Developing a coherent national FAF sector plan with a strategy to achieve food and nutrition security, manage competition between food and non-food crops, build partnerships for food security related research, and promote investments and business models best suited to achieving this strategy.
- vi. Promoting and facilitating investment in food production for food-insecure regions, serving local communities and vulnerable or marginalized groups.
- vii. Providing an enabling environment for responsible investment in food and nutrition security, including investment in sustainable production, consumption, and distribution.
- viii. Monitoring the impact of investment on food and nutrition security.
- ix. Developing innovative rural financing and investment mechanisms to improve access to resources and markets.

- x. Encouraging investment that minimizes pre- and post-harvest loss and waste, increases production efficiency and improves transport and storage infrastructure.

Guideline 2: Equitable, sustainable and inclusive economic development and poverty eradication

Responsible investment in FAF in ASEAN contributes to equitable, sustainable, inclusive, culturally respectful, and appropriate economic development and the eradication of poverty by:

- i. Recognizing the need to foster sustainable, inclusive growth that reduces poverty, ensures gender equality and women's empowerment, and lessens inequality within and between AMS, in line with the first goal of the Vision and Strategic Plan for ASEAN Cooperation in FAF.
- ii. Recognizing the central role of FAF in promoting inclusive business models to help ensure access to decent employment and entrepreneurship opportunities.
- iii. Respecting the fundamental principles and rights at work as defined in the ILO core conventions, giving particular attention to standards relevant to the FAF sector and the elimination of child labour.
- iv. Respecting, promoting and protecting existing local agricultural, fisheries and forest practices and livelihoods, and helping to enhance existing economies and livelihoods rather than displace or replace them.

To achieve this, AMS may consider the following measures:

- v. Encouraging investors to create decent, safe, and sustainable jobs and livelihoods in FAF, including sharing value through balanced, enforceable commitments from both the investor and the state.
- vi. Ensuring that investments provide adequate and equitable wages and benefits, decent working conditions, opportunities for training and up-skilling, and considering interventions aimed at the reduction and redistribution of women's unpaid care work.
- vii. Exploring alternatives to large-scale concessions, and encouraging investors to commit to equitable, transparent and inclusive business models, and equitable and inclusive fisheries investments that support small-scale fisherfolk and their communities.
- viii. Supporting programmes for small-scale producers to enhance awareness of decent work conditions and contractual rights and obligations.
- ix. Assisting small-scale producers who wish to become viable, competitive commercial enterprises, including through microfinance, rural credit, support to improve quality, and standards compliance.—Supporting fairer and more transparent contracts between buyers and small-scale producers that redress power asymmetries, including through a stable, conducive regulatory environment, and drawing on voluntary standards.
- x. Putting in place measures to enhance the positive spillover effects of FAF investments, including inserting specific, measurable commitments into investor-state contracts, such as those that provide for:
 - a. community development agreements, and in the case of indigenous peoples, a FPIC agreement;
 - b. business development and training programs for small-scale producers;
 - c. monitoring and assessing investment projects and outgrower schemes, including socio-economic impact reviews.

Guideline 3: Women, youths, indigenous peoples and marginalized groups.

Responsible investment in FAF in ASEAN contributes to equality, engagement and empowerment for women, youths, indigenous peoples and other marginalized groups by:

- i. Recognizing and respecting the human rights of women, youths and indigenous peoples, and vulnerable and marginalized groups such as children, older persons, persons with disabilities, migrant workers and ethnic minority groups, in line with the ASEAN Socio-Cultural Community Blueprint 2025.
- ii. Acknowledging the enormous contribution of women to FAF and the critical importance of FAF in harnessing the youth dividend, as well as their right to equitable access to work and other opportunities.
- iii. Committing to end child labour in investment projects, which deprives children of education, human capital accumulation, and healthy mental and physical development.

To achieve this, AMS may consider the following measures:

- iv. Strengthening equality, engagement and empowerment in legal and policy frameworks for FAF investments including through improving legal systems and the enforcement of existing laws.
- v. Promoting the participation of women, youths, indigenous peoples and marginalized groups in FAF, through policies and programmes that facilitate meaningful access to services, resources, markets, and opportunities, including:
 - a. Promoting procurement from businesses owned by women, youths, indigenous peoples and marginalized groups.
 - b. Establishing FAF educational and training institutions.
 - c. Encouraging investors that seek to develop inclusive decision-making processes and engagement strategies, including the provision of employment opportunities, internships and scholarships.
 - d. Supporting producer groups representing women, youths and indigenous peoples to enhance their advocacy and bargaining power.
 - e. Addressing the specific challenges faced in accessing training, financial services (e.g. lack of collateral) and land.
 - f. Supporting financial education and community savings groups.
 - g. Using gender-sensitive, family-based approaches to extension and technical training.
 - h. Promoting the development of dedicated financial products by commercial banks, including by lowering the risk of lending to people within these groups.
- vi. Supporting interventions which reduce the unpaid care work burden of women, such as child care facilities, maternity and paternity allowances and leave.
- vii. Ensuring meaningful participation in investment-related decision-making, leadership roles, and partnerships. In the case of indigenous peoples ensure their participation is through representatives chosen by them in accordance with their own procedures, and that their own indigenous decision-making institutions are maintained, as established in the UNDRIP.

Guideline 4: Tenure of land, fisheries, and forests

Responsible investment in FAF in ASEAN respects tenure of land, fisheries, and forests, and access to water by:

- i. Respecting the rights of all legitimate tenure right holders of land, fisheries and forests, including customary tenure rights, in line with the VGGT, the SSF Guidelines, and in the case of indigenous peoples the UNDRIP.
- ii. Recognizing the necessity of minimising displacement, eviction, and resettlement of all legitimate tenure rights holders in line with applicable AMS laws, the VGGT, the SSF Guidelines, the UN Office of the High Commissioner for Human Rights Basic Principles and Guidelines on Development-Based Evictions, and IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement.

- iii. Acknowledging the particular vulnerability of forestry tenure rights and the importance of tenure rights for environmentally, socially and economically responsible resource management of fisheries.
- iv. Recognizing the FPIC process as a right for indigenous peoples and a best practice for local communities.
- v. Having regard to the importance of secure tenure rights for environmentally, socially and economically responsible investment and resource management.

To achieve this, AMS may consider the following measures:

- vi. Assessing the alignment of the national land tenure legal framework with these Guidelines and the VGGT, and where necessary strengthening laws, policies, and capacity to legally recognize customary tenure rights, and identify, record, and where appropriate, formalize tenure rights.
- vii. Raising awareness amongst AMS at all levels of government regarding the VGGT and other relevant principles and guidelines, including sensitizing government officials on the need to avoid investment promotion practices that undermine security of tenure.
- viii. Raising awareness among communities about their legitimate tenure rights in the context of a prospective investment likely to affect them, including:
 - a. Building capacity to engage with investors, including participating in negotiations, with particular attention to women, youths, indigenous peoples and marginalized groups.
 - b. Developing simple, culturally sensitive and effective processes through which concerns, grievances, and infringements of tenure rights can be raised and addressed.
- ix. Assessing the likely economic, social and environmental impacts of large-scale agribusiness investments on all legitimate tenure rights holders.
- x. Subject to national laws and in accordance with the national context, expropriating tenure rights only for a public purpose, in line with the VGGT.
- xi. Where resettlement is unavoidable, following the UN Office of the High Commissioner for Human Rights Basic Principles and Guidelines on Development-Based Evictions and IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement.
- xii. Maintaining a fair and transparent system of identifying tenure rights in a way that uses locally appropriate approaches to safeguard legitimate tenure rights holders and conservation areas.

Guideline 5: Natural resources

Responsible investment in FAF in ASEAN contributes to the conservation and sustainable management of natural resources, in particular ASEAN's wealth of forest and fishery resources, by:

- i. Recognizing the need to remedy the negative impacts arising from investment in FAF on air, land, soil, inland and offshore water resources, forests, wetlands, habitats and biodiversity, including with regard to the specific needs of sensitive areas and protected sites.
- ii. Recognizing the economic, social, cultural and ecological value of ASEAN's forests and fisheries and their contribution to biodiversity and the carbon cycle.
- iii. Respecting the unique role of forests in providing important ecosystem services such as food security, energy security and medicinal needs, in line with the Vision and Strategic Plan for ASEAN Cooperation in FAF and the Strategic Plan of Action for ASEAN Cooperation on Forestry (2016 – 2025).

To achieve this, AMS may consider the following measures:

- iv. Ensuring comprehensive national resource management systems, based on strong resource management laws and data, incorporating best practices and knowledge from indigenous peoples and local communities.
- v. Putting in place robust institutions, systems of governance and natural resource planning and management processes, with ample space for participation of local communities and indigenous peoples in decision-making.
- vi. Screening investment proposals for impacts on access to and quality of natural resources, and the investor's approach to mitigating potential negative impacts.
- vii. Supporting sustainable sourcing and certification, harnessing and demonstrating the increasing demand for sustainably produced products.
- viii. Ensuring that investor-state contracts uphold existing laws and regulations pertaining to natural resource management of forests, agriculture and fisheries.

Guideline 6: Technology generation and diffusion

Responsible investment in FAF in ASEAN supports the generation and diffusion of sustainable technologies and practices for resource efficient, productive and safe FAF systems by:

- i. Recognizing the necessity of R&D, infrastructure, and human capacity development for the generation and diffusion of technology throughout FAF value chains, including better aligning foreign technologies with local needs and constraints.
- ii. Encouraging technology transfer from large private investors to small-scale producers, including in the context of private sector partnerships and inclusive business models.
- iii. Recognizing the importance of traditional knowledge and technologies, and encouraging their conservation and transfer while ensuring that collective intellectual property rights are protected.

To achieve this, AMS may consider the following measures:

- iv. Adopting policy, regulatory and institutional arrangements involving governments, the private sector, small-scale producers and CSOs to drive the development, commercialization and distribution of technologies, in furtherance of the Vision and Strategic Plan for ASEAN Cooperation in FAF.
- v. Providing effective and inclusive legal and policy frameworks for intellectual property rights, including efficient regulatory approvals for new technologies so they can be readily adopted.
- vi. Developing the capacity to screen and prioritize investments that introduce new and sustainable technologies.
- vii. Strengthening forums for information exchange, innovation and knowledge sharing between and amongst the agricultural research institutions, the private sector, scientists, small-scale producers, CSOs and other stakeholders.
- viii. Seconding skilled government officers to an industry body to provide technological support to small-scale producers.
- ix. Promoting collaboration and coordination amongst AMS for R&D, including making the most of ASEAN structures for knowledge sharing, and leveraging private sector investment in innovation through strategic PPPs, in line with the ASEAN Public-Private Partnership Regional Framework for Technology Development in the FAF Sectors.

Guideline 7: Climate change, natural disasters, and other shocks

Responsible investment in FAF in ASEAN contributes to increased resilience and the mitigation of, and adaptation to, climate change, natural disasters, and other shocks by:

- i. Recognizing that FAF sectors have immense potential to contribute to climate change adaptation and mitigation measures. This includes through carbon sinks, reforestation, and conservation of natural forests, amongst other linkages. In so doing, responsible investment in FAF supports the ASEAN Multi-Sectoral Framework on Climate Change: Agriculture and Forestry Towards Food Security.
- ii. Acknowledging and responding to the heightened vulnerability of women, youths, indigenous peoples and marginalized groups to the socio-economic impacts of natural disasters and climate change, in alignment with the ASEAN Vision and Strategic Plan for ASEAN Cooperation in FAF.
- iii. Recognizing, respecting and promoting indigenous peoples' traditional knowledge, systems and practices in climate change mitigation and adaptation.

To achieve this, AMS may consider the following measures:

- iv. Integrating climate change adaptation and mitigation plans and strategies into national investment policy frameworks in accordance with each country's domestic considerations, to help attract climate sound investment projects and technologies and ensure harmonization.
- v. Increasing public funds for research and extension services to support FAF-related climate change mitigation and adaptation, including through:
 - a. Increasing investments for mitigation and adaptation technologies, and the development of climate resilient varieties.
 - b. Building capacity of government officials and small-scale producers to disseminate and apply high-quality research through shared ASEAN experiences.
- vi. Identifying specific areas of action required in respect of climate change measures and encouraging investors to pay sufficient attention to them, including in line with the ASEAN Regional Guidelines for Promoting Climate Smart Agriculture Practices.
- vii. Adapting screening processes and decision-making around investment, in accordance with the national context, to integrate climate change mitigation and adaptation considerations.
- viii. Developing legal and policy frameworks to harness the private sector in pursuit of diverse and innovative insurance products and services that consider the risks arising from the increased frequency of droughts, floods and other extreme weather-related events.

Guideline 8: Rule of law and governance

Responsible investment in FAF in ASEAN respects the rule of law and incorporates inclusive and transparent governance structures, processes and grievance mechanisms by:

- i. Abiding by national laws and international laws that AMS has ratified and signed on, and human rights principles in letter and in spirit;
- ii. Recognizing the importance of sharing information relevant to an investment in an inclusive, accessible, and transparent manner at all stages of the investment cycle, to level the playing field between investors and affected communities, mitigate potential conflicts, and facilitate monitoring of compliance;
- iii. Acknowledging the necessity of transparent, culturally sensitive and effective mediation, grievance, and dispute resolution mechanisms, including respecting traditional and customary governance and grievance mechanisms processes for dispute resolution, particularly for vulnerable and marginalized groups, indigenous peoples and local communities.
- iv. Respecting the application of the FPIC principle.

- v. Promoting a policy, legal, regulatory, and institutional environment, that treats all FAF investors fairly and equitably, and that is transparent, coherent, consistent, and predictable.

To achieve this principle, AMS may consider the following measures:

- vi. Establishing guidelines for the periodic reporting and disclosure of information and, where appropriate in the national context, integrating them into the national policy framework, including:
 - a. Requiring investment contracts, land, fisheries and water leases and concession agreements to be made publicly available, subject to the redaction of truly confidential business information.
 - b. Making disclosed information accessible to all stakeholders, taking into consideration their diversity and levels of understanding, for instance by developing simple summaries in local languages.
 - c. Adopting measures to ensure that women, youths, indigenous peoples and marginalized groups are aware of their rights, have access to justice and are able to claim their rights
- vii. Ensuring consistency of reporting standards between small and large investors, to aid in the comparison of reported information. Strengthening access for local communities and indigenous peoples to capacity-building activities, pro bono legal services and legal aid, with particular attention to women, youths, indigenous peoples and marginalized groups.
- viii. Taking actions to address any legacy issues, for instance through an early-stage grievance mechanism, review of past contracts, impact assessments or an independent land assessment in post-conflict situations. Ensuring access to effective, affordable remedies through the courts or other legitimate non-judicial process, where a grievance redress mechanism is unable to resolve a grievance.
- ix. Supporting an enabling environment for FAF investors, including by:
 - a. Ensuring the meaningful participation of stakeholders in FAF investment policy-making and providing opportunities for feedback and dialogue on the implementation of laws and policies.
 - b. Promoting equal access to information, services, incentives, resources, and government bodies, and non-discriminatory enforcement of laws and regulations in accordance with national laws.
 - c. Providing clear information on any licensing requirements and procedures.
 - d. Improving coordination and communication between different levels of government.
- x. Providing guidance for investors on good practices and processes for community consultations and negotiations, monitoring investors to ensure that they engage and negotiate meaningfully with affected communities, including overseeing the use of grievance redress mechanisms, and ensuring that barriers to effective participation are addressed.

Guideline 9: Impact assessment and accountability

Responsible investment in FAF in ASEAN includes mechanisms to assess and address economic, social, environmental, and cultural impacts, and promotes accountability, particularly in respect of vulnerable and marginalized groups, indigenous peoples and local communities, by:

- i. Acknowledging the importance of independent and transparent impact assessments in collaboration with all relevant stakeholder groups, in particular the most vulnerable and marginalized.

- ii. Identifying impact mitigation measures to address negative impacts, including the option of not proceeding with an investment, and ensuring effective, ongoing implementation of those measures.

Recognizing the need for disaggregated baseline data and indicators for monitoring and measuring impact, with input from the local community and indigenous peoples.

To achieve this, AMS may consider the following measures:

- iii. Effectively screening and selecting investors and investment projects that align with national development priorities and the needs of communities.
- iv. Strengthening the implementation and enforcement of relevant impact assessment regulations pertaining to FAF investments.
- v. Ensuring ongoing monitoring and periodic reviews of impacts by relevant agencies and encouraging the cooperation of other stakeholders in monitoring activities, such as indigenous peoples and local communities, CSOs and the private sector.
- vi. Ensuring that impact assessments and the results of monitoring activities are made publicly available and accessible in local languages.
- vii. Ensuring regular review and updating of impact assessments and management plans and communication of results to stakeholders.
- viii. Implementing appropriate and effective remedies and/or compensation for negative impacts, and breach of national laws or contractual obligations.

Guideline 10: Regional approaches

Regional approaches to responsible investment in FAF in ASEAN are strengthened through:

- i. Recognizing the importance of harmonizing FAF standards, regulations and approaches at a regional level, while allowing flexibility according to individual AMS levels of development.
- ii. Acknowledging the dangers of a 'race to the bottom' arising from AMS competition in terms of generous investment incentives that undermine responsible investment in FAF; and the benefits of pursuing a 'race to the top' by providing incentives for socially and environmentally responsible business practices.
- iii. Acknowledging the benefits of cooperative AMS capacity building activities, regional initiatives and networks to share information and raise regional standards for investment.

To achieve this, AMS may consider the following measures:

- iv. Regionally building upon and upholding existing international good practices and standards mentioned in these Guidelines, for example the principles of FPIC, IFC Performance Standards, VGGT, the SSF Guidelines, and UN Guiding Principles for Business and Human Rights.
- v. Developing shared approaches to FAF investment promotion and facilitation, sharing information on investments requiring cross-ASEAN financing and expertise, including measures to achieve a 'race to the top' in investment promotion practices.
- vi. Promoting intra-regional assistance, experience sharing and capacity building on issues related to responsible investment in FAF to strengthen AMS governments' capacity on legal, policy and implementation issues.
- vii. Promoting bilateral cooperation between home and host countries to jointly monitor the performances of FDI in FAF and harmonize regulations to ensure the principles of these guidelines are maximized in existing and future FDI.

6. ROLES AND RESPONSIBILITIES OF AGRIBUSINESSES AND LARGE-SCALE INVESTORS IN FAF, INCLUDING FOREIGN INVESTORS

The Guidelines are primarily addressed to AMS as host states, but there are crucial roles and responsibilities for all FAF stakeholders, particularly agribusinesses and large-scale investors, but also small-scale producers, communities, civil society, financial institutions and home states. Ultimately, all stakeholders should strive to follow these Guidelines, in accordance with their respective abilities and needs, and as appropriate in the context of each individual AMS. The roles and responsibilities of agribusiness and large-scale investors are covered in this section; section 7 sets out roles and responsibilities for all other stakeholders.

Agribusinesses and large-scale investors in FAF, including foreign investors have the following roles and responsibilities in relation to:

1. Food and nutrition security
 - i. Assessing and mitigating a project's impact on local food and nutrition security during the feasibility and impact assessment phase.
 - ii. Discussing and documenting food and nutrition security and livelihood implications during consultations with indigenous peoples and local communities.
 - iii. Providing decent, stable and well-paying jobs, and paying fair prices to suppliers, to enable the purchase of quality, diverse, safe and nutritious food.
2. Equitable, sustainable and inclusive economic development and poverty eradication
 - i. Creating new and decent jobs through improved working conditions, including by promoting occupational safety and health and adequate living wages.
 - ii. Respecting the fundamental principles and rights at work, as defined in the ILO core conventions, and supporting the effective implementation of other international labour standards relevant to the FAF sector.
 - iii. Involving small-scale producers in business operations on mutually beneficial terms, including through fair contract farming, and local procurement.
 - iv. Assisting local businesses to acquire the necessary knowledge and technology to meet the higher quality and performance standards of the investor.
 - v. Where possible, taking measures to lessen negative impacts of pricing policies and marketing on small-scale producers and SMEs.
3. Women, youths, indigenous peoples and marginalized groups
 - i. Actively promoting women's, youths' and indigenous peoples' participation in community engagement and investor consultations and negotiations.
 - ii. Encouraging women's, including indigenous women's, representation in company operations and decision making at all levels and help build their organizational capacity through training and mentoring.
 - iii. Adopting employment practices such as anti-discrimination and harassment policies and training.
 - iv. Offering fast-tracked training, internships, and mentoring opportunities, and undertaking partnerships with education and training institutions that serve women, youths and indigenous peoples.
 - v. Targeting women, youths and indigenous peoples for participation in outgrower programs.
 - vi. Contributing to child labour prevention and elimination in FAF.
4. Tenure of land, fisheries, and forests
 - i. Considering business models that do not include large-scale transfers of tenure rights.

- ii. Understanding the local context, applicable land, forest and fishery tenure system and processes, before entering into negotiations directly with the legitimate tenure rights holders, including through local committees dealing with different aspects of land, fishery and forestry management in the community.
 - iii. Obtaining FPIC on any decision related to land, fisheries, forests, water and other natural resources, building in adequate time for addressing questions and concerns prior to a decision being made.
 - iv. Where the government has already “prepared” the sectoral parcel, or where taking over an existing lease arrangement, undertaking a retrospective review of procedures to make certain that international standards were met.
- 5. Natural resources
 - i. Highlighting potential impacts on local natural resource access and quality in representative and inclusive consultations, taking into account the views and needs of vulnerable and marginalized groups in particular.
 - ii. Conducting environmental and social impact assessments (including cultural impact considerations) to assesses the impact of the project on natural resources, and developing a management plan to mitigate the negative impacts identified in accordance with national regulations and international best practice.
 - iii. Ensuring a sustainable net positive effect on community water access, especially for large-scale projects.
- 6. Technology generation and diffusion
 - i. Understanding small-scale producers and SMEs’ barriers to improved technology, and developing strategies to mitigate them.
 - ii. Involving representatives of small-scale producers and SMEs in technology decisions and use, to ensure technologies are appropriate and well adapted for local needs.
 - iii. Investing in local R&D activities and building the capacity of local employees to develop and use new technologies.
 - iv. Training small-scale producers and SMEs, or establishing field schools, to demonstrate the application and results of the technology and help it spread.
 - v. Incentivizing technology use and reducing risks of failure by providing services to support adoption, such as financing, tech-support, and access to markets.
 - vi. Investing in strong after-sales technical support and product stewardship programmes to ensure proper use of new technologies, and to prolong the useful life of biological technologies like improved seeds or brood stock.
- 7. Climate change, natural disasters, and other shocks
 - i. Supporting climate-related research, including by participating in PPPs.
 - ii. Working with indigenous peoples, local communities and small-scale producers to encourage and support their adoption and effective use of climate-smart mitigation and adaptation practices.
 - iii. Using national, regional, and international networks to introduce, disperse and scale-up the use of best practice crops, technologies, and methods.
 - iv. Avoiding FAF business practices that contribute negatively to climate change.
- 8. Rule of law and governance:
 - i. Understanding the local community context, by mapping the demographic profile, power dynamics, livelihood sources, and key stakeholders.
 - ii. Establishing effective communication, transparency, and trust with communities early on, including using a written community engagement strategy.

- iii. Actively disclosing all relevant, non-commercially sensitive information in a way that is understandable to communities, in accordance with national laws and international best practice.
- iv. Training staff to deal respectfully and with appropriate cultural sensitivity with community members.
- v. Putting in place a grievance resolution mechanism, subject to applicable law and international standards, that:
 - a. Is designed in consultation with users so it is relevant and appropriate.
 - b. Is well publicized, with clear procedures, including a fast-track process to quickly resolve high-priority complaints.
 - c. Does not purport to substitute for, nor obstruct, judicial and administrative remedies.
 - d. Is regularly evaluated against objective indicators.

9. Impact assessment and accountability

- i. Assessing economic, environmental and social impacts at the planning stage, ensuring the mitigation of these impacts is built into the project design, costing and implementation, and if necessary, discontinuing where negative impacts are too significant.
- ii. Treating impact assessments and management plans as dynamic tools to regularly monitor environmental and social performance throughout operations, including assessment of new risks.
- iii. Using a management information system to provide appropriate, up-to-date information required by a monitoring agency or advocacy group, and to manage communications from affected communities.
- iv. Monitoring accidents, injuries, and the general health of workers, and implementing corrective actions and preventive policies and procedures.
- v. Using independent third parties and certification bodies to ensure compliance with good international practice.

10. Regional approaches

- i. Joining regional and global FAF organizations, which pledge to comply with generally accepted principles of sustainability, such as the Global Agribusiness Alliance or Sustainable Rice Platform.
- ii. Being cognizant of the externalities arising from their investments in one AMS that may impact on neighboring AMS and support regional mitigation measures.

7. ROLES AND RESPONSIBILITIES OF OTHER STAKEHOLDERS

7.1. SMALL-SCALE PRODUCERS & SMES

Small-scale producers and SMEs can help support the implementation of the Guidelines by:

- i. Creating new jobs and fostering decent work through improved working conditions.
- ii. Respecting the fundamental principles and rights at work, as defined in the ILO core conventions, and supporting the effective implementation of other international labour standards relevant to the FAF sector.
- iii. Considering the recommendations to larger investors in section 6 and applying them to the highest degree possible, especially in support of communities and vulnerable and marginalized groups, noting that SMEs are significant investors in FAF, including cross-border investments.
- iv. Participating in opportunities and forums for information, technology and knowledge exchange, including sharing local and traditional practices in

sustainable crop management measures and other methods of climate change adaptation in FAF.

- v. Proactively engaging with investor-led business development and training programs designed to support local businesses to engage meaningfully and productively with the investment project.
- vi. Creating and maintaining strong and inclusive small-scale producer's cooperatives and SME networks to collectively and effectively represent the interests of small-scale producers and SMEs in government and investor decision-making processes regarding FAF investments.

7.2. Communities

Communities can help support the implementation of the Guidelines by:

- i. Establishing a representative body to engage with investors, including a cross-section of the community so all voices can be heard.
- ii. Using representative bodies to engage in activities that promote awareness of and respect for the rights of all groups within the community.
- iii. Putting in place a memorandum of understanding with investors on how the relationship and engagement between the parties will be conducted.
- iv. Holding community forums to which important decisions can be referred and at which general information can be provided about investment decisions.
- v. Participating in available training and capacity development programs and participating in actively in consultations and negotiations, seeking support from CSOs and independent advisory groups where needed.
- vi. Participating in knowledge sharing processes regarding indigenous and traditional practices in sustainable crop management measures and other methods of climate change adaptation in FAF.
- vii. Taking part in monitoring of investment projects, where appropriate.

7.3. Civil society

Civil society groups can help support the implementation of the Guidelines by:

- i. Considering how the guidelines can be reflected in and operationalized by their own workstreams and programmes.
- ii. Assisting states to implement aspects of the guidelines, such as those related to equitable, sustainable and inclusive economic development, accountability, respecting land, fisheries and natural resource tenure and the rule of law. To be able to carry out its roles and responsibilities effectively and to support the implementation of the guidelines, civil society requires ample civic space to be able to operate freely and effectively in all AMS.
- iii. Partnering with other stakeholders, including agribusinesses and communities, to support 'on the ground' implementation of these guidelines, for example, helping communities to understand and apply the guidelines, and advising agribusinesses on local dynamics and socially inclusive community consultations.
- iv. Conducting robust monitoring and assessment of investment projects.
- v. Using the guidelines to strengthen and legitimize their own campaigning, education and advocacy activities around investment in FAF in ASEAN.
- vi. Supporting community groups and producers' cooperatives with specialized training and capacity development programmes on their rights, local laws and regulations, and negotiation skills.

7.4. Financial sector actors

Financial sector actors can help support the implementation of the Guidelines by:

- i. Developing insurance and other financial products, which take into account risks from climate change and natural disasters and incentivize mitigation activities, including products and services that are adapted to the needs of small-scale producers and SMEs.
- ii. Using innovative financial technologies to efficiently determine credit worthiness, deliver funds, and generally increase access to finance.
- iii. Funding FAF investment projects that adopt the principles of responsible investment embodied in these Guidelines and support their implementation, particularly for projects affecting indigenous peoples, local communities and vulnerable and marginalized groups, and withdrawing support for investors that do not comply.

7.5. Home countries

Home countries of AMS investors can help support the Guidelines by:

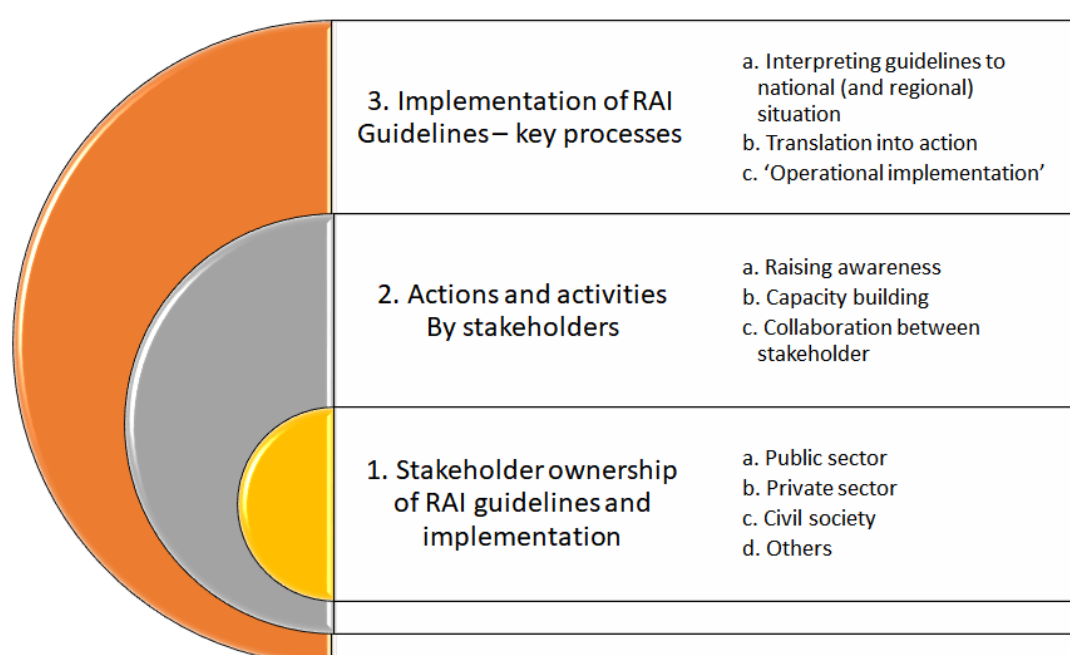
- i. Respecting and recognizing the right to food of host country populations when devising food security and nutrition strategies based on outward investment where production is destined for export from the host states.
- ii. Giving effect to the principles of these Guidelines by regulating the business activities of outward investors, including through extra-territorial application of domestic laws.
- iii. Clearly setting out the expectation that investors domiciled in their territory and/or jurisdiction respect human rights throughout their operations.
- iv. Cooperating with AMS host states to help improve investment screening processes, where needed. Coordinating with host states to implement investment projects, in accordance with the laws and regulations of the home state, and the principles of the UNCTAD Investment Policy Framework for Sustainable Development (2015).
- v. Building partnerships to promote investment that is sustainable and provide appropriate and responsible incentives.
- vi. Ensuring that support which is provided to companies investing abroad, such as through overseas investment insurances, is conditioned on adherence to the Guidelines.

8. ACTION PLAN TO PROMOTE AND IMPLEMENT THE GUIDELINES

This section outlines elements of an action plan to promote and implement the Guidelines among AMS, recognizing their specific circumstances and broader national goals and policies. An action plan to promote and implement the Guidelines ultimately consists of three crucial aspects (figure 1):

1. **Ownership.** All stakeholders taking ownership of the guidelines (and the implementation process), and thereby bear responsibility for the required relevant actions and activities. In each AMS, it is important to reach a consensus on the respective rights and obligations, responsibilities and roles of all stakeholders, including the public sector, private sector and civil society. These may vary by AMS, level of economic development, institutional capacity, private sector prowess (including that of large companies, SMEs and small-scale producers), types of communities and other aspects.

Figure 1. Key elements of AMS Action Plan to promote and implement the Guidelines



Source: ASEAN Secretariat

2. **Actions and activities.** Implementation of the guidelines includes three types of actions and activities by stakeholders in pursuance of the Guidelines, namely:
 - a. Raising awareness (including advocacy, outreach and identifying opportunities);
 - b. Capacity building (including technical assistance, training programmes and knowledge sharing networks and institutions);
 - c. Collaboration among stakeholders, in particular a 'trilateral partnership' of the public sector, private sector and civil society organizations.
3. **Implementation.** The implementation process comprises three principal phases:
 - j. First phase – *Interpretation* of the Guidelines as they apply to the national situation in each AMS, including the country's natural and created endowments, FAF circumstances, socio-cultural context (e.g. the rights of local communities and indigenous peoples) and existing agreements, conventions and laws;

- ii. Second phase – *Translation* of the consensus reached in the first phase into regulatory, institutional and related actions by various stakeholders, e.g.
 - i. Establishment of institutions and networks to enable implementation of the Guidelines;
 - ii. Enactment of new regulations and policies, or revision of existing ones, *where needed*;
 - iii. Creation of an infrastructure within which the private sector, civil society and others can act and establish frameworks, standards, certification schemes etc. to further the goals of the Guidelines.

In essence, the second phase creates a ‘mixed economy’ reflecting the necessary respective spaces within which each type of stakeholder – separately or jointly – need to construct tools, instruments and vehicles to implement the guidelines. For instance, both regulations and private instruments such as standards and certification have a role to play.

- ii. Third phase – ‘*Operational implementation*’ of the Guidelines at a myriad of levels, powered by each actor taking responsibility for their actions, separately or in concert with others.

The three aspects, stakeholder ownership, types of actions and the implementation process are complex and inter-related. Thus, all stakeholders take part (to the appropriate degree) in the entire process of implementing the guidelines; and, similarly, raising awareness, capacity building and collaboration are required in all *phases* of the implementation process. Moreover, the phases of implementation are not distinct, necessarily overlapping and, in some respects, running parallel with each.

Table 1 outlines the broad contours of an action plan for an AMS, primarily by phase of implementation of the Guidelines. The table indicates that actions in each phase can be simultaneously regarded as raising awareness, building capacity or collaborative activities of stakeholders. The concrete actions and activities presented (with examples) in each phase represent the most important *categories* required in an AMS’ action plan but are not exclusive; and they will vary by type and scope for each individual AMS. The actions and activities presented in earlier phases are, in the main, building blocks for later phases.

Table 1. Illustrative elaboration of an AMS Action Plan: phases of activity, types of principal actions and activities to be undertaken, and nature of activity

Phase	Types of actions and activities	Nature of action or activity			Comments, further details
		Awareness raising	Capacity building	Collaboration	
	<p>Raising awareness, e.g. through social and traditional media campaigns, educational programmes, roadshows, on product packaging, training of contractors by larger firms. Apart from general awareness raising applies especially to:</p> <ul style="list-style-type: none"> Investors and those involved directly in agriculture – target appropriately (e.g. large firms versus SMEs). The public sector, in order to determine priorities and actions. Stakeholders should be made aware that ASEAN-RAI guidelines are about increasing benefits and mitigating costs. It is not a zero-cost game, but there are costs. Raising awareness activities can learn from (or collaborate with) other initiatives, e.g. vis-à-vis climate change. 	√	√	√	<ul style="list-style-type: none"> Awareness is lowest overall in some AMS or parts of larger ones (among all/most stakeholders). Likely lower in elements of the guidelines, e.g. gender, business models, technology transfer etc. Investors' awareness can be raised in diverse ways, e.g. via shareholders. Elements of the private sector can support awareness and capacity building of other stakeholders – they often have appropriate experience. CSOs can similarly play a role, as can expertise from other AMS or the international community. Communication is key – many technical aspects which require investment to facilitate understanding.
	<p>Identifying priorities, time-lines, resource requirements (and fulfilment) to support implementing the Guidelines and financing/upskilling needs of business (of all scales and types).</p> <ul style="list-style-type: none"> Priorities and policy consequences will vary between AMS, depending on endowments, level of development, whether they are net source or 		√	√	<ul style="list-style-type: none"> Both a short- and long-term perspective are needed: <ul style="list-style-type: none"> A short term-one to rapidly galvanize stakeholders and proceed rapidly, but coherently, implementing the Guidelines. A long-term one to infuse and mainstream responsible investment in FAF so that it

	<p>recipients of FDI in agriculture etc.</p> <ul style="list-style-type: none"> • Important to have a regional perspective to ensure national policies are (a) coherent (e.g. policies on inward/outward FDI); and (b) allow AMS to support each other (e.g. helping CMLV countries to set and measure key indicators). • Just as different private sector and CSO entities need to be involved in the process, so do different arms of the public sector – responsible investment in FAF issues reach well beyond the scope of FAF Ministries. 				<p>becomes ‘normal’ to all stakeholders. The elements comprising the guidelines represent long-term aspirations, many of which can be tied into the concurrent SDG goals which are also the common responsibility of all stakeholders.</p> <ul style="list-style-type: none"> • How the resources are agreed, provided and spent (e.g. training SMEs or small-scale producers) is important. • Capacity building programmes and tools to further these priorities and consequent actions needed are required, ultimately for all types of stakeholder but – in the first instance – public officials, SMEs and small-scale producers.
	<p>Establishment of multi-stakeholder platforms to support awareness raising and common perspectives/values, and later capacity building and collaborative operational implementation.</p>	✓	✓	✓	<ul style="list-style-type: none"> • Platforms can be regular meetings (fora), networks, physical or online etc. • They likely need to be suitable for purpose, e.g. different FAF sector communities of purpose. • It is important to build upon and leverage existing FAF platforms, national and regional, as well as industry associations and others.

Phase 2: Translation to regulations, enabling environment and institutions	<p>Consensus agreement on the appropriate ‘space’ for actions by each set of stakeholders, notably the public, private and civil society actors.</p> <ul style="list-style-type: none"> • Such space is relative; ‘collaborative overlapping’ and complementarity of roles is essential. • Public sector both regulates and creates the enabling environment/framework (and establishes incentives) to enable the other sectors. • Private sector must take responsibility in establishing private approaches, including standards and certification at each level of the value chain. • Banks are central to the process and can incentivize investors to adopt the Guidelines as part of their financing procedures. 		✓	✓	<ul style="list-style-type: none"> • ‘Trilateral’ Collaboration between public sector, private sector and CSOs (and others). An institution or platform for ‘partnership brokerage’ to bring partners with pertinent assets and skills together could be established. • Scope for regional approaches to ensure cross-ASEAN coherence, for instance standard setting impacts on regional and international trade. Essential that standards, certification etc. do not conflict with international benchmarks (but could go beyond them). No need to re-invent the wheel. • New public-sector regulations (and enabling frameworks for other sectors) should be framed in the context of existing laws and regulations to ensure coherence and prevent a dilution of existing requirements and practices.
	<p>Act on the recognition that the guidelines may apply differently or to varying degrees between FAF sectors; incorporate this into the translation and operational implementation phases.</p>	✓	✓	✓	<ul style="list-style-type: none"> • The public sector has to be aware of these differences, in order to frame its policies appropriately. • E.g. appropriate capacity building may be required for contractors and suppliers and others along the value chain in each sector.
	<p>Innovative tri-sector initiatives and platforms to integrate, reorientate, diffuse and mainstream RAI (during phase 3).</p> <ul style="list-style-type: none"> • For example, agricultural investment, especially in the context of climate change, accelerating natural disasters and other shocks represents large, complex risks to investors, large and small, as well as communities and regions. This requires: <ul style="list-style-type: none"> • The insurance industry to introduce country/conditions appropriate, long-term-orientated risk assessment procedures to offer better, appropriate insurance to all parties (and offer incentives to mitigate risks); 	✓	✓	✓	<ul style="list-style-type: none"> • Tri-sector collaboration in responsible investment in FAF is essential in meeting the many major challenges faced by the world, with some more likely to affect ASEAN countries – e.g. dangers faced by coastal communities in an archipelagic region. Meeting such challenges also requires awareness raising and capacity-building among all stakeholders. • Climate change and natural disasters are a good example of the need for innovative, collaborative initiatives, for roll-out and diffusion in FAF sectors. The same also applies in all other elements of the guidelines.

	<ul style="list-style-type: none"> The financing industry to equally consider such risks and act upon them accordingly in providing loans, for instance by improving criteria to assess the sustainability of a project and the degree to which mitigation and adaptation targets are built in; Mutatis mutandis for investors, the public sector, and other entities and institutions. 				
Phase 3: 'Operational implementation'	Establish and set up measurable goals, targets and indicators in relation to the various aspects covered by the Guidelines.		√	√	<ul style="list-style-type: none"> Better to have fewer, achievable (but pertinent) and measurable overall targets than a plethora of 'ideal' ones. Within this, enable the private sector, CSO and others to create pertinent targets and indicators, e.g. different industries, along the value chain, MSMEs or small-scale producers, the needs of various communities and vulnerable groups. Monitoring, auditing, compliance can and should all be linked to targets and indicators for responsible investment in FAF.
	<p>Creation of platforms, institutions, agencies etc. to support implementation of the Guidelines, both short and long term. For example:</p> <ul style="list-style-type: none"> Capacity building of the public sector, communities and others could be considered short-term, but in reality, there will be a long-term need. Capacity building programmes can be established internally (e.g. within Ministries), there is scope for programmes to be run externally, both at existing training/education institutions but also newly created, dedicated ones (depends on scale and scope of need). Upskilling of agricultural communities, modernization of agriculture, a greater use of specialist skills may ultimately require the expansion or creation of specialist institutions – 	√	√	√	<ul style="list-style-type: none"> There are plenty of good examples of the creation of institutions, agencies etc. from across ASEAN from agriculture and other industries, e.g. automobiles and electronics/electrical machinery.

	these can be spin-offs (or training arms) of agribusiness companies, public sector institutions or joint ventures between the public and private sectors. <ul style="list-style-type: none"> Improved quality control, use of standards, certification schemes will also require an institutional framework, which can take various forms. 				
	Building capabilities of rural communities to negotiate with investors (and others).		√	√	<ul style="list-style-type: none"> CSOs and others can support this. In some cases, might need to go back to first principles. FPIC is widely advocated, but communities do not necessarily understand what they are agreeing to, and nor do investors necessarily understand how to implement FPIC principles.
	Use of role models – examples of large and small firms, social enterprises and others.	√	√		

Source: ASEAN Secretariat

ANNEXES

Table 1. Key overarching principles or guidelines for responsible agricultural investment specific to agriculture, food, and land.

Name	Organization	Purpose, structure, and coverage
Committee on World Food Security, Principles for Responsible Agriculture and Food Systems (CFS -RAI)	CFS (2014)	<ul style="list-style-type: none"> • Approved by the 41st Session of the UN General Assembly on 15 October 2014. • Address all types of investment in agriculture and food systems—public, private, large, small—and in the production and processing spheres.
IFC Performance Standards on Environmental and Social Sustainability (IFC-PS)	IFC (2012)	<ul style="list-style-type: none"> • Clients required to apply the Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced. • Taken on board by the Equator Principles and thereby adopted by a large number of lending institutions.
Food and Agriculture Business Principles (UN FAB)	UN Global Compact (2014)	<ul style="list-style-type: none"> • Voluntary to embrace the principles and report annually on progress. • Based on 16 factors: yield and productivity, workers' rights, optimal use of soil and water, land use and rights, women and gender equality, climate change, waste management, biodiversity, institutions and infrastructure, protection of children, energy efficiency, health and nutrition, animal and marine welfare, supply chains and trade, small-scale farmers and co-ops; and value chain financing.
OECD-FAO Guidance for Responsible Agricultural Supply Chains	OECD-FAO (2016)	<ul style="list-style-type: none"> • Guidance on responsible behavior by investors in supply chains. • Covers a broad range of themes from land tenure and social responsibility to food security and governance processes.
Responsible Land-Based Investment: Practical Guide for the Private	USAID (2014)	<ul style="list-style-type: none"> • Recommendations for best practices related to due diligence and structuring of land-based investments. • Organized in five steps to follow the life cycle of an investment, from the initial stage of due diligence and assessments, to pre-project community engagement,

Sector		to contract negotiation, project operations, and post-project closeout.
Principles for Responsible Agriculture Investment that Respects Rights, Livelihoods and Resources (PRAI)	UNCTAD, FAO, IFAD, and World Bank (2010)	<ul style="list-style-type: none"> Expected benefit: application of the principles to agricultural investments will reduce the degree of negative externalities and raise the likelihood of positive impacts.
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT)	CFS (2012)	<ul style="list-style-type: none"> Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security (Voluntary Guidelines on the Right to Food). Principles and internationally accepted standards of responsible practices for the use and control of land, fisheries, and forests. Linked directly to the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines, see Ch. 5).
Human Rights Principles for Responsible Contracting	UN Office of the High Commissioner for Human Rights (2011)	<ul style="list-style-type: none"> 10 key principles to help integrate the management of human rights risks into contract negotiations on investment projects between host State entities and foreign business investors.
Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities	FAO (2016)	<ul style="list-style-type: none"> Information about the right to FPIC and how it can be implemented in six steps.
Manual for project practitioners		

Source: UNCTAD and World Bank.

Table 2. ASEAN: Population and income data and estimates, various years

Member State	Pop., mid-2017 (millions)	GNI per capita PPP (international \$) 2016	Life expectancy at birth (years)		Urban pop. (per cent of population) (2016)	Agriculture as a percentage of GDP (2015)	Pop., mid-2050 (millions)	Pop. age 15–24, mid-2050 (millions)
			Men	Women				
Brunei Darussalam	0.4	83,250	75	79	77	1.1	0.5	0.1
Cambodia	15.9	3,510	66	71	21	28.2	21.8	3.2
Indonesia	264.0	11,220	67	71	54	14.0	321.6	44.2
Lao PDR	7.0	5,920	65	68	40	24.8	9.3	1.3
Malaysia	31.6	26,900	73	77	75	8.6	41.7	5.3
Myanmar	53.4	5,070	64	69	35	26.7	62.4	8.6
Philippines	105.0	9,400	66	73	45	10.3	151.4	23.9
Singapore	5.7	85,050	81	85	100	0.0	6.5	0.6
Thailand	66.1	16,070	72	79	49	9.1	62.6	6.0
Viet Nam	93.7	6,050	71	76	33	18.9	108.2	12.4
ASEAN	642.8	11,376	68	73	48	[na]	786.0	105.6

Source: Population Reference Bureau (prb.org) and ADB.

Annex Table 3. Selected top ASEAN MNEs in agriculture by total assets, 2016

(\$ millions)

Company	Home country	Total MNE assets (\$ millions)	Presence (number of countries in which present)		Number of principal subsidiaries in ASEAN)	ASEAN Member States in which present (excluding home economy)
			Foreign (non-ASEAN)	ASEAN		
Olam International Ltd	Singapore	16,200	50	5	12	Malaysia, Indonesia, Viet Nam, Lao PDR, Thailand
Felda Global Ventures Holdings Bhd	Malaysia	4,687	15	5	10	Indonesia, Cambodia, Lao PDR, Singapore, Thailand
Kuala Lumpur Kepong Bhd	Malaysia	4,423	33	4	74	Indonesia, Singapore, Lao PDR, Viet Nam
IOI Corp Bhd	Malaysia	4,364	15	2	42	Indonesia, Singapore
Boustead Holdings Bhd	Malaysia	3,997	32	9	60	Indonesia, Singapore, Thailand, Lao PDR, Brunei Darussalam, Philippines,

						Cambodia, Myanmar, Viet Nam
Selat (Pte) Ltd	Singapore	3,006	27	8	358	Malaysia, Thailand, Indonesia, Viet Nam, Philippines, Brunei Darussalam, Cambodia, Myanmar,
Indofood Agri Resources Ltd	Singapore	2,716	6	2	49	Indonesia, Philippines
Hap Seng Consolidated bhd	Malaysia	2,613	6	4	35	Singapore, Thailand, Viet Nam, Indonesia
Japfa Ltd	Singapore	2,525	8	3	33	Indonesia, Vietnam, Myanmar
PT Astra Agro Lestari	Indonesia	1,803	1	1	1	Singapore
Genting Plantations Bhd	Malaysia	1,751	6	2	34	Singapore, Indonesia
PT Eagle High Plantation	Indonesia	1,209	1	1	2	Singapore
PT Bakrie Sumatera Plantations	Indonesia	1,094	5	1	1	Singapore
TSH Resources Bhd	Malaysia	782	9	2	18	Indonesia, Singapore
Kluang Rubber Co Bhd	Malaysia	278	26	6	113	Singapore, Thailand, Indonesia, Viet Nam, Brunei Darussalam, Myanmar

Source: ASEAN Secretariat, based on data extracted from Bureau van Dijk's Orbis database.

Note: 1. This table provides an "order of magnitude" insight on key ASEAN MNEs, not a ranking per se. Total MNE assets are a firm's global consolidated total assets. However, firms' shares of assets overseas differ (such data are scarce for many ASEAN MNEs). Some MNEs do not provide sufficient details about their assets. Companies with complex structures, e.g. those with a holding company, do not appear separately from their major subsidiary companies, where the latter are companies in their own right. There are several issues concerning prospective MNEs owned by States; e.g. many are not listed and do not provide financial data, while others are not primarily engaged in FDI. Thus, State-owned enterprises that operate subsidiaries overseas are included, but not sovereign wealth funds because their overseas investments are primarily portfolio in nature. The asset numbers mainly reflect the scale of these top MNEs' investments in ASEAN, but they should not be used as a basis

for a definitive ranking; and the potential scale and significance of excluded MNEs for the reasons given should be borne in mind.

2. The industry type indicated for each MNE in this table is that assigned to the parent company by ORBIS; local subsidiaries might be involved in different industries and activities.

Annex Table 4. Foreign subsidiaries in and from selected ASEAN Member States, 2016

	Number of firms from this AMS with foreign subsidiaries	Number of firms from other ASEAN countries in this AMS.	Number of non-ASEAN firms in this AMS
INDONESIA	4	-	7
MALAYSIA	51	10	8
PHILIPPINES	-	-	4
SINGAPORE	4	-	5
THAILAND	4	6	18
VIETNAM	2	4	7

Source: Bureau van Dijk's Orbis database

Annex Table 5. Breakdown of ASEAN firms in agricultures, forestry and fishing by AMS and size, 2016

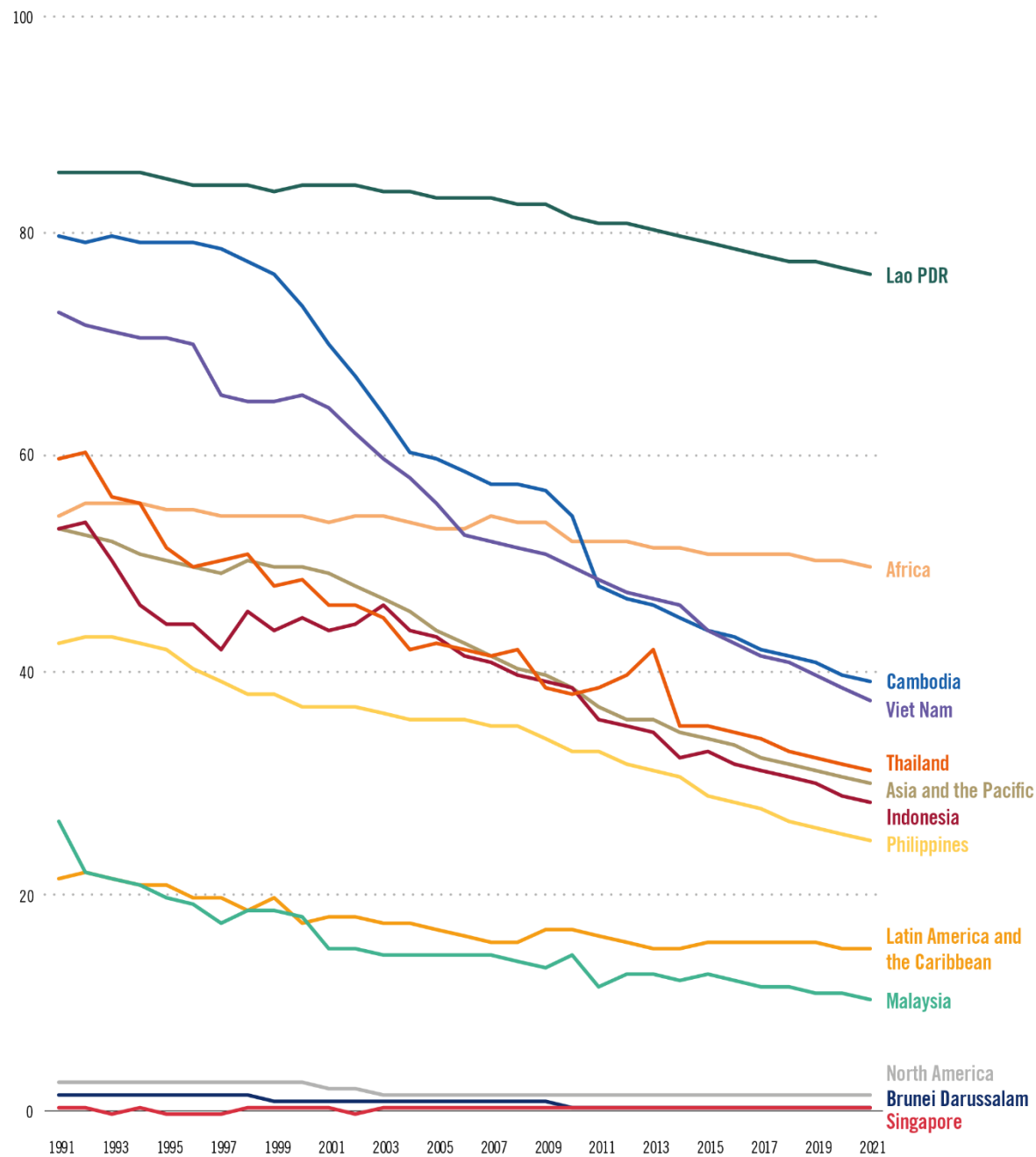
	Total Number of firms (in database)	Number of firms with data on assets	Small firms (up to \$3 million)	Medium firms (up to \$15 million)	Large firms (above \$15 million)
CAMBODIA	21	-	-	-	-
INDONESIA	1076	34	1	2	31
LAO PDR	1572	-	-	-	-
MALAYSIA	1263	1147	618	261	268
MYANMAR	28	-	-	-	-
PHILIPPINES	1087	709	578	95	36
SINGAPORE	14	7	1	0	6
THAILAND	5117	4986	4517	350	119
VIET NAM	4580	3808	3401	283	124

Source: Bureau van Dijk's Orbis database.

Note: Formally established and registered firms captured by the BvD Orbis Database. Based on Malaysian government numbers, the database captures information on only 10-15 per cent of all enterprises in agriculture and forestry. This share might be less for other AMS, especially CLMV. Moreover, only a subset of these provide data on their assets (and other indicators). Data on Brunei are not available.

Annex Figure 1.

ASEAN: share of population earning an agricultural livelihood, 1991–2021 (Estimated)

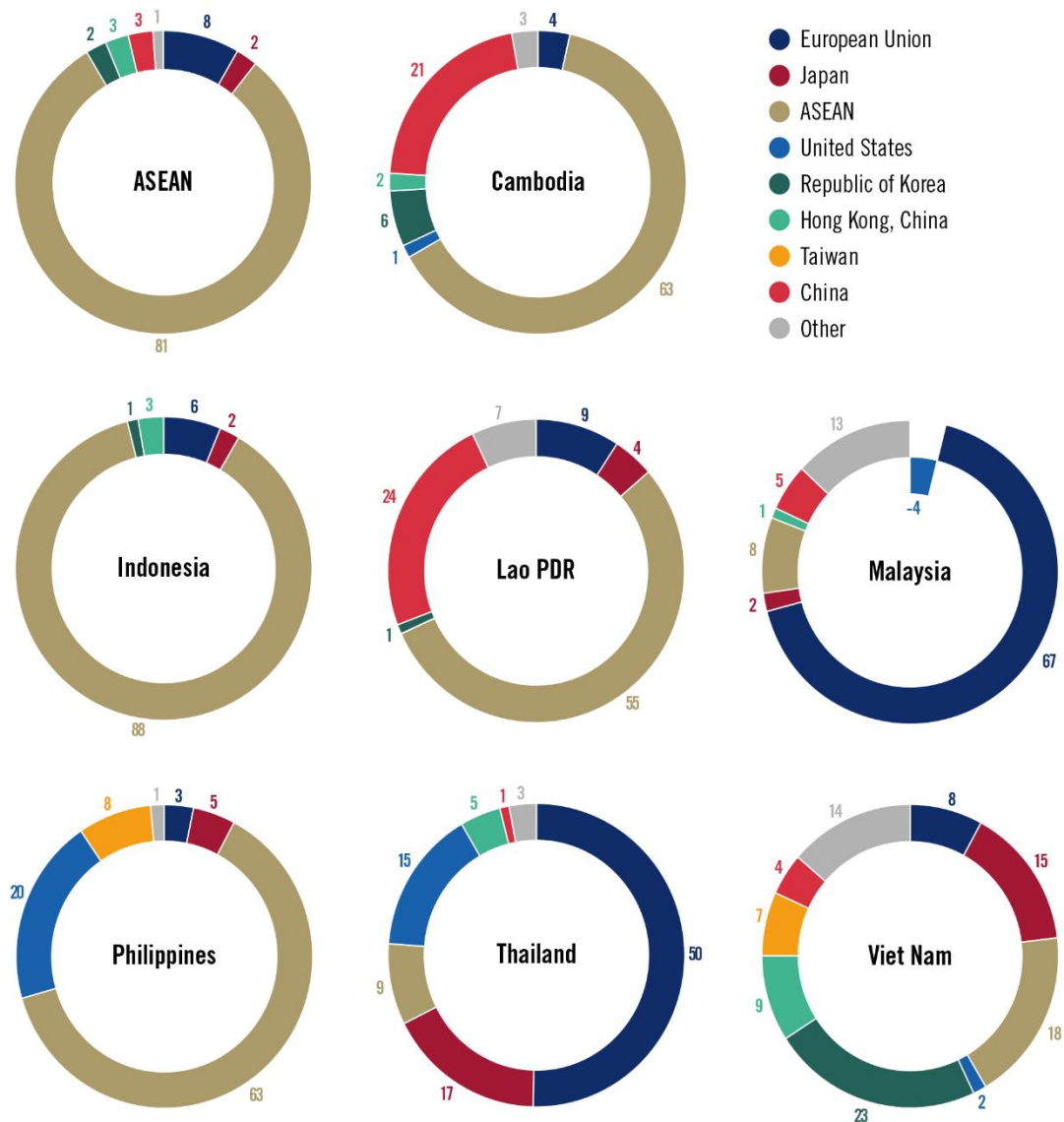


Source: ILOSTAT.

Note: Data for Myanmar on the same basis are not available.

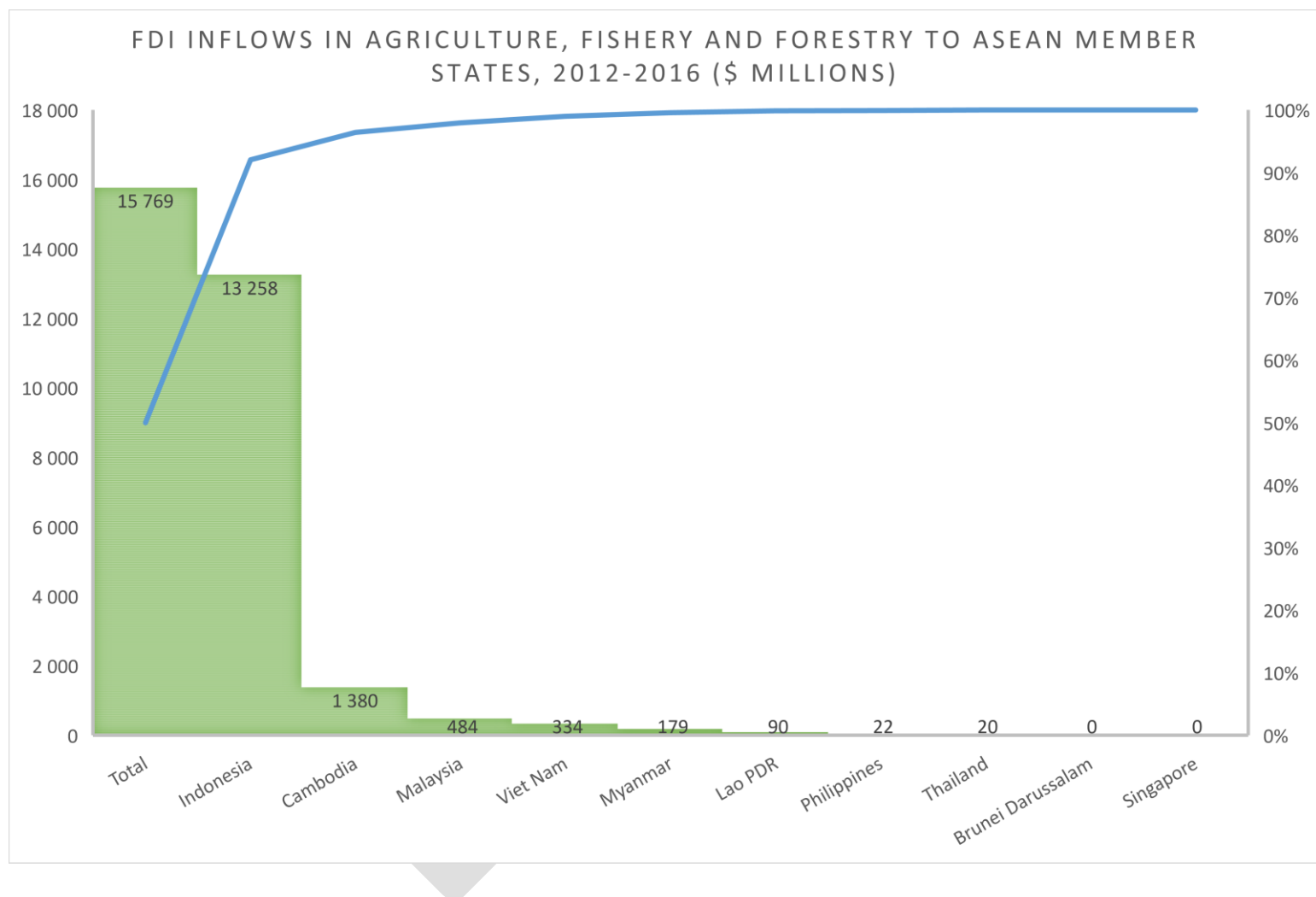
Annex Figure 2.

ASEAN: agriculture, forestry, and fishing FDI inflows by source economy, 2010–2016 *(Per cent of total)*



Source: ASEAN Secretariat.

Annex: Figure 3. FDI INFLOWS IN AGRICULTURE, FISHERY AND FORESTRY TO ASEAN MEMBER-STATES, 2012 - 2016



REFERENCES

- ⁱ Mirza, H., Buckley, P., Hanni, M., Konara, P., Sexsmith, K. and Sturgeon, T. "ASEAN at 50: A historic milestone for FDI and MNEs in ASEAN." ASEAN Secretariat (2017).
- ⁱⁱ First ASEAN Youth Development Index (2016)
- ⁱⁱⁱ Mirza, H., Speller, W., Dixie, G., and Goodman, Z. "The Practice of Responsible Investment Principles in Larger Scale Agricultural Investments: Implications for Corporate Performance and Impacts on Local Communities." Agriculture and Environmental Services Discussion Paper. World Bank (2014).
- ^{iv} Shohibuddin, Mohamad, Maria Lisa Alano, and Gerben Nooteboom. "Sweet and bitter: Trajectories of sugar cane investments in Northern Luzon, the Philippines, and Aceh, Indonesia, 2006–13." Large-scale land acquisitions: Focus on South-East Asia (2015): 108-135.
- ^v Karlsson, "Challenges and opportunities of foreign investment in developing country agriculture for sustainable development" FAO (2014); and Picard, F., Coulibaly, M., and Smaller, C. The Rise of Agricultural Growth Poles in Africa. IISD (2017)
- ^{vi} Karlsson, "Challenges and opportunities of foreign investment in developing country agriculture for sustainable development" FAO (2014); and Picard, F., Coulibaly, M., and Smaller, C. The Rise of Agricultural Growth Poles in Africa. IISD (2017)
- ^{vii} FAO 2014a: Liu, Pascal. "Impacts of foreign agricultural investment on developing countries: evidence from case studies." FAO Commodity and Trade Policy Research Working Papers 47 (2014).
- ^{ix} Fiedler, Y., & lafrate, M. (2016). Trends in foreign direct investment in food, beverages and tobacco. FAO Commodity and Trade Policy Research Working Papers, (51), 1.
- ^x Golay, Christophe. "Identifying and Monitoring Human Rights Violations Associated with Large-Scale Land Acquisitions." Development Policy: 231.
- ^{xi} Dwyer, M. B., Polack, E., & So, S. (2015). 'Better-practice' Concessions? Some Lessons from Cambodia's Leopard Skin Landscape. International Development Policy 6(6).
- ^{xii} Zhan, J., Mirza, H., & Speller, W. (2015). The Impact of Larger-Scale Agricultural Investments on Communities in South-East Asia: A First Assessment. Development Policy, 81.
- ^{xiii} Mekong Regional Land Governance Programme, 'Experience of Agribusiness Investment in Lao PDR,' 2016.
- ^{xiv} Messerli, P., Peeters, A., Schoenweger, O., Nanththavong, V., & Heinemann, A. (2015). Marginal land or marginal people? Analysing patterns and processes of large-scale land acquisitions in South-East Asia. International Development Policy.
- ^{xv} Gironde, Christophe, and Gilda Senties Portilla. "From lagging behind to losing ground: Cambodian and Laotian household economy and large-scale land acquisitions." Large-scale Land Acquisitions: Focus on South-East Asia. Brill Nijhoff, Leiden & Boston (2015): 172-204.
- ^{xvi} Smaller, C., and W. Speller, with H. Mirza, N. Bernasconi-Osterwalder, and G. Dixie. 2015. Investment Contracts for Agriculture: Maximizing Gains and Minimizing Risks. Washington, D.C.: World Bank Group; New York: United Nations; and Win- niipeg: International Institute for Sustainable Development (IISD).
- ^{xvii} Daley, 2013, The Gender and Equity Implications of Land Related Investments on Land Access and Labour and Income-Generating Opportunities: A Case Study of Selected Agricultural Investments in LAO PDR, FAO, Rome.
- ^{xviii} Vermeulen, S. and Cotula, L., 2010, Making the most of agricultural investment: a survey of business models that provide opportunities for smallholders, IIED/FAO/IFAD/SDC, London/Rome/Bern
- ^{xix} Eaton, C. and Shepherd, A., 2001, Contract farming: partnerships for growth. FAO Agricultural Services Bulletin 145.
- ^{xx} Asian Development Bank, 'Myanmar: Unlocking the Potential' Country Diagnostic Study. Economics and Research Department, August (2014).
- ^{xxi} Interlaken Group (2017), Land Legacy Issues: Guidance on Corporate responsibility (http://www.interlakengroup.org/downloads/Interlaken_Group_Land_Legacy_Guidance-67109ad801cc7478fb8be798115b72d1.pdf?vsn=d); CDC and DEG (2016), "A guidance note on managing legacy issues in agribusiness investments" (https://www.deginvest.de/DEG-Documents-in-English/Download-Center/DEG_CDC_Guidance-Note-on-Managing-Legacy-Land-Issues-in-Agribusiness-Investments-2016_en.pdf)