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ANNEX 1

of the Commission Implementing Decision on the Annual Action Programme 2018 for Food and Nutrition Security and Sustainable Agriculture under the Multiannual Indicative Programme for the Thematic Programme on Global Public Goods and Challenges for the period 2018-2020 to be financed from the general budget of the Union

1. Title/basic act/ CRIS number	Promoting responsible governance of investments in land CRIS number: FOOD/2018/041-113 financed under Development Cooperation Instrument	
2. Zone benefiting from the action/location	Worldwide with a focus on Africa	
3. Programming document	GPGC-MIP 2014-2020	
4. Sector of concentration/ thematic area	Food and Nutrition Security and sustainable Agriculture	DEV. Aid: NO
5. Amounts concerned	<p>Total estimated cost: EUR 40,000,000 Total amount of EU budget contribution EUR 15,000,000. This action will be jointly co-financed by other donors including Germany, Ireland, the Netherlands, Sweden and Switzerland for a total indicative contribution of EUR 25,000,000. The contribution is for an amount of EUR 10,000,000 from the general budget of the European Union for the financial year 2018 and for an amount of EUR 5,000,000 from the general budget of the European Union for the financial year 2019, subject to the availability of appropriations following the adoption of the relevant budget.</p>	
6. Aid modality(ies) and implementation modality(ies)	Project Modality Indirect management with GIZ and IFAD	
7 a) DAC code(s)	Main DAC code 31110 sector –percentage 70 and Sub-code 15110 sector- percentage 30.	
b) Main Delivery Channel	41000 (11000)	

8. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Main objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	x
	Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women In Development)	<input type="checkbox"/>	x	<input type="checkbox"/>
	Trade Development	x	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	x	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Main objective
	Biological diversity	x	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	x	<input type="checkbox"/>	<input type="checkbox"/>
9. Global Public Goods and Challenges (GPGC) thematic flagships	<ul style="list-style-type: none"> Food and nutrition security and sustainable agriculture Growth, jobs and private sector engagement 			
10. SDGs	Main SD Goals: SDG 1 (end poverty in all its forms everywhere and SDG 2 (end hunger, achieve food security and improved nutrition and promote sustainable agriculture). Secondary SD Goals: SDG 5 (achieve gender equality and empower all women and girls, and SDG 8 (promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all); SDG 13 (climate change), SDG15 (terrestrial ecosystems), SDG 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels)			

SUMMARY

Contrary to Foreign Direct Investment in land, little attention is paid to domestic investment in land¹, which is of growing importance for many developing countries. Such investments are crucial to unlock the economic potential of the agricultural sector benefitting economic prosperity, job creation and improved food security. Such investments, however, are not without risk, as they may enhance the competition over arable land and may restrict the access to land of local population, in particular male and female small-scale farmers depending on land for their livelihoods, and might fuel social conflict over insecure land tenure, and use of communal lands or customary lands. Often such investments are speculative in nature and do

¹ In the context of this Action Document and related actions, "investment in land" deriving from domestic or foreign sources is meant to purchase land or to conclude long-term lease of land for the purpose of agricultural production. Investments for agriculture production (e.g. improvement of land, equipment and inputs) are not considered.

exploit political or economic powers to "make the deal" to the detriment of public development objectives.

Responsible governance based on the principles of the VGGT and RAI could help ensuring that such investments are contributing to public development objectives, are concluded and implemented in full transparency, involving local stakeholders in preparation and decision taking so that negative repercussions at local levels are avoided, and the right of free, prior and informed consent (FPIC) is respected, and conflict risks are avoided or mitigated. With this approach the action will contribute to an enabling business environment promoting aspects of relevance to pillar 3 of the European Investment Plan (EIP). The proposed action aims to address these issues to unlock the potential of investments in land to contribute to the overall objective of **increased agricultural productivity and sustainable development**.

The specific objective of the action is that **investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations, in particular vulnerable groups and women**.

Planned outputs are:

- R.1: Government authorities are supported to administer and guide investments in land in accordance with established legislation and with due regard to accountability and transparency, and by respecting internationally recognised principles such as the VGGT and the RAI.
- R.2: Investors are supported to comply with internationally recognised principles for responsible investments in land, such as due diligence, FPIC, and do no harm principles².
- R.3: Local land users, in particular agricultural small-holders and indigenous peoples are consulted, involved, and empowered to claim and defend their legitimate rights to land and advocate for their needs in land investment processes.
- R.4: Systems providing up to date information and data on land investments are operational and publicly accessible.

The action will build on (limited) past experience made in Ethiopia with a comparable approach and gain from relevant experience of the Land Matrix Initiative for tracking investments and from the International Land Coalition on how to support local land users in defending their legitimate rights on land.

² VGGT, para 12.4, page 21 : Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights. Such investments should be made working in partnership with relevant levels of government and local holders of tenure rights to land, fisheries and forests, respecting their legitimate tenure rights. They should strive to further contribute to policy objectives, such as poverty eradication; food security and sustainable use of land, fisheries and forests; support local communities; contribute to rural development; promote and secure local food production systems; enhance social and economic sustainable development; create employment; diversify livelihoods; provide benefits to the country and its people, including the poor and most vulnerable; and comply with national laws and international core labour standards as well as, when applicable, obligations related to standards of the International Labour Organization.

1 CONTEXT

1.1 Sector/Country/Regional context/Thematic area

The wider public recognises the critical importance of responsible governance of land in the context of development cooperation. Responsible governance of land is indispensable to ensure secure access and use of land in particular for male and female small scale farmers who depend on the use of land for their livelihoods. Secure access to land contributes to food security and environmental resilience, as well as to conflict prevention³, therefore responsible governance of land is a critical element of pro-poor, rights - based agriculture development. Responsible governance of land is not only about secure access to land, it contributes also to the realization of other land based development objectives such as conservation and sustainable use of biodiversity, ecosystems and sustainable agriculture including the preservation of soil quality.

Land governance is also a powerful political tool with the ability to structure power relations among individuals, communities and large sections of populations. Unequal land rights and insecure access to land play a key role in the marginalisation of certain social groups. Often it is an important cause of disputes, conflicts and displacements.

As part of regulatory frameworks, responsible land governance will help facilitate private domestic and foreign land based investments needed to unlock the economic potential of agriculture, whilst ensuring the respect of legitimate land rights at local levels, including the specific rights to land of indigenous peoples.

The high-level event organised in Rome in October 2017 commemorating the fifth anniversary of the Voluntary Guidelines on the Responsible Governance of Tenure of Land (VGGT)⁴ confirmed that remarkable progress has been made since the Committee on World Food Security (CFS)⁵ endorsed the VGGT in 2012. But there are still billions of people suffering from insufficient protection and recognition of their legitimate land rights.

The competition over (arable) land will continue to grow. Increasing urbanisation is requiring more land for real estate and public infrastructure. Growing populations combined with changing nutritional preferences induced by economic prosperity will increase the demand for food and other agricultural products. This will drive the agricultural sector and the increasing profitability will attract foreign and domestic investments in land and agriculture.

Such investments need to be embedded into a sound regulatory framework, which will help ensure that these investments achieve the desired benefits. In this context of increasing competition over land, particular attention has to be paid to protect the legitimate rights of

³ VGGT, page 37, para 25.3 In order that tenure problems do not lead to conflicts, all parties should take steps to resolve such problems through peaceful means. States should revise relevant policies and laws to eliminate discrimination and other factors that can be a cause of conflicts. Where appropriate, States may consider using customary and other local mechanisms that provide fair, reliable, gender-sensitive, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights to land, fisheries and forests.

⁴ This event was jointly organised by the European Commission and the FAO and attended by participants from more than 50 countries. <http://www.fao.org/tenure/activities/fifth-anniversary/en/>

⁵ The Voluntary Guidelines on the Responsible Governance of Tenure of land, Fisheries and Forests in the Context of National Food Security where endorsed by the CFS at its Thirty-eighth Session on 11 May 2012. Since then the VGGT become increasingly recognised as "the" guidelines for responsible governance of land and endorsed as such by many countries including the European Commission. <http://www.fao.org/docrep/meeting/025/md708e.pdf>

local land users, in particular of small-scale male and female farmers and indigenous peoples, who often have insecure, non-statutory rights to land and are excluded from decision making processes regarding changes in the use and ownership of land.

1.1.1 Public Policy Assessment and EU Policy Framework

Already in the past the EU has been devoting attention to the promotion of land tenure security and approved in 2004 the "EU land policy guidelines"⁶. Many principles of the EU guidelines have been retained by the VGGT. Together with the "Principles for Responsible Investment in Agriculture and Food Systems" (RAI)⁷, they are considered by the international community as comprehensive reference documents for land governance improvements⁸ and guide interested parties (e.g. national governments, development partners and Civil Society Organisations) in their efforts to contribute to responsible land governance. These guidelines are in agreement with universally acknowledged rights; promote gender equality and the rights of vulnerable groups such as indigenous peoples.

The European Commission contributed to the preparation of the VGGT through financial support to the work of the Committee on World Food Security, but also through direct technical involvement in the drafting process and then in the implementation of the VGGTs through 18 in-country programmes and one transversal support action. The principles for responsible investment in agriculture and food systems are a set of ten principles that apply to all types and sizes of agricultural investment including fisheries, forests and livestock.

In the framework of the 2030 Agenda, the SDGs recognise the importance of access, ownership and control of land for sustainable development. Responsible land governance is explicitly mentioned as a target to achieve the elimination of poverty (SDG 1) and recognised as essential to achieving zero hunger and food security (SDG 2) and to promote sustainable economic growth and development, full and productive employment and decent work for all (SDG 8). Moreover, there is growing consensus that responsible governance of land has an enabling influence for land use planning, especially in rural areas (SDG 11) for the conservation and sustainable use of terrestrial ecosystems (SDG 15) and for peace, justice and strong institutions (SDG 16). Promoting sustainable land management is also central to global efforts to address climate change and to the Nationally Determined Contributions of most developing countries under the Paris Agreement.

Building on these land-related SDGs and on other international commitments (such as the Financing for Development agenda, the Paris agreement, etc.), the new EU Consensus on Development⁹ adopted by the European Council in June 2017 identifies responsible land governance and secure access to land as an important aspect in light of human development, economic growth, better governance of natural resources – particularly land and water, and in relation to the respect of the rights of indigenous peoples and local communities¹⁰. The Consensus highlights the respect of land rights as a crucial aspect for responsible investment

⁶ https://ec.europa.eu/europeaid/eu-land-policy-guidelines_en

⁷ The RAI were endorsed by the CFS in October 2014 at the 41st session. <http://www.fao.org/3/a-ml620e.pdf>

⁸ The United Nations General Assembly requested in the resolution on agriculture development the speedy dissemination and promotion of the VGGT and implementation was further encouraged at the Rio+20 meeting and by the 5th Berlin Agriculture Ministers' Summit.

⁹ https://ec.europa.eu/europeaid/policies/european-development-policy/european-consensus-development_en

¹⁰ All the 28 EU Member States voted in favour of the UN Declaration on the Rights of Indigenous Peoples.

(e.g. European Investment Plan) and considers responsible land governance as an important element to promote sustainable agriculture development and to maintain healthy ecosystems.

The multifaceted importance and functions of responsible governance of land is recognized as an important element by various EU policy documents. Relevant EU policy and operational documents containing specific commitments on land governance and land rights are, for example: the EU Gender Action Plan II, the EU Action Plan on Human Rights and Democracy 2015-2019; the EU Better Regulation Guidelines; the EU Land Policy Guidelines; EU's external action's principles on supporting indigenous peoples¹¹ and Council Conclusions and Resolution on Indigenous Peoples.

The EU acknowledges that promoting responsible governance of land is of high relevance to many developing countries in light of economic prosperity, the respect of human rights, social stability and for needed investments in land. In this context responsible governance based on the VGGT and RAI is defining the principles and processes ensuring that investments in land are not doing harm at local levels and that the rights on land of local stakeholders is respected. Information and transparency of investments in land and meaningful participation of local stakeholders in decision making processes are further elements of responsible preparation of investments into land.

1.1.2 Stakeholder analysis

Beneficiaries:

The main beneficiaries are **governments and government institutions**, the duty bearers, who will gain from the project through capacity building required for appropriate governance of investments in land and agriculture.

The **wider public, decision makers and CSOs** involved in land policy processes will be better informed and capacitated to contribute to fact based policy formulation in the land sector.

The **local population**, the rights holders, will benefit from meaningful involvement in land investment processes recognising their legitimate right to land, with appropriate attention to women, indigenous peoples and other vulnerable or marginalised groups.

Investors will benefit from the action since well-prepared investments with local participation will reduce the risk of local disputes protracting the realisation of investment.

Implementing partners:

The **International Land Coalition (ILC)** is an experienced and internationally recognised implementing partner specialised in the promotion and capacitation of CSOs engaging in land governance processes. ILC will help to establish procedures required to ensure that the needs and rights of the local population including women and youth are considered in the decision-making processes.

The **Land Matrix Initiative (LMI)** is a global and independent initiative specialised in collecting, assessing and presenting data and information on large-scale investments in land. The LMI maintains the most comprehensive online database on land deals. The work of the

¹¹ Joint Staff Working Document on Implementing EU External Policy on Indigenous Peoples, SWD(2016) 340 final; 17/10/2016

LMI will enhance transparency regarding large-scale investments and facilitate fact based decision making as regards land based investments.

The **Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ)** is managing a diversified sector programme for land governance including several projects on behalf of the European Commission. The GIZ shall support, in particular, the implementation of the investment in land component through support and capacity building of the responsible government institutions and other stakeholders involved in land governance and investments in land at country level.

1.1.3 Priority areas for support/problem analysis

Recent discussions on investment in land were focusing on large-scale investments by international investors which commonly entailed a process known as "land grabbing". These investments are relatively well documented notably by LMI. Pushed through actions initiated by Civil Society Organisations, standards and procedures based on the VGGT and RAI principles were agreed at international levels to which investors should adhere to avoid negative social and environmental impact of such investments at local levels¹². Well-known large companies are applying these standards, but there are thousands of active investors who cannot be reached and influenced¹³ such as domestic investors. They are particularly active in purchasing land or concluding long-term land leases in many African countries, but only limited evidence is available that describes and analyses this phenomenon. Some analyses have shown that domestic investors investing in medium-scale farms (10 – 100 ha) are controlling between 20% (Kenya) and 50% (Zambia) of the entire farmland¹⁴.

The rise of global food prices since 2005, improving markets for agricultural inputs and mechanisation and the fact that some countries promote the commercial orientation of farming through policy preferences are important drivers for such investments.

Most investors are politically influential and economically wealthy people, many of them are urban based (e.g. in Zambia urban households own 35% of the total agricultural land). They purchase or lease land often in customary areas and convert it into leasehold or freehold titled land. These investors are able to influence policies (e.g. raising food prices, input subsidies and public infrastructure) through farmer unions in the interest of progressive farmers who see farming as a business.

These investments might be drivers for development and innovations for rural economies, but there are also associated problems. Domestic investors are predominantly purchasing land from local authorities "governing" customary land. Prices of land purchased under these circumstances often do not reflect the economic value of the land and the deals often lack transparency. In general there is no consultation with local stakeholders taking place as

¹² For example under the guidance of the Leadership Council of the New Alliance for Food Security & Nutrition an analytical framework for investors for due diligence and risk management for land-based investments in agriculture was formulated <https://new-alliance.org/resource/analytical-framework-responsible-land-based-agricultural-investments>

¹³ This was concluded by the following working session organised by the Global Donor Working Group on Land (GDWGL) during the 2018 WB land conference <https://www.donorplatform.org/news-land-governance/influencing-the-next-tier-of-companies-promoting-responsible-land-based-investment-through-investors-or-investment-frameworks.html>

¹⁴ T.S. Jayne et. al. titled "Africa's changing farm size distribution patterns: the rise of medium-scale farms", Agricultural Economics, Vol 47(s), 2016

required by the VGGT- based due diligence procedures. The fact that buyers often manage to register the land in their name means that the land is "lost" for local land users, which may affect also the rights to land of indigenous peoples. This will contribute to land scarcity for local populations especially for women and youth who might face greater difficulties to obtain land for productive purposes. Women compared to men often experience more exclusion from land deal consultations, land reallocation within the communities, etc. Domestic investments might exacerbate even further these dynamics because local investors might have more capacity and opportunities to avoid the respect of basic rules of participation compared to what external investors can do, by exploiting for example their direct links with influential people (e.g. local chiefs) of the area targeted by the deal.

Moreover, there is some evidence that domestic investments can contribute to raising speculation on land as these buyers quite often buy the land to use it for financial transactions rather than to make long-term agricultural investments on it.

Increased scarcity of land will favour unsustainable land use practices undermining efforts to address climate change, promote sustainable land management and sustainable agriculture (incl. soil conservation, water and biodiversity), actions often supported by development assistance. The increasing scarcity of land for smallholder farmers may also contribute to rural-urban migration since the concerned population considers the available land insufficient for a decent economic future.

Until now, most governments do not have institutions and procedures in place to govern and administer domestic investments in land, to ensure transparency and appropriate involvement of local populations in the preparation of such land deals. Government lack also information and data regarding the realisation and further development of these investments. The lack of information makes it difficult to judge whether these investments contribute to overarching objectives (e.g. food-production, generation of foreign currency...) or whether they are of a speculative nature only.

The trends of changing farm size structures and the increasing purchase of land by investors cannot be stopped. However it is possible to ensure that such investments are adhering to international standards, are transparent and do no harm at local levels. Moreover, there are possibilities for local small-scale farmers to benefit somehow from these investments.

The proposed project will assist governments to improve their capacities to govern investments in land¹⁵ with the aim to ensure the transparency of deals, and local participation. This will help ensure that domestic investments are contributing to overarching development objectives and avoiding negative impact at local levels. Better governance of domestic investment is also crucial to ensure that public investments and ODA spending in support of small-scale farming are not redirected to benefit larger farms.

¹⁵ While the project will consider investments in land independent of the source of funding, special attention will be provided to domestic investments in land particularly by the component to be implemented by GIZ.

2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
Investment in land and governance of investments are politically sensitive issues and governments may hesitate to engage in this field.	Medium	Sensitisation, dialogue, demonstrating through examples that appropriate governance of investments is in the interest of the government. Involving technical staff in the preparation and implementation of the project to build ownership at national levels. Promoting the respect of human rights and respective responsibilities of governments will be systematically pursued as of the inception period, including increased knowledge and possible standard-setting according to VGGT guidelines. This will be complemented by participatory, inclusive and gender-sensitive consultations in particular at local levels.
Gender inequality in the country is worsened by the investments.	Medium	Gender analyses are carried out and included into the planned interventions, including risk mitigating measures
Unclear and overlapping competences and responsibilities for investment in land.	Medium	Competence issues should be clarified during a planning workshop towards the end of the inception phase.
Insufficient institutional capacities and legislation.	Medium	Capacity building and review of support on legislative matters are core actions to be covered by the project. Particular attention will be put on guaranteeing that existing institutions and legislations take effectively into account the protection and promotion of rights as well as safeguarding measures for those groups of right-holders that are mostly discriminated, especially women and indigenous peoples. Issues related to customary land and communal lands should be addressed through setting benchmarks aligned with VGGT guidance and international law standards.
Investors do not acknowledge their responsibilities and obligations	High	This is expected and consequently actions to address this behaviour are foreseen by the intervention. Local population should be meaningfully consulted and involved in decision-making processes on investment. Social and environmental impact assessments should be also carried out.
Lack of interested CSOs or CSO actions restricted by government orders.	Medium	Demonstrating the need for meaningful local participation with reference to the VGGT and showing that this is important to ensure local

		stability. Involve experienced partners in this field such as ILC.
National legal frameworks may put the intervention and investments at risk, e.g. by favouring land grabbing, and violate the 'do no harm' principle	Medium	Mapping of current national legal frameworks on land tenure, including on customary and communal lands should be at the base of preliminary social and environmental impact assessment to gage at the potential negative impacts of the investments framework.
Conflicts on land issues and governance or existing violent conflict are fuelled or escalated; human rights are violated.	Medium	Conflict analysis might be considered and/or impact assessment to ensure that conflict sensitivity is embedded in the interventions and that doing harm is avoided, including benefitting inadvertently one or the other conflict party.
Assumptions		
There is sufficient political, social and civil stability allowing timely and continuous project operations.		
Government and other stakeholders acknowledge advantages the project will generate and there is no hidden sabotage generated by subversive elements.		
Government and concerned administration on central and local level are supportive by providing competent staff and accommodation for the project.		
Government and concerned administration is developing increasing ownership and is abiding by the VGGT guidance and principles		
Private investors abide by the VGGT principles and applies due diligence		
Rights-holder are meaningfully consulted and involved in decision-making		

3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

3.1 Lessons learnt

Addressing the governance of domestic investment in land is a rather new action for which only limited practical experience is available.

The project "**Support to responsible agricultural investment in Ethiopia**" (CRIS 351-664) is the only action with a focus similar to the proposed intervention. The MTR conducted in 2017 (CRIS 384-257) and covering the entire programme¹⁶ was very positive about the Ethiopian project as regards its relevance, the implementation approach and the buy-in it got from the government institutions involved. Convincing the government of the usefulness and benefits of this project took significant time, but it paid off very well. Given the sensitivity of investment into land the time allowed and efforts made in terms of policy dialogue to convince the government is an important lesson and should be taken into account for the proposed action. Also the intervention logic developed by the Ethiopian project is of relevance for the proposed action.

The **International Land Coalition (ILC)** supported by the EU since many years gained significant experience to capacitate and organise CSOs to be constructively involved in land

¹⁶ The entire programme of which the action implemented in Ethiopia is part of is the "Support to land governance in Sub-Saharan Africa in the scope of the Voluntary Guidelines".

governance processes and to defend the rights to land of local populations with a particular focus on women and minorities. To this end, ILC developed the National Engagement Strategies (NES) successfully active in many countries to structure CSO engagement in land issues¹⁷. The experiences of ILC in supporting local populations defending and claiming their land rights is of high relevance for the proposed approach of the actions, for which the involvement of local stakeholders in decision making is very important.

The **Land Matrix Initiative (LMI)** initiative is a global and independent monitoring initiative collecting, assessing and visualising information and data about large-scale land acquisition. The LMI is contributing to the transparency of investments in land and is a source of information for decision makers, technical experts and journalists keeping the public informed about these disputed investments. The G20 summit 2017 in Hamburg acknowledged the work of the LMI in this regard particularly. The work of the LMI is an important source to inspire the concept and methodology of the proposed action. By enhancing the transparency of investments in land which considers increasingly domestic investments too, the work of the LMI is an important element of the proposed project.

3.2 Complementarity, synergy and donor coordination

The proposed action is complementing the EU funded programme to improve land governance through the application of the VGGT by addressing the governance of domestic investments in land. This is a land governance issue which did not receive much attention to date, but which is crucial for the development of agriculture based businesses, but also to consider and protect the land rights of local land users often in locations where customary tenure prevails, providing limited protection only.

Improved land governance is the foundation for sustainable land management. The proposed action is also complementary to - and will seek to promote synergies with- EU funded programmes to address land degradation, promote sustainable land management, protect terrestrial ecosystems and address deforestation and forest degradation, notably in Africa.

The proposed action is also contributing to an enabling legal and institutional environment required to promote agriculture and rural development. This is of high relevance for private investments promoted through the agriculture window of the EIP and actions promoting specifically agriculture value chain development.

By considering the rights and interests of local stakeholders, women and minorities, this action is complementing efforts funded for example by the EIDHR to protect human rights related to land and natural resources.

Moreover this action is fully in line with the Rights Based Approach (RBA) methodology, been premised on human rights principles and standards, recognizing citizens as rights holders and state agencies as duty bearers and putting strong emphasis on marginalized, disadvantaged, and excluded groups. Participation and access to the decision making process,

¹⁷ An external monitoring mission assessing ILC in 2017 was very positive about the general performance of ILC and highlighted in particular the NES approach at country level.

transparency and access to information, non-discrimination and equal access, key RBA working principles, drive the action.

In many countries donor coordination mechanisms addressing land governance are operational with active and sometimes leading involvement of the EU DEL. The proposed action will be presented to these groups, which is vital to ensure its integration into the ongoing land governance support structure and the promotion of synergy effects. Furthermore, the concept of this new initiative was presented to the Global Donor Working Group on Land during its physical meeting in March 2018 in Washington and received significant interest from donors present.

3.3 Cross-cutting issues

The project is aiming to improve the governance of domestic investments in land, which is first of all a land governance issue. Actions will be guided by the VGGT and RAI principles. These principles are internationally recognised, are rights based, taking into account commitments of individual states made in light of declarations such as the Universal Declaration of Human Rights¹⁸ and the one on the Rights of Indigenous Peoples¹⁹ as far as they are of relevance for land governance.

Rights-based approach:

The project is based on the VGGT and RAI principles and is therefore rights based. These principles recognise and defend the rights on land in particular as regards small-scale farmers and indigenous peoples and clearly underline that the right on land is of further reaching importance and has an impact on the right to food and shelter for example. By adhering to the VGGT and RAI principles the project ensures that other internationally recognised rights declarations are taken into account.

Gender:

Domestic investments may interfere with the rights of local land users including the rights of women (see problem analysis). The project is assisting the local population including women to participate in meaningful ways in the preparation and decision making process of investment projects to ensure that their rights and needs are taken into account. Gender equality will be promoted by applying the principles of the VGGT. Equal rights for women and men together with the principle of human dignity, non-discrimination and the rule of law are important principles recognised by the VGGT.

The action will take into account the above mentioned challenges determined by domestic investments and will tackle gender inequalities in land rights through its activities under result 2 (investors apply due diligence principles) and 3 (small-farmers land rights are protected) but also through the sensitisation of government entities as regards result 1 (governments responsibly guide the investment deals). Particular attention will be given to safeguarding women's land rights if unlawfully menaced by the domestic investments.

Environment and climate change:

Better land governance –in particular the promotion of responsible agriculture investments– are key to the sustainable management of land resources and the ecosystems they support.

¹⁸ http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

¹⁹ http://files.unicef.org/policyanalysis/rights/files/HRBAP_UN_Rights_Indig_Peoples.pdf

This action is therefore expected to contribute to environmental sustainability, which is at the heart of the VGGT and the principles for Responsible Agriculture Investments. Furthermore, environment and climate change impact of the investment projects will be assessed during the assessment of investment projects as part of the due diligence and risk management analysis. The tracking system to be established by the project will include indicators allowing the responsible administration to see the impact of the investments to the environment and climate change over time.

Good governance:

Investing in land is often taking place behind closed doors, lacking transparency, accountability and public consultation. Corruption is often an issue in particular where the capacity of land administrations is weak. The project will address these challenges comprehensively through capacity building for public administrations, by setting-up investment tracking systems and promoting public consultation processes.

The "analytical framework for land based investments in African agriculture"²⁰, which is based on the VGGT and the RAI is an important reference for the cross-cutting issue and its application will be promoted by the project.

Conflict prevention, conflict sensitivity and resilience

Section 25 of the VGGT guidelines addresses in details challenges related to land governance, conflict prevention in this context, as well as recommended approaches in conflict-affected situations. Particular attention will be paid to the "do-no-harm" principle, in order to minimise potential negative impacts of land investments on rights-holders, and foreseeable knock-on effect on vulnerable groups and their land rights. Land issues are relevant to all dimensions of the continuum between fragility and resilience, namely political, economic, societal, security and environmental – and should be addressed in view of strengthening all of these dimensions.

4 DESCRIPTION OF THE ACTION

4.1 Objectives/results

The overall objective is to **contribute to increased agricultural productivity and sustainable development**²¹.

The specific objective of the action is that **investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations in particular vulnerable groups and women**. The planned outputs are:

- R.1: Government authorities are supported to administer and guide investments in land in accordance with established legislation and by respecting internationally recognised principles such as the VGGT and the RAI.
- R.2: Investors supported to apply internationally recognised principles for responsible investments in land.

²⁰ https://www.growafrica.com/sites/default/files/Analytical-framework-for-land-based-investments-in-African-agriculture_0.pdf

²¹ It is assumed that the contribution to this overall objective will also contribute to food and nutrition security as well as poverty alleviation, both of them overarching objectives of the EU consensus on development.

- R.3: Local land users, in particular agricultural small-holders and indigenous peoples are consulted, involved, and empowered to claim and defend their legitimate rights to land and advocate for their needs in land investment processes.
- R.4: Systems providing up to date information and data on land investments are operational and publicly accessible.

This action focuses on investments in agriculture and food systems in the broad sense, including fisheries, forests and livestock, in line with the scope of the VGGT and the RAI principles.

This programme is relevant for the 2030 Agenda. It contributes to SDG 1 (end poverty in all its forms everywhere and SDG 2 (end hunger, achieve food security and improved nutrition and promote sustainable agriculture). It is also of relevance for SDG 5 (achieve gender equality and empower all women and girls) and SDG 8 (promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all,) SDG 13 (climate change), SDG15 (terrestrial ecosystems) and SDG 16 (peaceful and inclusive societies). This does not imply a commitment by any of the countries benefiting from this programme.

4.2 Main activities

Result 1: Identify the capacities available with the competent authorities and develop staff and training plans according to needs; assess relevant legal provisions and prepare for necessary modifications and amendments; such as for example: to introduce safeguarding measures for those groups mostly affected, like women and indigenous peoples; based on the VGGT and RAI prepare guidelines and regulations for the assessment of investment proposals; establish a system for a comprehensive assessment of investment plans (e.g. contractual, economic, social and environmental); prepare standard investment contracts for purchase and lease; prepare procedures on how to involve systematically local communities including women and youth in the preparation and decision making processes including developing grievance and complaint mechanism; establishing actions ensuring full transparency for planned investments particular at local levels.

Result 2: Prepare training material and train investors in responsible investments aspects (e.g. local consultations, social and environmental safeguards); VGGT guidelines and international human rights standards; prepare contract models for local benefit sharing (e.g. out-growers arrangements, contract farming, taking into account equal sharing of benefits between men and women whenever possible); provide assistance to investors in investment preparations and to conduct local consultations.

Result 3: Based on relevant principles defined by the VGGT and RAI develop training and information packages for local male and female land users to make them aware about their land rights and how to voice them, provide assistance to local male and female stakeholders to ensure their meaningful participation in investment preparations and decision taking (e.g. free, prior and informed consent); ensure public and multi-stakeholder consultations (including women and indigenous peoples) on investment projects at local levels; ensure that local stakeholders understand fully the contractual implications of investments in land and possible

benefits; ensure legal assistance to local stakeholders for contract negotiations and as regards the use of grievance and complaints mechanism.

Result 4: Develop investment tracking systems and IT-supported data bases; identify and agree on tracking parameters including performance indicators (economic, social and gender as well as environment); establish procedures for data collection and data updating, search for collaboration with institutions (e.g. JRC) and/or service providers experienced in the use of geospatial and remote sensing ; ensure public access to the data base and publish annual reports to ensure transparency; disaggregated by gender/ethnicity/age where feasible. Train public administration and local stakeholders in the use of data for planning purposes and policy dialogue.

4.3 Intervention logic

Responsible governance of investment in land is an issue concerning different stakeholders with different responsibilities, interests and concerns. It is important that the project during the inception phase sensitizes all stakeholders about the objectives of the action and how the different stakeholders may benefit. Based on the experience gained in Ethiopia sensitization is crucial to obtain the buy-in of governments given the political sensitivity of investments into land. Therefore it is recommended to provide for these actions a sufficiently long inception phase.

Governance of domestic investment involving all major stakeholders, including rights holders, is entirely new. Consequently capacity building of government institutions and investors, addressing legal and regulatory aspects will be important elements of the project together with the support of local stakeholders to participate meaningful in decision making processes. If this is all put in place and the foreseen investment tracking system is regularly updated, a sound foundation will be put in place ensuring that domestic investments contribute to the intended development objectives without causing harm at local level. With this approach the proposed action is addressing aspects covered under pillar 3 of the EIP and is therefore ensuring valuable support for this development flagship of the European Commission.

Given the complexity of the action, the implementation will be structured into 3 components. This will allow capitalising on relevant practical experience of the designated development partners such as the Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ), the IFAD supporting the Land Matrix Initiative (LMI) and the International Land Coalition (ILC). Consequently, each component will contribute to the intervention logic, but with a specific focus.

The GIZ shall address all of the four results for selected pilot areas in selected countries with special focus on the first two results. The IFAD through the ILC will address in particular result 3 through an EU contribution to its current work programme "realising land governance for and with people at the country level, responding to the needs and protecting the rights of those who live on and from the land". The IFAD through the LMI will support result 4 through an EU contribution to its new work plan 2019 – 22 enabling LMI to continue its reporting on foreign and domestic investment in land.

The action will be implemented partly worldwide (in particular as regards results 3 and 4). Actions to be implemented by the GIZ will focus on selected countries only and with a focus

on domestic investments in land. Based on experiences made in Ethiopia and the budget available a maximum of 6 countries may benefit. The Commission identified interested countries through contacts with EU Delegations²² and the same will be done by Germany.

Based on this pre-selection the final beneficiary countries will be identified during the inception phase. . Main selection criteria are the importance of domestic investments in land, confirmed commitment of concerned governments and overarching country strategies of the EU and Germany. The latter is particular important given the political sensitivity of the action.

5 IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2) (b) of Regulation (EU, Euratom) No 966/2012.

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4.1 will be carried out and the corresponding contracts and agreements implemented, is 96 months from the date of the adoption by the Commission of this Action Document.

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

5.3 Implementation modalities

Both in indirect and direct management, the Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures affecting the respective countries of operation²³.

5.3.1.1 Indirect management with a Member State Organisation

A part of this action may be implemented in indirect management with Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) GmbH. This implementation entails the implementation of actions focusing on the support to government authorities to administer and guide domestic investments and the support to investors to apply principles for responsible investments. Following the intervention logic, accompanying collaborations with civil society organizations (result 3) and the establishment of needed information and monitoring systems (result 4) might also be envisaged in pilot areas by GIZ. This implementation is justified because GIZ has recognised experience in land governance issues and is until now the only agency with demonstrated practical experience in the field of the

²² EU Delegations in Cameroon, Ghana, Uganda, and Zambia. Due to the limited budget a maximum of 6 countries may benefit.

²³ https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-04-26-clean.pdf

governance of land based investments (reference is made to the EU funded project in Ethiopia mentioned under Article 3.1 above).

The entrusted entity would carry out the following budget-implementation tasks: Procurement of goods and services, contracting of partners for the implementation of some of the identified activities. This includes launching calls for tenders, definition of eligibility, selection and award criteria, evaluation of tenders, award of contracts, concluding and managing contracts, carrying out payments and recovering money due.

5.3.1.4 Indirect management with an international organisation

A part of this action may be implemented in indirect management with IFAD.

This implementation entails to support the 2019 – 2021 Strategic Framework of the International Land Coalition (ILC) with a focus to strengthen the capacities of civil society organisations defending the rights of poor female and male smallholders and ensuring that local land users are meaningful involved in decision-making processes. IFAD hosts the ILC Secretariat and provides managerial and administrative support. The entrusted entity would carry out the following budget-implementation: procurement of goods and services for training events, large scale seminars and selected monitoring actions, awarding and managing contracts, carrying out payments and recovering money due.

A part of this action may be implemented in indirect management with IFAD.

This implementation entails to support the Land Matrix Initiative to ensure the implementation of its work plan 2019-2022 aiming to enhance the transparency of investments in land through information and data collection. The Land Matrix Initiative is a joint action to which various partners contribute according to their specialisation and capacities. In agreement with other donors (Germany and Switzerland) IFAD was identified to provide managerial and administrative support to the Land Matrix Initiative, which will contribute also to a rational and needs based allocation of funding to the different Land Matrix partners. The entrusted entity would carry out the following budget-implementation: Contracting of partners for the implementation of the Land Matrix Initiative, which includes award of grants, and contracts, managing contracts, carrying out payments, recovering money and keeping the overview of financial flows.

5.4 Indicative budget

	EU contribution (amount in EUR)	Indicative third party contribution , in currency identified

0.1 Indirect management with Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) GmbH (including Communication and Visibility) addressing results 1,2,3,4.	9 000 000	²⁴
5.3.2 Indirect management with IFAD in support of ILC (including Communication and Visibility) addressing result 3.	5 000 000	22 000 000 ²⁵
5.3.3 Indirect management with IFAD in support of the Land Matrix Initiative (including Communication and Visibility) addressing result 4.	1 000 000	3 000 000 ²⁶
5.4 Evaluation, 5.5 Audit	Will be covered by another decision	N.A.
Totals	15 000 000	25 000 000

5.5 Organisational set-up and responsibilities

All projects covered under this action document will be managed by the EC at headquarters level.

For ILC a Council is established to direct the implementation of the annual work programme and the budget. The EC as well as the other donors are attending as strategic partners without voting rights, but with significant influence.

For the Land Matrix Initiative a Steering Committee is established of which the EC is a member and gives direction to the implementation of the annual work programme. For the new implementation phase for which a single funding mechanism will be established the Steering Committee will also have a say in budgetary allocations.

The component aiming to improve the governance of domestic investment into land is an action jointly prepared by the EC and BMZ and implemented by GIZ. A Steering Committee will be established giving direction to the implementation of the project.

5.6 Performance monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. For each contract covered by this action document specific monitoring and reporting provisions will be established by the respective implementing partner.

For the project on domestic investment in land to be implemented by GIZ monitoring and reporting will provide specific information on progress made as regards the first two results. The ILC and the LMI reports will provide particular information on result 3 and 4 respectively.

²⁴ The contribution of Germany will be defined at a later stage (pending national budget approval by parliament.

²⁵ Calculated on the basis of the core budget ILC secretariat proposes for 2019-21. Likely contributions are expected from Germany, Ireland, the Netherland, Sweden and Switzerland

²⁶ Calculated on the basis the LMI proposes for 2019-2022. Contributions are expected from Germany and Switzerland

Addressing domestic investment into land is innovative and therefore baseline data is not available. Therefore the implementing partners will establish the required baseline during the inception phase.

To satisfy the monitoring and reporting requirements, the implementing partners shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action (including how the RBA has been effectively implemented and how the programme is contributing to gender equality and women's empowerment), difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

5.7 Evaluation

Having regard to the nature of the action, a mid-term and a final evaluation will be carried out for the component implemented by GIZ. The Commission and the BMZ will agree jointly on the timing of the evaluation and the selection of independent consultants. The mid-term evaluation will be carried out for learning purposes regarding the innovative focus of the action and in light of a further expansion. The final evaluation will be carried out for accountability and learning purposes in particular in light of the innovative focus of the action and to draw lessons for a further use of the approach (including some reflections on RBA and gender equality).

The ILC has a well-established review mechanism and for each phase mid-term and final evaluations are carried out by independent consultants. Consequently there is no need for the Commission to carry out evaluations in addition.

For the LM the Commission will propose to the steering committee a progress evaluation, to be carried out in 2020 the latest. The LM is an ongoing action and the evaluation should assess in particular the pertinence of the actions and suggest modifications needed to ensure that the information requirements on large-scale investment in land of the larger public are continuously satisfied. In case the steering committee would not recommend a joint evaluation the Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision. In this case the Commission will inform the LM and the members of the Steering Committee at least 3 months in advance of the dates foreseen for the evaluation mission.

The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and *inter alia* provide them with all necessary information and documentation, as well as access to the project premises and activities

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

The financing of the evaluation shall be covered by another measure constituting a financing decision.

5.8 Audit

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

The financing of the audit shall be covered by another measure constituting a financing decision.

5.9 Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan for each of the contracts covered by the Action, to be elaborated at the start of implementation and supported with the budget indicated in the budget breakdown of each of the contracts.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY) ^{27]}

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action, no amendment being required to the financing decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
Overall objective: Impact	To contribute to increased agricultural productivity and development.	1. Average yield per hectare (disaggregated by type of crop)** +*	Zero for the time being	All levels to be defined during inception phase	National statistics	
Specific objective(s): Outcome(s)	Investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations in particular vulnerable groups and women.	1.1 Percentage of land subject to domestic investment is productively used 1.2 Proportion of land users (disaggregated by sex) which does not consider their rights to access and use land altered through investment in land 1.3 Number of possible disputes over land	Zero for the time being Zero for the time being Zero for the time	1.1 Levels to be defined during inception phase 1.2 Levels to be defined during inception phase 1.3 Levels to be defined	1.1 Project monitoring, respectively investment tracking 1.2 Project monitoring, respectively investment tracking 1.3 Project monitoring, respectively	Natural/climate conditions are stable Overall political and economic situation remains stable

²⁷ Mark indicators aligned with the relevant programming document mark with '*' and indicators aligned to the EU Results Framework with '**'.

		addressed and settled	being	during inception phase	investment tracking	
Outputs	1.1.1 Government authorities are supported to administer and guide investments in land in accordance with established legislation and recognised principles such as the VGGT and the RAI.	1.1.1 Number of staff (disaggregated by sex) trained * 1.1.2 Status of guidelines and regulations for domestic investments.	Zero for the time being	Both to be defined during inception phase	Project monitoring	Government supports regulating domestic investments
	2.2.2 Investors are supported to apply internationally recognised principles for responsible investments in land.	2.2.1 Number of investors trained in responsible investment aspects 2.2.2 Number of investors supported in local consultations	Zero for the time being	Both to be defined during inception phase	Project monitoring	Political support for the application of due diligence procedures
	3.3. Local land users, in particular agricultural small-holders and indigenous peoples are consulted, involved, and empowered to claim and defend their legitimate rights to land and advocate for their needs in land investment processes.	3.3.1 Number of land users trained (disaggregated by sex) 3.3.2 Number of local stakeholders assisted to participate in investment preparations and decision taking (disaggregated by sex)	Zero for the time being	Both to be defined during inception phase	Project monitoring	Activities of CSOs are at least tolerated in the field of land rights defence
	4.4.4 Systems providing up to date information and data on land investments are operational and publicly accessible.	4.4.1 Status of investment tracking systems 4.4.2 Status of yearly reports on investments into land	Zero for the time being	Both to be defined during inception phase	Project monitoring	