## The Future UNIDROIT-FAO-IFAD Legal Guide on Agricultural Land Investment Contracts (ALIC)

The process of preparing, negotiating and implementing an agricultural land investment contract in a manner consistent with the principles and standards laid out in the [*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)*](http://www.fao.org/cfs/home/activities/vggt/en/) and the [*CFS Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI Principles)*](http://www.fao.org/cfs/home/activities/rai/en/), can be very challenging for investors, governments, legitimate tenure right holders and local communities alike.

The International Institute for the Unification of Private Law (UNIDROIT), in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD), is preparing a [future Legal Guide on Agricultural Land Investment Contracts](https://www.unidroit.org/work-in-progress/agricultural-land-investment) (ALIC), to cater for the needs of legal counsels working on the leasing of agricultural land from States and local communities.

The ALIC guide’s aim is not to promote large-scale land acquisitions, but rather to raise awareness about alternative investment models. In acknowledging that land acquisitions continue to occur, however, the instrument will help to ensure that leases of agricultural land are done responsibly, with necessary safeguards to protect human rights, livelihoods, food security, nutrition and the environment, and that stakeholders’ rights, including those of legitimate tenure right holders, are both protected and respected.

The instrument, building on the success of the [UNIDROIT-FAO-IFAD Legal Guide on Contract Farming](https://www.unidroit.org/english/guides/2015contractfarming/cf-guide-2015-e.pdf) and the [UNIDROIT Principles of International Commercial Contracts](https://www.unidroit.org/unidroit-principles-2016/unidroit-principles-2016-overview/english-black-letter), is being developed by a Working Group of experts, representatives of international organisations, and stakeholders. The resulting Zero Draft is currently being circulated as widely as possible in order to solicit comments and feedback.

Structure of the ALIC Zero Draft

The instrument will address the following six main aspects:

(1) Legal framework: The applicable legal framework is made up of various domestic sources of law (e.g. legislation, judicial decisions, regulations and, in some instances, customary rules) and various international sources (e.g. international human rights treaties, investment treaties or soft law instruments). The framework may also vary according to the type of agricultural land investment contract, which might be an investment agreement, lease contract or related agreements.

(2) Parties, due diligence and formation: There are various possible parties to agricultural land investment contracts, and numerous stakeholders that could be affected by such contracts. Difficult tasks could include: (a) identifying both the holders of legal title to the land and any holders of legitimate tenure rights with respect to that land; (b) consulting with those various holders, including in customary settings in which the roles of various authorities might not be clearly defined; and (c) conducting detailed feasibility studies and rigorous impact assessments, with respect to possible tenure, social, environmental and economic impacts.

(3) Obligations and rights of the parties: The agricultural land investment contract, which may be a single agreement or series of agreements, can set out provisions addressing not only the particular tenure and related rights that are granted, but also necessary safeguards to bridge gaps in the State’s law and possible impacts of the investment.

(4) Contractual non-performance and remedies: As leases of agricultural land usually involve long-term contractual relationships, it is important to understand the inherent risks in a particular investment and to promote cooperation between the parties and stakeholders.

(5) Transfer and return: The transfer of leased agricultural land from one investor to another can raise various concerns, including whether or not the granted tenure rights are actually transferable, the transfer complies with any contractual limitations, and such transfer is disclosed to the public.

(6) Grievance mechanisms and dispute resolution: Understanding the types of grievances and disputes that commonly arise under agricultural land investment contracts and the various mechanisms for resolving them (e.g. expert determinations, negotiation, mediation, arbitration and litigation) can also create a more balanced and sustainable contract.

Your views

In this online consultation we invite you to share with us thought and inputs you may have on the Zero Draft. Comments concerning the general approach of the Guide or on specific Chapters, sections or issues would be most welcome. In particular, we are seeking feedback on the following:

1. Are there sections in the draft Guide that appear to be non-exhaustive or to have gaps in the addressed issues? If so, how would you propose to bridge them?
2. Are there sections that lack clarity? If so, how would you propose to clarify them?
3. Does the draft Guide present any sections where the content is redundant (i.e. has already been presented elsewhere)?

All comments received will be submitted to the Working Group and taken into account, as appropriate, for the draft's final revision, which is to take place between 1 October and 20 December 2019.

Subject to the final revision process in coordination with FAO and IFAD, the Legal Guide on Agricultural Land Investment Contracts will be adopted by the UNIDROIT Governing Council at its 99th session in May 2020.

Many thanks in advance for your time and valuable input.

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