

**COMPLIANCE TO NATIONAL AND INTERNATIONAL GUIDELINES OF LAND-BASED
AGRICULTURAL INVESTMENTS IN UGANDA – EXPERIENCES FROM UGANDAN
MEDIUM-SCALE DOMESTIC FARMERS ON PRIVATE MAILO AND CUSTOMARY LAND
TENURE**

THORSTEN HUBER¹, RITA MWASE¹, THERESA EILU AUMA² and STEVE HODGES²

¹Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Kampala, Uganda
thorsten.huber@giz.de, rita.mwase@giz.de

²Uganda Agribusiness Alliance (UAA), Kampala, Uganda
eiluteresa@gmail.com, steve.hodges@ugandaagribusinessalliance.com

**Paper prepared for presentation at the “2020 WORLD BANK CONFERENCE ON LAND AND POVERTY”
The World Bank - Washington DC, March 16-20, 2020**

Abstract

This paper introduces and assesses the work on Responsible Agricultural Investments by medium scale domestic farmers as they implement aspects of national laws and international guidelines of land-based agricultural investments in Uganda (e.g. VGGTs, RAI and NPL). The medium scale farmers are natives of Uganda with farm sizes ranging from 10 to 35 acres on both private mailo and customary land. A baseline study conducted in 2017 confirmed that often national medium or large-scale agricultural investments are not fully monitored by the Government of Uganda to meet all legal conditions, while international investments are much more expected to comply by both national laws and international guidelines.

The sensitization of national medium scale farmers regarding national laws and international guidelines has been piloted by the project of “Responsible Land Policy in Uganda (RELAPU)” implemented by the German Agency for International Cooperation (GIZ) in partnership with the Ugandan Ministry of Lands Housing and Urban Development (MLHUD) and Uganda Agribusiness Alliance (UAA) in selected districts in Central and North Eastern Uganda. The project is part of the Global Program “Responsible Land Policy” which is part of the Special Initiative “One World No Hunger” of the German Federal Ministry of Economic Cooperation and Development (BMZ). The sensitization of domestic medium-scale farmers is expected to result into improved levels of compliance by different medium scale farmers or investors with national laws and international guidelines.

The project implemented has created open local investor platforms in each project region at which agricultural investors exchange their experiences. These platforms are used for capacity building on relevant issues related to responsible agricultural investments depending on the needs. Through this process, information on responsible agricultural investments is shared and capacities of agricultural investors developed.

In this paper we intend to share the results from the assessment of the core investors’ improvement plans. The results showcase that domestic medium-scale investors have a high interest to adhere to national laws and international guidelines e.g. the VGGTs contextualized to local conditions at their expense.

Key words: Responsible Agricultural Investments, International guidelines (VGGTs), Uganda, Compliance

Introduction

The share of agriculture and the food system in developing countries is often large and critical to the livelihoods of billions. In the case of Uganda, the agricultural sector forms the backbone of Uganda's economy contributing according to Price, Waterhouse and Coopers (PWC) Uganda to about 37% of the national GDP (PWC Uganda 2020). Therefore, investments by large-scale private investors need to operate responsibly and in line with national laws and international guidelines. Responsible agricultural investments will boost the productivity, profitability, and sustainability of agriculture hence contributing to the fight against poverty, ending hunger, ensuring decent work opportunities, and attaining gender equality (World Bank 2018).

The Responsible Agricultural Investment guidelines cover all types of investment in agriculture, including between principal investors and contract farmers (UNCTAD 2020). In the case of Uganda, largescale agricultural investors are mainly international investments who have guidelines at national and international levels to observe. Domestic medium scale farmers, who constitute many investors in Uganda, are often below the radar of the Ugandan Investment Authority (UIA). Hence often laws, regulations or standards are not known to them and thus not observed. It is upon this background that the project "Responsible Land Policy in Uganda" (RELAPU) targets these farmers in selected areas to pilot sensitization and capacity building about national laws, regulations and international guidelines. While certain laws and regulations are known to the farmers, their awareness on land related conditionalities and guidelines are often weak. The 1995 Constitution of Uganda and Land Act 1998 provides for four land tenure systems i.e. Mailo, freehold, leasehold and customary, however, these land tenure systems in Uganda are weak. Mailo tenure is unique to Uganda and permits holding of registered land in perpetuity just like freehold tenure but provides for separation of ownership of land from the ownership of developments on land by lawful or bona fide occupants (Huber et al., 2019).

About RELAPU

The project on "Responsible Land Policy in Uganda" (RELAPU) is part of the Global Program Responsible Land Policy and belongs to the Special Initiative "One World No Hunger" (SEWOH) of the German Federal Ministry for Economic Cooperation and Development (BMZ). The RELAPU project is implemented by the German Agency for International Cooperation (GIZ) in partnership with the Ugandan Ministry of Lands, Housing and Urban Development (MLHUD). The project also works with a range of Civil Society Organizations (CSO), Makerere University Kampala, the private sector and other international organizations.

The RELAPU project started working in Eastern Uganda, Teso (Soroti, Katakwi districts), securing customary land ownership rights according to customary tenure, and in Central Uganda (Mityana, Mubende, Kassanda districts), for the documentation of land-use rights of both, bona fide and lawful tenants on private Mailo land. As of 2020 the RELAPU project has started scaling up its activities to two new regions: Lango in Northern and West Nile, Northwestern Uganda.

RELAPU is working on three fields of action:

- 1) Improve the institutional framework and procedures to secure tenure rights in Central, Northern and Eastern Uganda;
- 2) Increase the engagement of the civil society in the formalization and implementation of a responsible land policy;
- 3) Raise Awareness of private agriculture investors and financial institutions about responsible land policy along internationally agreed guidelines and the National Land Policy (NLP).

Responsible land use as well as fair and secure land rights are a precondition for sustainable rural development. In order to promote secure tenure rights and equitable access to land as a means for eradicating hunger and poverty the international community passed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, Forests in the Context of national food security* (VGGT) in 2012 to underline its commitment for sustainable land use.

The four key guideline documents for the RELAPU project implementation are: 1) The Land Act 1998, 2) The National Land Policy 2013; 3) The Voluntary Guidelines on Responsible Governance of Tenure (VGGT); and 4) Principles for Responsible Investment in Agriculture and Food Systems (PRAI).

The sensitization of national medium scale farmers about the national and international guidelines has been piloted by GIZ in partnership with the Ministry of Lands Housing and Urban Development (MLHUD) and Uganda Agribusiness Alliance (UAA) in selected districts in Central and Eastern Uganda.

The Approach

Identification of medium scale farmers and potential target investors

In 2017 a baseline study was undertaken to better understand the reality and complexity on the ground prior to the beginning of activities. The study targeted national stakeholders to gain a better understanding about the land-based investments in Uganda and specifically, in the RELAPU Project districts of Mubende, Kassanda and Mityana in Central region; Soroti and Katakwi in Eastern Uganda. Findings show that national investors exist in all districts, however with a larger quantity in the more fertile and productive central region of Uganda. With support of the sub-county leadership, national investors were identified using snowball sampling, leading to the identification of 135 investors in the 5 target districts.

A valuation exercise was carried out to find out which investors were interested in working with RELAPU on responsible agricultural investments. Of the 135 investors identified during the baseline study only 65 investors agreed to work with RELAPU. The summary findings of the baseline study and valuation exercise are presented in Table 1 below:

Table 1: Summary of baseline and valuation findings

Information sought	Key findings
Existence of agricultural investors	A total of 135 national agricultural investors were identified; 60 in the East (Soroti and Katakwi) and 75 in Central (Mityana and Mubende). No international investors were found to exist in Soroti and Katakwi while a total of 4 were found in Mityana and Mubende districts.
Nature of agricultural investments	Agricultural investments found in the project regions include cash crop production, livestock, poultry, agro-forestry and agro-processing/value addition. Most investors are practicing mixed investments and there are very few specializations.
Experience with regards to land	Majority of investors were found to be medium scale investors holding land between 30 and 50 acres (12-20 hectares).

Information sought	Key findings
	In Mityana and Mubende, 35% of investors are involved in land boundary and within family disputes against 30% of investors in Soroti and Katakwi.
Knowledge and adherence to national and international standards on responsible land policy	There is no knowledge of international standards on responsible land policy among investors in both project regions. There is however some knowledge of national laws and guidelines such as the 1995 Constitution, the 1998 Land Act and environmental laws among some investors. 22% of investors in Mityana and Mubende have some knowledge of the national standards and guidelines while 57% in Soroti and Katakwi.
Interest in working with RELAPU	All the 65 investors who participated in the valuation exercise showed interest in working with RELAPU to develop their capacities and to adhere to national and international standards on responsible land policy.
Capacity development to adhere to standards	Investors expressed their interest to strengthen their capacity with raising awareness and knowledge about existing national and international standards on responsible land policy. Furthermore, the desire was raised to link investors to state and non-state institutions that give incentives and support for implementation of standards. In both regions the RELAPU project has established multi-stakeholder platforms as one of the main avenues for capacity building of the investors.

The baseline study and valuation exercise found that there is no existing network among agricultural investors in place. The medium scale farmers are natives of Uganda that have farms ranging from 10 to 35 acres on both private mailo and customary land. The baseline study confirmed that national agricultural investments are not actively monitored to abide to the national laws, while for international investments they are expected to comply with national laws.

Formation of a network of medium-scale domestic investors

At the onset, the agricultural investors did not see themselves as investors, but as simple farmers with more land. They lacked confidence to acknowledge their contribution to national food security and rural economic development. The purpose for participation was that they may have an opportunity for a close collaboration among themselves, with international investors and other relevant government agencies such as Ugandan Investment Authority (UIA), Ministry of Lands, Housing and Urban Development (MLHUD). They also observed that they did not have capacities to adhere to international and national guidelines.

Creating an open platform in which agricultural investors have the chance to regularly exchange their experiences is crucial for RELAPU's intention to build their capacities and to improve their adherence to national laws and international guidelines. The project through UAA created open platforms in each project region. Resource persons on relevant issues related to responsible agricultural investment are invited to the forum depending on the needs expressed by the investors or observed by the project. Through this process, information is disseminated, and capacities of agricultural investors are developed. The investors are eager to have more opportunities to network, exchange

experiences and best practices with each other across district lines. In addition to investors, representatives of the local government district staff e.g. commercial officer, Agricultural officer and Environmental officer have been participating in these events, too.

First preliminary results from the multi stakeholder platforms for the agricultural investors include:

- Capacities on national laws and international guidelines strengthened
- Understanding the concept and roles for responsible agricultural investment amongst the participants improved
- Priority areas for improvement in the private agriculture investors’ business identified and improvement plans developed
- Memoranda of Understandings between the investors and GIZ, UAA signed
- Networking and cooperation amongst agricultural investors and relevant stakeholders like UIA and district officials established

“Core” Investors as champions of adherence to the national and international guidelines

At the regional multi-stakeholder platforms, a few investors were selected as champions. These “Core” investors committed to adhering to some national and international guidelines, receiving capacity building and being supervised by UAA as they adhere to the guidelines, as well as train peers based on their experiences.

The criteria for selecting the core investor are:

- Investors with investments on land ranging from 10 acres (for Soroti and Katakwi districts) to 30 acres of land and above (mainly found in Mityana, Kassanda and Mubende where most farmers hold larger sizes of land)
- Investors willing to be trained and in turn train others

Six (6) investors were selected as champions and core investors. These 6 core investors consisted of 4 investors from Eastern Uganda and 2 from Central Uganda. At least two of the 6 investors were women. After selection at the platform meetings, the 6-core investors were visited and improvement plans, looking into aspects of adherence to the national and international guidelines developed. The core investors underwent intensive training in measures to improve their investments. The training/capacity building aimed at “up-lifting” the core investors from the current status of non-adherence to international and national guidelines to the adoption of more responsible agricultural investments. The improvement plans were along thematic areas in line with the international guidelines on land-based investments (VGGT, PRAI, New Alliance’s Analytical Framework for Land Based Investments).

Below are the common areas of the improvement plans:

1. Identifying a mechanism or arrangement for resolving any conflict which may arise between the investment and stakeholders including local community members.
2. Engage stakeholders affected by the investment (including any marginalized persons).
3. Conduct an informal or formal Environmental and Social Impact Assessment (ESIA)
4. Develop a written employment agreement with all employees;
5. Improve water and soil management to increase environmental sustainability and compliance with the ESIA

The commitments made by the core investors are recorded in annual improvement plans that are monitored and assessed annually.

Table 2: Compliance of 4 private national farmers against 6 thematic areas

	Investor	Mailo 1	Mailo 2	Customary 1	Customary 2
1	Identify, or develop, a mechanism for receiving complaints and for resolving any conflict	Not done	Farm manager has been charged with implementing this aspect.	Has held one meeting with neighbors and Local Council Village Chairperson (LC1).	Complaints are received by the farm manager. The farm identified the LC1 chairperson of the village to be at the lead of solving problems or complaints.
2	Engage stakeholders affected by the investment (including any marginalized persons)	Held meetings with neighbors and community members with the help of LCs	Carried out the stakeholder meeting and farm management pledged to support the community to rear bees, fish and grow soybeans. Those who hire land will continue with better conditions of engagement.	Has held one meeting with neighbors and LC1 to identify ways of improving relationship with the farm	Stakeholder meeting was not held however, a training of the community was done to sensitize about forming a cooperative called Katine Dairy Farmers cooperative
3	Conduct an informal or formal Environmental and Social Impact Assessment (ESIA)	Not done	Not done	Not yet done.	Final submission of informal ESIA to be made to the Soroti DEO office in the second week of April 2019
4	Develop a written employment agreement with all employees other than casual laborers;	Ensures safety of employees by providing protective gear Ensures rest time for all employees	Management developed written employment agreements with all permanent employees	Management developed written employment agreements with all permanent employees	Management developed written employment agreements with all permanent employees
5	Ensure that land being used has been acquired through a consultative and legal process	Land is family owned and is being utilized with consent of family members	Land is family owned and being utilized by different family members with consent. For some land, the investor is a tenant, but tenancy rights have not yet been mapped	Investor is on customary land. The land rights are not yet documented for the family	Investor is on customary land. The land rights are not yet documented for the family
6	Investor's advancement in any other area: e.g. record keeping, water harvesting, etc.	Educated the workforce and students on improving soil fertility, and controlling pests biologically Recycling farm waste	Protection of a natural forest on the land	Has put some ridges around the plantation to reduce water run Got training on making compost to improve soil fertility	Acquired materials for record management in a diary investment setting and financial literacy

Success so far

- 75% of the investors established a process of gathering complaints or conflicts from the community i.e. through the farm manager's office
- All investors held stakeholder meetings with the neighboring community to inform them about the investment, what services/ opportunities they can benefit from and how complaints can be lodged.
- Only four out of the six core investors undertook an Environment and Social Impact study in 2018, the remaining two, plan to undertake theirs in 2020.
- All six investors used the adapted employee contract as a tool to help setup formal contracts for the fulltime employees
- Regarding land acquisition, the investors using family land were advised to hold family meetings to ensure that they have consent for the use of the land and they in turn share for how long the investments would run and what benefits as investors would plough back to the family
- Some investors had conflicts with tenants and through mediation, compromises have been arrived e.g. for those hiring land out, better terms were agreed on what can be planted, for how long the land can be used and how to conserve the land
- The investors are also keen to observe practices that protect and reduce environmental degradation. The investors are keen to learn more about safe to use herbicides e.g. natural herbicides, proper use of chemical herbicides and options of making natural fertilizers
- All six core investors have made presentations to other investors on what they have learned, and three have taken on leadership roles of mobilizing investors in their District. Capacity building/training has also been done with six more runner-up investors, four from Eastern and two from Central Uganda. Four of these six are women and two are youth.
- There is noted improvement in the capacity of investors to question and hold their local district leaders (government) accountable. The investors raised questions related to responsible investments, land and the environment for the government to respond. This stimulated a high level of discussion and understanding among investors. It is also noteworthy that local district leaders are willing and able to answer even difficult and contentious questions from local investors and see the multi-stakeholder platform meetings as a chance to improve their access to local investors.

Next steps – brief about the RGIL project

Commercial investments in agriculture and forestry are increasingly exerting pressure on land as a resource. Due to a lack of safeguarding measures, these investments can lead to loss of access to land, conflicts and forced evictions, thereby restricting and preventing inclusive and sustainable development pathways. Many countries have committed themselves to good land governance, but there are still considerable challenges for its implementation. The rural population is highly dependent on political decision-makers, formal and informal power structures.

Based on the above shared promising results of the activities done so far under the Field of Action 3 of the RELAPU project in Uganda, the landmark achievements done in Ethiopia by GIZ under the EU and German Government cofounded project Support to Responsible Agriculture Investments (S2RAI), a new regional project has been initiated to build on the existing experiences and to roll them out in more districts and countries. The project "Promotion of Responsible Governance on Investments in Land (RGIL) is co-founded by the European Union and the German Government through BMZ. This regional program will be implemented by GIZ in the three countries of Ethiopia, Laos and Uganda and has a duration until July 2023. The overall objective of the project is to

contribute to „increased agricultural productivity and development.” The specific objective 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 proposed strategic approach aims at strengthening the capacities of key stakeholders (governmental staff, selected investors as well as civil society and community representatives) and improving the regulatory framework for investments in land. The participation of civil society organisations in the formulation and implementation of responsible land policies is promoted, and private enterprises investing in agriculture and forestry are sensitised to follow acknowledged principles for responsible investments.

The new project has the following three outputs:

1. The capacities of government authorities in Uganda to administer and guide investments in land in accordance with established legislation and recognized principles such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT) and the Principles for Responsible Agricultural Investments (RAI) are strengthened;
2. The capacities of investors in Uganda to comply with internationally recognized principles for responsible investments in land are strengthened;
3. The capacities of local land users, especially agricultural small-holders and vulnerable groups, in Uganda to defend their legitimate rights to land and advocate for their needs in land investment processes are strengthened.

Reference:

PWC Uganda, 2020: <https://www.pwc.com/ug/en/industries/agriculture.html>

UNCTAD 2020: <https://unctad.org/en/Pages/DIAE/G-20/PRAI.aspx>

Huber, Thorsten; Musinguzi, Moses; Kirumira, Daniel and Drate, Pamella, 2019: Evaluation of the land inventory approach for securing tenure of lawful and bona fide occupants on private Mailo land in Uganda. Paper for the Annual World Bank Conference on and and Poverty 2019.

FAO 2010: Statutory recognition of customary land rights in Africa. An investigation into best practices for lawmaking and implementation. FAO Legislative study, Author: Rachel S. Knight, available online:www.fao.org/docrep/013/i1945e/i1945e00.pdf

World Bank, 2018: Responsible Agricultural Investment (RAI) Knowledge into Action Notes, World Bank, March 7, 2018

ATKINSON, Ronald R. et al: Piloting the Protection of Rights to Customary Land Ownership in Acholiland: A Research Project of the Joint Acholi Sub-regional Leaders’ Forum (JASLF) and Trócaire Report on the Field-Research Component, Online: [//www.trocaire.org/sites/default/files/resources/policy/phaseiresearch_report_-_piloting_the_protection_of_rights_to_customary_land_ownership_in_acholiland_final_report.pdf](http://www.trocaire.org/sites/default/files/resources/policy/phaseiresearch_report_-_piloting_the_protection_of_rights_to_customary_land_ownership_in_acholiland_final_report.pdf)

MLHUD - Ministry of Lands, Housing and Urban Development, 2015: THE UGANDA NATIONAL LAND POLICY IMPLEMENTATION ACTION PLAN 2015/16 – 2018/19, Online:mlhud.go.ug/wp-content/uploads/2015/10/National-Land-Policy-Implementation-Action-Plan-2015-16-to-2018-19.pdf

WORLD BANK, 2018: Land Administration Reforms Cut the Red Tape,
online:www.worldbank.org/en/news/feature/2018/04/20/land-administration-reforms-cut-the-red-tape

UNHABITAT, 2015: CERTIFICATES OF CUSTOMARY OWNERSHIP, Experiences from the District Livelihood Support Programme in Uganda, Authors: Dinah Mayanja, Dorothy Massa, Okello Julius, Report 1, 2015.