

Land Legacy Issues

Guidance on Corporate Responsibility

Washington, DC

September 2017

INTERLAKEN
 **GROUP**





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Preface

The Rights and Resources Group (RRG) commissioned Indufor North America to prepare a concise high-level Guidance document distilling existing issues and approaches for addressing land-related legacy grievances for review and further development by the Interlaken Group. This work builds on the white paper prepared by Indufor for RRG and the Interlaken Group in February 2016, in addition to recently released publications on this topic by the CDC¹ and IIED.²

The Interlaken Group's initiative on legacy land issues comes at a time when private sector development of natural resources in emerging economies is increasingly expected to support the rights of communities with legitimate tenure to the land or resource in question. Recent international policy support for strengthened land tenure governance provides an impetus for private sector actors to define their roles and actions vis-à-vis local communities' land and forest tenure rights – notably, the global endorsement of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT).

Numerous stakeholders, including the Interlaken Group, have produced guidance explaining how these high-level principles and norms can be practically applied in business operations. To date, however, most of the guidance concentrates on actions required in new land acquisitions with insufficient attention given to how companies can bring existing holdings into line with the VGGT. This Guidance is meant to be read in conjunction with the Interlaken Group's *Respecting Land and Forest Rights: A Guide for Companies*.³

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Indufor North America provides sustainability strategy and investment consulting services to public and private clients with a focus on forestry and natural resources management. Indufor North America is part of the Indufor Group, which has offices in Helsinki, Auckland, Melbourne, and Washington, DC.

1 CDC and KfW. 2016. A Guidance Note on Managing Legacy Land Issues in Agribusiness Investments. CDC and KfW. 2016. Legacy Land Challenges and Opportunities in the Agribusiness Sector.

2 IIED. 2016. Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper. Draft not published.

3 The Interlaken Group and the Rights and Resources Initiative (RRI). 2015. Respecting Land and Forest Rights: A Guide for Companies.

Purpose of this Guide

PURPOSE

Provide operational guidance for companies confronting “legacy land issues.”

AUDIENCE⁴

This guide is intended to inform the work of senior-level professionals and operational teams at companies that hold land or purchase directly from companies that hold land. The guidance aims to clarify a company’s roles and responsibilities in dealing with legacy land issues in their existing holdings, while also providing direction on where to look for more detailed information and tools.

RATIONALE

Following endorsement of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forestry in the Context of National Food Security (VGGT) by 193 governments, several organizations and multi-stakeholder platforms, including the Interlaken Group, released operational guidance for companies seeking to understand and implement the VGGT. Much of the existing guidance on respecting land rights, including that released by the Interlaken Group, places emphasis on reducing risks related to new land-based investments but gives insufficient attention to how to mitigate and address existing land grievances in a company’s existing holdings that may be a result of earlier transactions.

For instance, the International Finance Corporation’s (IFC) Performance Standard 5 identifies roles and responsibilities related to resettlement and compensation for acquisition of land for an investment, but largely overlooks challenges of how to deal with historic land grievances associated with an existing investment. Additionally, there are several international instruments, including the United Nations (UN) Guiding Principles on Business and Human Rights and the Pinheiro Principles, that are directly relevant to legacy land issues but are either too general in nature or are not specific to a land-based investment scenario.

This guidance document on Legacy Land Issues attempts to address the gap while complementing the existing Interlaken Guidance on Respecting Land and Forest Rights.

Section 3.2 of the VGGT

“Business enterprises should provide for and cooperate in non-judicial mechanisms to provide remedy, including effective operational-level grievance mechanisms, where appropriate, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights.”

⁴ While the expertise of the Interlaken Group is focused on the agribusiness and forestry sectors, the guidance contained within this document is likely to be applicable in other sectors such as mining or infrastructure.

APPROACH

This guide presents the Interlaken Group’s perspective on a company’s responsibilities to address legacy land issues. It provides direction on how to resolve grievances related to land that may or may not have been the direct result of company actions. In doing so, the guide may also help the company mitigate the potential for future risks and inequities. The overarching approach is to identify and implement negotiated settlements with affected communities that respect their legitimate land rights by returning land or where that is not possible enhance their livelihoods. This guide should be read as an addendum to the Interlaken Group’s *Respecting Land and Forest Rights*.⁵

⁵ The guidance on “Existing Holdings” in *Respecting Land and Forest Rights* (pages 21-25) explains a company’s responsibilities to review their landholdings against the requirements of the VGGT but does not provide detailed guidance on legacy land issues specifically.

What Are Legacy Land Issues?

Land holds social, cultural, ecological, and economic significance, which influences views on the value of land and how it should be used. When companies, governments, and/or local authorities fail to sufficiently acknowledge such views or disregard the legitimate tenure rights of communities during the land allocation process, disagreements and mistrust can arise. When local tenure rights are violated or pre-existing grievances or land claims of local rights holders are left unaddressed, disagreements can undermine an operator's social license to operate and increase commercial and reputational risks.

Legacy land issues are defined as:

An enduring grievance with affected communities or historic land occupants or their descendants related to the terms and processes by which land was previously acquired and subsequently used by a company or other entity and which has been left unresolved, in part or in full, by the predecessor or existing project developer.

WHY ARE LEGACY LAND ISSUES UNIQUE?

Legacy land issues are distinct because:

- » the negative impact or grievance already exists and is inherited by the current owner, leaseholder or investor;
- » the nature and intensity of the grievance can evolve with changing circumstances;
- » they are associated with existing, developed assets, making it potentially more difficult for a producer to simply walk away without significant losses;⁶ and
- » they present unique challenges “due to the interplay of past and present, which can involve ingrained distrust and polarized positions, issues of justice, and unclear roles and responsibilities.”⁷

IDENTIFYING LEGACY LAND ISSUES

Legacy land issues tied to an investment frequently result from i) historically unresolved claims to land; ii) the type and level of community consultation and consent process prior to a land acquisition; iii) the terms and processes for land acquisition and compensation; iv) poorly applied resettlement procedures; v) restricted access to land by communities, including seasonal users like pastoralists

6 Flanders, Nicholas and Jenks, Jessica (2016) *Legacy Land Challenges and Opportunities in the Agribusiness Sector*. CDC.

7 Cotula, Lorenzo, Thierry Berger and Philippine Sutz (2016) *Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper*. IIED. Page 7.

or community members with overlooked land rights; and vi) the extent of land use by the project operator.⁸

Not all legacy land issues result from company actions. There may be other drivers such as inter-community conflict, weak land administration, or inequitable land laws. Political transitions, armed conflict, or other social and environmental factors (e.g., demographic changes, climate change, drought) can also influence the probability of a legacy land dispute surfacing due to internal displacement or increased pressure on land use over time. In this case, the grievance may not be directly linked to the acquisition process itself but more to the decreased access to resources and the threat to food security resulting from company operations. Nonetheless, such grievances require a sustainable resolution if a producer is to maintain their social license to operate, avoid serious violations of international human rights law, and have stable access to land over the life of a project.

Properly identifying the root causes of land-related grievances requires not only integrating land tenure as a component within environmental and social impact assessments but also retaining expertise familiar with local land rights issues. In assessing land-related grievances, it is important to understand the different needs, priorities, and perceptions of land rights and use by people within communities; particularly with regards to age, gender, socio-economic position, and ethnicity. Grievances can be more pronounced among some groups (e.g., migrants vs. customary users) and can grow more acute over time.

Companies should also be aware of the power imbalances that exist between a company and community when entering into dialogue. Companies often have more influence to shape dialogue format and outcomes, which can undermine the integrity of the process. Companies must be aware of this, and can take actions to ensure communities are on equal footing during negotiations. Practically, this could involve allowing more time for conversation and dialogue, hiring community engagement staff with proper training, and engaging NGOs in the process.

Given the unique challenges associated with identifying and resolving legacy land issues, creating a safe space for dialogue and building consensus together with communities and aggrieved parties on options for effective redress are critical within any intervention. Stakeholder dialogue can allow opposing parties to better understand the issues and dynamics that are the root cause of a dispute and allow insights into opportunities for resolution. Professional mediators can often be instrumental in facilitating such dialogue but must be selected and agreed upon by all parties.

THE ROLE OF GOVERNMENTS IN LEGACY LAND ISSUES

In all countries, national and local governments have the responsibility for land administration, and, in many countries, for allocating land for investment and resolving land disputes. Most of the guidelines in the VGGT, therefore, pertain to government responsibilities. In some cases, companies might engage, or be required to engage, with government bodies such as land adjudication officials, Public Ombudsman Offices, National Land Commissions, or National Human Rights Commissions to resolve legacy grievances. Nonetheless, the role of governments in the resolution of legacy land issues where companies are involved can be complicated and contested. In many instances, poor governance of tenure and corruption by government actors plays a central role in the land dispute generating the legacy issue. Moreover, in many developing economies, governments are inadequately prepared to administer land in line with the VGGT. It therefore falls on companies to conduct a robust assessment of the political economy where they are investing, and in some cases, avoid operating or developing commodity supply chain relationships in environments where there are concerns related to weak governance or corrupt political and economic elites.

In contexts where state actors undermine government institutions by manipulating bureaucratic processes to benefit themselves, the political elites and the private commercial interests involved can become indistinguishable from one another. The UN Guiding Principles on Business and Human Rights require that business enterprises prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, including those with government. To avoid such adverse impacts, businesses may need to assist their government counterparts to raise their standards to minimize the land governance vacuum.

⁸ Mirza, Hafiz, William Speller, and Grahame Dixie (2014) *The Practice of Responsible Investment Principles in Larger-Scale Agricultural Investments: Implications for Corporate Performance and Impact on Local Communities*. World Bank Report Number 86175-GLB. Compliance Advisor Ombudsmen (2015) *Advisory Series Lessons from CAO Cases: Land*. The Office of the Compliance Advisor Ombudsman. Washington, DC. Mathias, Kate (2015) *Land Rights in Cane Agriculture*. World Bank Land and Poverty Conference Presentation.

For example, most countries require that environmental impact assessments be carried out prior to a large-scale investment. Additionally, there may be social impact requirements embedded within separate investment or land-related legislation. However, such legislation is rarely applied or enforced. Despite the lack of enforcement, companies must work with governments to carry out their public fiduciary duties. This includes identifying and assessing social risks as part of their compliance with national legislation but also their own internal risk management procedures.

Home country governments of business enterprises may also have an influence on how companies operate abroad. For instance, the number of policies and regulations requiring environmental, social, and governance (ESG) reporting has increased in recent years. Many countries have adopted ESG disclosure policies that are codified in legislation (e.g., Dodd-Frank). Additionally, some stock exchanges have placed requirements on listed companies to disclose environmental and human rights impacts in order to be compliant with national law. As of 2013, over 180 laws and regulatory standards in 45 countries called for corporate sustainability reporting whereas in 2006 there were only 19 countries with stated policies.⁹ Further, some countries have laws similar to the Alien Tort Statute of the United States, which enables federal courts to hear civil lawsuits filed by foreign actors that claim violation of customary international law. In 2013, 200 Cambodians brought a claim (using the tort of conversion) in the courts of England and Wales against Tate & Lyle Sugar Industries Limited and T & L Sugars Limited for purchasing sugarcane grown on land from which the claimants allege having been violently and unlawfully evicted.¹⁰ Such provisions offer avenues for holding corporations accountable for harm and damage resulting from their operations overseas.

DETERMINING HOW FAR BACK TO GO IN CONSIDERING CLAIMS

Beyond looking at the clear spatial dimensions of land, it is also important to understand the history attached to land. When determining how far back to go in time in considering the land-related claims in question and the nature of previous abuse or violation of related human rights, it is critical to have a clear understanding and definition of the specific property violation. In the case of legacy land issues, the grievance is related to the terms and processes by which land was previously acquired and subsequently used by a company and which have been left unaddressed, in part or in full, by the predecessor or existing producer. In applying this definition, it is the responsibility of the current landholding company to evaluate, at a minimum, any claims and related pre-existing unresolved community grievances linked to the terms and processes by which the land in question was acquired and used by the company itself and a preceding landholding interest or state-owned enterprise. How the company addresses those issues will depend on the context and its responsibilities under the UN Guiding Principles on Business and Human Rights. It is also important to note that a court judgement does not necessarily mean a grievance is resolved. Given the governance gaps in many places where legacy land issues exist, it is critical that the affected community supports the final resolution to their grievance.

Early and frequent consultation with affected communities and external stakeholders should enable a company to effectively remedy grievances. Practically, there may be circumstances where it is advisable for a company to apply a flexible claims period in order to maintain its social license to operate and to avoid the appearance of profiting from past injustices. For example, if a concession changed hands multiple times during a relatively short time frame due to armed conflict, then the current landholder may need to consider claims going back as far as the most recent land acquisition process preceding the armed conflict. One major challenge related to due diligence of past land acquisitions is the absence of reliable baseline information and data. Although a significant challenge, a review of archival materials and detailed due diligence involving local authorities, community members, and government can often help to improve understanding of the environment and processes through which land was previously acquired.

9 KPMG Advisory N.V., Global Reporting Initiative, Centre for Corporate Governance in Africa (2013) *Carrots and Sticks: Sustainability reporting policies worldwide – today's best practice, tomorrow's trends*.

10 Cotula, Lorenzo, Thierry Berger and Philippine Sutz (2016) *Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper*. IIED. Page 7. and The Guardian (2013). Cambodia's sugar rush leaves farmers feeling bitter at 'land grab'. <https://www.theguardian.com/world/2013/jul/09/cambodia-sugar-land-grab-claims>

The Impact of Legacy Land Issues on Communities and Company Performance

LEGACY LAND ISSUES AND COMMUNITIES¹¹

Land is a critically important asset for people and communities all over the world, but particularly in places where land serves as a source of livelihoods and social and cultural identity. In many places, a very small percentage of property rights to land and natural resources are recorded and legally recognized because of weak governance. Corrupt tenure practices and the failure of implementing agencies to protect legitimate property rights can lead to the loss of housing and land to grow crops, and the breakdown of social capital.¹² The impacts of losing land can also disenfranchise households and create challenges to accessing basic human services such as schooling for children or the ability to register to vote in elections, which often require residency at a permanent address. Frequently, women and vulnerable groups are more seriously impacted due to power imbalances in the community and their land rights being poorly understood by external stakeholders. To further complicate matters, local communities often have minimal leverage and operate in contexts where there is no trusted or accessible system to address their concerns. In many contexts, there may be limited space for civil society to engage or for average citizens to speak out and defend their rights. Doing so could expose them to arbitrary arrest and detention or the loss of life in the worst of circumstances.

LEGACY LAND ISSUES AND COMPANY PERFORMANCE

Unsettled disputes can result in a range of reputational, financial, and liability risks for companies.¹³

Legacy land issues in brownfield investments or existing holdings are likely to become increasingly relevant due to brownfield acquisitions accounting for the bulk of recent land deals in low- and middle-income countries.¹⁴ Although the prevalence of legacy land grievances is impossible to quantify, one illustration of the frequency of legacy land conflicts is the caseload of the CAO. Over half (52 percent or a total of 76 complaints) of the more than 150 cases handled since 2000 have concerned issues related to land, including land acquisition, land compensation, resettlement, land management, land contamination, and

OHCHR Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework

“Business enterprises have the responsibility to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships.”

11 For more background on land tenure and communities see pages 5-9 of the Interlaken Group's *Respecting Land and Forest Rights: A Guide for Companies*.

12 The World Bank describes social capital as the institutions, relationships, and norms that shape the quality and quantity of a society's social interactions.

13 OPIC (2014) *Resources for Managing Disputes between Companies and Communities*. Overseas Private Investment Corporation.

14 Cotula, Lorenzo, Thierry Berger and Philippine Sutz (2016) *Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper*. IIED

Philippines Ambuklao-Binga Project

The Philippines Ambuklao-Binga hydroelectric project, financed in part by the IFC, provides an example of the community impacts of a legacy land grievance and an approach to redress. The Ibaloi and Iowak indigenous groups were displaced from the original project site of the Ambuklao and Binga hydropower facilities in the 1950s. Despite indigenous claims to land, national courts ruled in favor of expropriation in the 1970s. The expropriation process resulted in partial payments and resettlement of some displaced communities, but a large majority of indigenous claims remained unaddressed. The privatization and rehabilitation of the hydroelectric facilities awakened historical grievances related to the prior land expropriation and a desire to seek redress. The indigenous communities lodged a complaint with the Compliance Advisor Ombudsman (CAO), which is the independent accountability mechanism for the IFC and Multilateral Investment Guarantee Agency (MIGA). The grievance documented the importance of the land to indigenous identity, history, and culture and how the past displacement from the land was emotionally powerful and resulted in the loss of property and livelihoods.

In response, the CAO completed an assessment of the grievances and released a stakeholder report for review and consultation. This served as a basis for a facilitated dialogue process, which was open and inclusive, and involved multiple stakeholders from the indigenous communities; local, municipal, and provincial officials; the National Power Corporation; and its privatized entities. The facilitated dialogue commenced with training in order to build negotiation skills and trust between parties. Following the dialogue, the parties signed an agreement, which contained provisions for:

- » Access to land and usufruct rights for communities over communal property, including village infrastructure and housing made available as a result of the privatization;
- » Benefits from corporate social responsibility funds and local government revenues; and
- » Enhanced livelihood opportunities for local people through government watershed protection programs. One of the project partners also supported local employment and benefits through contracts for local goods and services.

Based on CAO (2008) and (2015)

land productivity.¹⁵ In about 20 percent of CAO cases involving land grievances, there has been a preceding history of land conflict in the area allocated for development, even prior to the investment.¹⁶

Operational / Financial

Legacy issues can distract the operator from its main business; trigger increased operational expenditures due to protest, physical damage, arson, and theft; cause delays that put the company or investment into default; and potentially prevent a profitable exit from the investment. Relevant research in the mining industry has shown that a world-class investment with capital expenditure of between USD3-5 billion will suffer losses of approximately USD20 million per week as a result of delayed production and lost sales.¹⁷ In contrast, addressing legacy issues can help remedy grievances that can otherwise undermine a company's social license to operate, even if there may be a legal right to operate. To maintain a social license to operate, companies are increasingly going beyond the minimum social and environmental compliance requirements stated in national laws and regulations, and seeking ways to meet or even exceed societal expectations to create shared value with mutual benefits to both parties.¹⁸

15 Compliance Advisor Ombudsmen (2015) *Advisory Series Lessons from CAO Cases: Land*. The Office of the Compliance Advisor Ombudsman. Washington, DC.

16 Ibid.

17 Davis, Rachel and Daniel M. Franks (2014) *Costs of Company-Community Conflict in the Extractives Sector*. Corporate Social Responsibility Initiative Report No. 66. Cambridge, MA: Harvard Kennedy School.

18 Porter, Michael and Mark Kramer. 2006. *Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility*. Harvard Business Review.

Legal¹⁹

Land grievances can also pose legal risks. According to a 2016 publication by the International Institute for Environment and Development (IIED), international human rights jurisprudence has clarified that customary claims to land can be upheld even following historical dispossession from ancestral lands.²⁰ Similarly, the IIED research found that indigenous and local communities' collective human rights to property can continue to exist after they have lost physical possession of their land, and even after a business subsequently acquires that land.²¹ Depending on the particularities of an acquisition, the company acquiring the land could be inheriting associated liabilities from the prior company or landholding entity. Such legal risks can jeopardize a company's ability to engage with commercial lenders, investors, and development finance institutions. This fact makes it particularly important for companies to conduct rigorous due diligence on the existing legitimate tenure rights in an area during the acquisition of brownfield sites or establishment of greenfield operations.

Reputational

Besides the operational and legal risks posed to the companies implicated in such grievances, there is a reputational impact of being perceived as benefitting from past injustices. This could result in loss of customer base, divestment by shareholders, or difficulty marketing the asset for sale.

Due to the above concerns, most of the recent international standards and principles related to agroindustry require engagement with local communities and Indigenous Peoples and their involvement in decision-making processes for concession agreements. For instance, the Roundtable on Sustainable Biomaterials has a minimum requirement that land under legitimate dispute not be used for biofuel operations until any legitimate disputes have been settled through Free, Prior and Informed Consent and agreements have been negotiated with affected land users.

¹⁹ For an overview of international legal obligations pertaining to land tenure rights see pages 31-34 of the Interlaken Group's *Respecting Land and Forest Rights*.

²⁰ Cotula, Lorenzo, Thierry Berger, and Philippine Sutz (2016) *Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper*. IIED.

²¹ Cotula, Lorenzo, Thierry Berger, and Philippine Sutz (2016) *Addressing 'legacy' land issues in agribusiness investments: A LEGEND analytical paper*. IIED.

Operational-level Guidance for Addressing Legacy Land Issues

DIVISION OF RESPONSIBILITIES BETWEEN PRODUCERS AND PURCHASERS

There are multiple stakeholders with interests in sound investment practices, each with different and complementary roles to play. Similar to the UN Guiding Principles on Business and Human Rights, the VGGT also set out important roles and responsibilities for businesses that acquire or control land, but they also imply responsibilities for companies that purchase goods produced by companies in their supply chains. The Interlaken Group has identified the following overarching responsibilities for operators or producers and purchasing companies as they pertain to legacy land issues. The tables in section 4.4 provide additional detail on the division of responsibilities for different stakeholders.

Set Policy and Operational Procedures

Companies producing commodities should codify their land rights expectations and communicate these values both externally through public disclosure and internally through functional manager engagement and training of employees. Policies and operational plans should be developed in a manner consistent with international law on human rights and best practices principles on good governance of tenure and sustainable supply chains. This is consistent with the UN Guiding Principles, which require that business enterprises have in place due diligence processes on human rights to identify, prevent, mitigate, and account for how they address their impacts on human rights. Companies purchasing commodities also need to clearly communicate their policy positions to existing and future suppliers. A purchasing company has the most leverage over potential suppliers at the contracting stage where the terms of the contract and expectations for the supplier's conduct regarding land governance can be introduced and negotiated. Due to the complexities and nuances of land rights issues, it is recommended that the purchasing company make training on their land rights policies available to key suppliers and those operating in areas at high risk of land and human rights violations.²²

Screen Suppliers

To ensure coherence with corporate policies, it is important for the purchasing company to map out its supply chain to assess the probability of risks that may exist. Certain countries, regions within a country, commodities, or suppliers may be more prone to legacy land risks than others and could be prioritised for assessment.

Once a company's internal policies and metrics are clear and its supply chain mapped, it becomes simpler to screen out negligent suppliers or identify those where additional support is required to remediate identified problems. Purchasers should establish due diligence mechanisms for their land rights policies, which include an assessment of supplier contracts and possibly on-site inspections. Reviews can be carried out internally or through third-party assessments to guarantee that producers

²² It is not expected that purchasing companies train all their suppliers, but it is recommended for key suppliers that are integral to the purchasing company's business.

are adhering to the company's minimum standards. The reviews can be integrated into broader supplier assessments but must be resourced sufficiently and performed by staff knowledgeable on international human rights law and VGGT tenure standards and guidelines. Due diligence mechanisms must include engagement with key stakeholders from affected communities, their designated representatives, and non-government organizations in line with the UN Guiding Principles on Business and Human Rights. These groups can often provide helpful feedback and content on the appropriateness of codes of conduct and whether producers and purchasers are adhering to their internal policies and metrics. If a business enterprise is at risk of causing or contributing to an adverse land tenure and human rights impact, it should take actions to prevent or mitigate the chance of the impact occurring or reoccurring. When an adverse impact has occurred, it warrants a more detailed assessment of the land-related claims and the nature of previous abuse or violation of related human rights. The costs for the assessment can be shared or paid by either the purchaser or producer.

When suppliers have concerns regarding compliance with a supplier code of conduct, they should also communicate any shortcomings and challenges to their buyers and specify requests for assistance. The purchaser's decision on the extent to involve themselves can be influenced by several factors ranging from the duration or depth of the relationship between producer and purchaser to the scale of the problem identified. Although a purchaser may find it challenging to work with a supplier to address the identified grievance, at a minimum, it has a responsibility to use its leverage to encourage the supplier to address the grievance.²³

Intervene as Necessary

When addressing legacy land grievances, the aggrieved community must be involved in defining the process to identify and implement any resolution. Companies and mediators must engage in active communication with those affected about the options for an effective remedy and ensure they are aware of alternatives.

In most scenarios, when considering roles and responsibilities between the producer and purchaser, the bulk of the responsibility for addressing legacy land grievances will rest with the producer. This is because the producer likely legally owns and/or manages the land asset in dispute, held responsibility for conducting the initial due diligence of the asset, and is in more direct engagement with national stakeholders. Additionally, the producer on the ground might have a formal process for responding to grievances. If no operational-level grievance mechanism exists or if the affected community prefers an alternative approach, a purchaser may be well positioned to exert pressure or facilitate the conflict resolution due to their economic influence over the producer.

Given that not all mechanisms are present or effective in all countries, the company can seek out alternatives that provide sufficient credibility.²⁴ In all situations, the grievance mechanism utilized should adhere to OHCHR Guiding Principle 31, which indicates that non-judicial grievance mechanisms be "legitimate, accessible, predictable, equitable, transparent, rights compatible, and a source of continuous learning."

In some cases, a community may oppose engagement in the grievance resolution process and their views should be respected. In these circumstances, resorting to state-based mechanisms for remediation (e.g., courts, ombudsmen) or local, traditional mechanisms may be more appropriate.

As companies seek to address legacy land issues in their existing holdings with the affected communities, they are likely to identify livelihoods support programs to improve the livelihoods of people whose land rights have been affected. Livelihoods support programs do not replace good faith efforts to return land, and it is the company's responsibility to ensure that actions taken to improve livelihoods leave communities better off than before the project. The company should, therefore, conduct a baseline study of the socio-economic status of people in the community from which to monitor changes. Any community support programs should be monitored and amended to improve results over time.²⁵ The monitoring should also include specific metrics covering impacts on the rights and livelihoods of women and other vulnerable groups.

23 United Nations Human Rights Office of the High Commissioner (2012) *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*. http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf,

24 Ibid.

25 CDC and KfW. 2016. A Guidance Note on Managing Legacy Land Issues in Agribusiness Investments.

Longstanding and antagonistic relationships between a producer and communities will benefit in most cases from bringing in a neutral third party who can bring the sides together for dialogue.²⁶ While companies might not be accustomed to using external mediators, there is a growing acknowledgement of the value that professional mediators can add to resolving community-company conflicts before they become intractable. If fees for mediation are required, the company and community should work together to decide who will pay, so as to ensure that both parties see the mediator as neutral. Once the sides have agreed to talks, a professional mediator can be solicited to facilitate dialogue and collaboratively define a sound remediation plan. Once a remediation plan has been put in place and the appropriate actions taken, both the producer and purchaser have a responsibility to monitor adherence to the plan.

If it is found that a business enterprise's operations have had an adverse land tenure or human rights impact, it then has a responsibility to remediate it. Addressing such impacts may also be a prerequisite for meeting certain international voluntary standards. Depending on the context, access to higher value markets can serve as an incentive for producers to bring their operations in line with standards such as the Roundtable on Sustainable Palm Oil (RSPO), which requires that member countries respect customary rights and only develop plantations on lands where they have the free, prior and informed consent of communities who have used, owned or occupied those lands. In most sectors and countries, compliance with certification standards increases costs, but can also increase access to market and/or farm gate prices.

The purchaser also has a responsibility to use its leverage to help the producer improve its practices and remediate any adverse impacts. For instance, there may be several purchasers sourcing from the same producer who can be leveraged as part of a non-competitive partnership to exert the required pressure and work toward a common goal. Additionally, a purchaser can collaborate with other stakeholders, including non-governmental organizations, government and donors, as part of their leverage. The multinational company, Diageo, has recently pursued a similar approach in relation to water scarcity issues in Nairobi. Diageo has involved several local partners, including Kenya Breweries, East African Maltings, Central Glass Industries, the German Department for International Development (GIZ), and the Kenyan Ministry of Environment, Water and Natural Resources as part of a multi-stakeholder taskforce to address broader watershed concerns.²⁷

HOW AND WHEN TO ENGAGE GOVERNMENT COUNTERPARTS

Government is a critical stakeholder in any operating context. In most jurisdictions, government entities have the responsibility to allocate land, monitor investor performance, resolve land disputes, and ensure that businesses do not contribute to human rights abuses. On the other hand, past or present government policies and actions may also contribute to the likelihood of a legacy land grievance occurring. Despite the sometimes-conflicting roles government can play, it is important for companies to engage early and often with their government counterparts.

Corporate entities can have a positive influence on government behaviour. It is important that the producer's senior management set out clear expectations regarding how the company intends to uphold its human rights and business integrity commitments and follow international best practice for land rights. Despite doing this, government may not always support corporate plans and actions. This could be due to concerns about setting a precedent or granting legitimacy to a particular group or grievance. In these circumstances, joint action through a partnership with communities, non-governmental organizations (NGOs) or other firms operating or purchasing goods in the area can be a powerful force for change. For instance, Plenty Foods and Oxfam participated as members of an agricultural stakeholder steering committee that strategized on addressing land rights issues in Hambantota District, Sri Lanka. The presence of the company within the committee was important in underscoring the potential for agricultural investment in the district and therefore the need for government to clarify and legitimize land ownership for small-scale farmers.²⁸

²⁶ Including government representatives as participants in the mediation process is also likely required to be effective.

²⁷ Webb, Flemmich. (2014) Pre-competitive collaboration could be the key to solving water scarcity risks in Kenya. [Accessed: 1 June 2016] Available at: <http://www.theguardian.com/sustainable-business/collaboration-water-risk-kenya-nairobi-business-ngos-government>

²⁸ Oxfam (2011) Growing Partnerships: Private sector working with farmers in Sri Lanka. Programme Insights.

Most national governments have ratified or endorsed international treaties, norms, and guidance related to investment and respect for human rights.²⁹ A government's ratification or endorsement may be used as an entry point for reaching out and engaging them on how best to address identified land grievances. Governments that have ratified human rights treaties have ensuing responsibilities to respect, protect, and fulfil the human rights commitments codified within.³⁰ Moreover, international investment law may place certain responsibilities on the host government as it relates to the treatment of foreign investors. Depending on the solution identified, government counterparts may need to consult and follow requirements set by domestic and/or international law, particularly if it involves expropriation of land from an investor and restitution to communities. Indeed, adjusting the boundaries of a concession may require working with the producer to renegotiate the investor-state contract.³¹

OPERATIONAL-LEVEL GUIDANCE

The actions outlined in the tables below are split between those that can be addressed by the purchaser or producer. Within each table, actions are organized according to options for (i) diagnosing, (ii) addressing, and (iii) monitoring and preventing future land grievances. Within each section there is a list of actions which should be approached sequentially, and depending on the community's preference and severity of impacts, should be continued accordingly. Each context and grievance is unique and there might be situations where communities and companies will choose to combine approaches.

The foundation for identifying and addressing any land-related grievance is stakeholder engagement and consultation. This refers to an ongoing process of interaction and dialogue between a company and communities that enables the company to hear, understand, and respond to community interests and concerns.³² The list of actions outlined below should be guided by a process of consultation and consent with the aggrieved parties and, as a result, may result in only some of the listed actions being implemented. However, if it is found that a business enterprise's operations have had an adverse land tenure and human rights impact, it then has a responsibility to remediate it, or in the case of a purchaser, must take steps to encourage change or remediation by its supplier.

While the intent of this document is to support continued business operations and remediation of community grievances, there may be cases where the only effective means to meet the community's requirements will be to abandon operations. This scenario could result from long-standing and intractable land conflicts or where the company must return a significant portion of their holdings thus making their operations unprofitable.

29 193 governments have endorsed the VGGT. Many countries have ratified core human rights treaties. 177 countries, for example, have ratified the UN Convention on All Forms of Racial Discrimination (UNCERD) - see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&clang=_en#EndDec

30 Cordes, Kaitlin, Lise Johnson, and Sam Szoke-Burke (2016) *Land Deal Dilemmas: Grievances, Human Rights and Investor Protections*. Columbia Center on Sustainable Investment.

31 Cordes, Kaitlin, Lise Johnson, and Sam Szoke-Burke (2016) *Land Deal Dilemmas: Grievances, Human Rights and Investor Protections*. Columbia Center on Sustainable Investment.

32 United Nations Human Rights Office of the High Commissioner (2012) *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*. http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

1. Purchaser Responsibilities

	Statement	Indicators	Resources
Actions for Diagnosing Legacy Land Issues			
1.	The purchasing company establishes or participates in a grievance mechanism through which affected stakeholders can lodge grievances with the assurance that they will be addressed	<ul style="list-style-type: none"> » Stakeholder engagement plan is developed » Non-judicial grievance mechanism is identified or established that builds on stakeholder engagement plan and international best practices 	UNGPB (Principle 31) Business and Human Rights Resource Centre
2.	The purchasing company requests concession, contract, and related environmental and social impact assessment (ESIA) documentation from suppliers ³³	<ul style="list-style-type: none"> » Supplier code of conduct requires disclosure of all concession, contract, and ESIA documentation to purchaser 	
3.	The purchasing company reviews contracts and ESIA's carried out for the land in question and by the preceding landholding company (if available) and assesses the scope, adequacy, and completeness of social impact assessments and whether there are any irregularities in the chain of title/lease	<ul style="list-style-type: none"> » All contract and ESIA documentation is compiled and screened for risks related to pre-existing land rights and use; the mode and level of community consultation and consent; and the terms and processes for land acquisition, compensation and resettlement » All contract and ESIA documents have been reviewed to determine whether their content was published and made accessible to local people » All contract and ESIA documents have been reviewed to determine whether local people were consulted and involved in contract negotiations and FPIC standards have been met, where necessary 	AfD Operational Guide to Due Diligence of Agribusiness Projects that Affect Land and Property Rights IIED Analytical Paper on Legacy Land Issues
4.	The purchasing company completes an independent land and conflict assessment, including on the history of the land acquisition process by the producer and prior land-holding interests	<ul style="list-style-type: none"> » Independent social impact and land tenure experts hired » Experts have reviewed archival materials and past contract details and consulted with affected communities, government, and NGOs » Key claimants and stakeholders have been identified within affected communities along with the nature of their prior grievances, claims, and interests » Experts assess prior grievances, claims, and interests, particularly from the perspective of age, gender, socio-economic position, and ethnicity 	Land and Conflict Prevention Handbook Resolution of tenure disputes (VGGT TG Responsible governance of tenure and the law) CDC Legacy Land Issues Guidance Note IIED Analytical Paper on Legacy Land Issues

33 If no information is available in the form of prior ESIA's or related baseline studies this could be a sign of a potential risk existing and should warrant a site-specific assessment.

1. Purchaser Responsibilities			
	Statement	Indicators	Resources
5. ³⁴	The purchasing company carries out participatory impact assessments to create consensus on issues and possible solutions	<ul style="list-style-type: none"> » Key individuals identified within company and community to work with independent social impact and land tenure experts » Key impact assessment questions have been jointly identified as well as their geographical and time limits » Method identified for determining project attribution, including how to triangulate results from participatory methods with other information » Results have been verified and cross-checked with affected communities, including stakeholders from different social and economic backgrounds » Action plans or agreements for redress have been formulated together with affected stakeholders 	<p>Advisory Series Lessons from CAO Cases: Land</p> <p>CDC Legacy Land Issues Guidance Note</p> <p>IIED Analytical Paper on Legacy Land Issues</p>
6.	The purchasing company commissions professional mediators in collaboration with the affected community and government stakeholders	<ul style="list-style-type: none"> » An honest broker has been collaboratively identified that can help bring company and community representatives together » Company has formulated a working group comprised of its staff, freely-chosen community representatives, and relevant government officials to solicit and select professional mediators » Neutral conflict mediation experts hired » Neutral space has been provided for company and communities to engage 	<p>Advisory Series Lessons from CAO Cases: Land</p> <p>Land and Conflict Prevention Handbook</p>
7.	The producer company and community receive training on dispute resolution processes	<ul style="list-style-type: none"> » Communities have the option of independent trainers and advisors » Neutral conflict mediation facilitators hired » Conflict mediation facilitators have assisted community and producer company to create effective representation for dialogue » Training has been carried out for producer company and community representatives, including women, to increase skills and capacity for multiparty dialogue 	<p>Advisory Series Lessons from CAO Cases: Land</p>

34 This action (#5) can be combined with the preceding action (#4) as part of a more robust assessment process if desired.

1. Purchaser Responsibilities

	Statement	Indicators	Resources
Actions for Addressing Legacy Land Issues			
1.	The purchasing company undertakes broad-based internal engagement about the importance of land issues and ensures understanding across all relevant operational departments	<ul style="list-style-type: none"> » Senior leadership exhibits understanding and ownership of process for resolving land grievances » All functional managers are aware and engaged » Screening and assessment tools have been integrated into operational processes, including consideration of no-go zones or formal 'prohibition list' of illegal or non-compliant suppliers » Screening, assessment, and any intervention activities are properly resourced, including resources for third-party risk assessment and verification 	Rio Tinto Guide on Why Agreements Matter
2.	The purchasing company examines the role that its suppliers may have played in land-related injustices, and, if relevant, issues a public statement explaining the rationale/ basis on which it is continuing to purchase from that supplier, or to suspend or end the relationship. Additionally, the purchasing company encourages the producer to remedy any adverse impacts caused by its operations. If the producer fails to take sufficient steps to address the issues and remediate harms, then engage with communities and other stakeholders in developing a responsible disengagement plan	<ul style="list-style-type: none"> » If relevant, public acknowledgement in culturally appropriate format » Documented request from the purchasing company to the producing company to remedy any adverse impacts caused by its operations » Disengagement plan produced in consultation with affected communities and other relevant stakeholders 	OECD Guidance for the Extractive Sector on Stakeholder Engagement
3.	The purchasing company explores whether there are other purchasers sourcing from the same producer or additional stakeholders who can be leveraged as part of a non-competitive partnership to exert the required leverage and work toward a common goal	<ul style="list-style-type: none"> » Other purchasers and stakeholders linked to the producer identified » Engagement strategy for influencing producer developed 	
4.	The purchasing company identifies and implements actions to influence government authorities to improve land governance nationally and locally in production area as appropriate	<ul style="list-style-type: none"> » Key stakeholders within government identified » Government made aware of purchasing company's land policy and supplier code of conduct » Other private sector, development finance institutions, and civil society groups identified to collaboratively engage with government authorities » Company active in national land governance working groups 	

1. Purchaser Responsibilities			
	Statement	Indicators	Resources
Actions for Monitoring Resolutions and Preventing Future Problems			
1.	The purchasing company institutes monitoring of agreed remediation plans	<ul style="list-style-type: none"> » A monitoring and evaluation team has been established to ensure supplier adherence to remediation plans » A predictable and responsive stakeholder engagement plan and grievance mechanism have been established by the supplier to resolve future problems 	<p>Advisory Series Lessons from CAO Cases: Land</p> <p>IIED Analytical Paper on Legacy Land Issues</p>
2.	The purchasing company maintains proper record keeping and public transparency with stakeholders	<ul style="list-style-type: none"> » All communications and agreements regarding land-related conflicts in purchaser supply chain have been documented, recorded, and made publicly transparent and accessible to affected stakeholders 	

2. Producer Responsibilities

	Statement	Indicators	Resources
Actions for Diagnosing Legacy Land Issues			
1.	The producer company establishes or participates in a grievance mechanism through which affected stakeholders can lodge grievances with the assurance that they will be addressed	<ul style="list-style-type: none"> » Stakeholder engagement plan is developed in collaboration with affected communities taking into consideration the differentiated needs, priorities, and perceptions of land rights within communities » Non-judicial grievance mechanism identified or established that builds off stakeholder engagement plan and international best practices 	UNGPB (Principle 31) Business and Human Rights Resource Centre
2.	The company reviews contracts and ESIA, including the scope, adequacy, and completeness of social impact assessments, carried out for the land in question and by the preceding landholding company and assesses whether there are any irregularities in the chain of title/ lease ³⁵	<ul style="list-style-type: none"> » All contract and ESIA documentation is compiled and screened for risks related to pre-existing land rights and use; the mode and level of community consultation and consent; and the terms and processes for land acquisition, compensation, and resettlement » All contract and ESIA documents have been reviewed to determine whether their content was published and made accessible to local people » All contract and ESIA documents have been reviewed to determine whether local people were consulted and involved, that FPIC standards have been upheld in contract negotiations, and whether there has been monitoring and enforcement of contract compliance 	AfD Operational Guide to Due Diligence of Agribusiness Projects that Affect Land and Property Rights IIED Analytical Paper on Legacy Land Issues
3.	The company completes an independent land and conflict assessment, including on the history of the land acquisition process	<ul style="list-style-type: none"> » Independent social impact and land tenure experts hired » Experts have reviewed archival information on the projects area/land holding and past contract details and consulted with affected communities, government, and NGOs » Key claimants and stakeholders have been identified within affected communities along with the nature of their prior grievances, claims, and interests » Experts assess prior grievances, claims and interests, particularly from the perspective of age, gender, socio-economic position, and ethnicity 	Land and Conflict Prevention Handbook CDC Legacy Land Issues Guidance Note IIED Analytical Paper on Legacy Land Issues

³⁵ If no information is available in the form of prior ESIA or related baseline studies this could be a sign of a potential risk existing and should warrant a site-specific assessment.

2. Producer Responsibilities			
	Statement	Indicators	Resources
4.	The company carries out participatory impact assessments to create consensus on issues and possible solutions ³⁶	<ul style="list-style-type: none"> » Key individuals identified within company and community to work with independent social impact and land tenure experts » Key impact assessment questions have been jointly identified as well as their geographical and time limits » Method identified for determining project attribution, including how to triangulate results from participatory methods with other information » Results have been verified and cross-checked with affected communities, including stakeholders from different social and economic backgrounds » Action plans or agreements for redress have been formulated together with affected stakeholders 	<p>Advisory Series Lessons from CAO Cases: Land</p> <p>CDC Legacy Land Issues Guidance Note</p> <p>IIED Analytical Paper on Legacy Land Issues</p> <p>CBD Akwe: Kon Guidelines</p>
5.	The company commissions professional mediators selected by the community, government, and company stakeholders to facilitate dialogue	<ul style="list-style-type: none"> » Communities have the option of working with independent trainers and advisors » An honest broker has been identified that can help bring company and community representatives together » Company has formulated a working group comprised of its staff, community representatives, and relevant government officials to solicit and select professional mediators » Neutral conflict mediation experts hired » Neutral space has been provided for company and communities to engage 	<p>Advisory Series Lessons from CAO Cases: Land</p> <p>Land and Conflict Prevention Handbook</p>
6.	The company and community (and possibly the State) proceed through the stages of a professionally mediated dialogue process, including preparatory training, dialogue facilitation, negotiation of an agreement (if need be), and monitoring implementation of the agreement's commitments.	<ul style="list-style-type: none"> » Neutral conflict mediation facilitators and trainers hired » Conflict mediation facilitators have assisted community and company to create effective representation for dialogue » Training has been carried out for company and community representatives, including women, to increase skills and capacity for multiparty dialogue 	<p>Advisory Series Lessons from CAO Cases: Land</p>

³⁶ If no information is available in the form of prior ESIA's or related baseline studies this could be a sign of a potential risk existing and should warrant a site-specific assessment.

2. Producer Responsibilities

	Statement	Indicators	Resources
7.	The company supports a participatory mapping of land claims and disputed boundaries	<ul style="list-style-type: none"> » Individuals identified within company and community to work with independent social impact and land tenure experts » Overlapping claims have been jointly identified to narrow tension to identifiable and manageable units » Data has been transcribed onto new maps to verify details, answer questions and fill gaps » Maps, data and tenure assessments validated by communities and/or households 	IFAD Good Practices in Participatory Mapping CDC Legacy Land Issues Guidance Note IIED Analytical Paper on Legacy Land Issues
Actions Addressing Legacy Land Issues			
1.	The company undertakes broad-based internal engagement about the importance of land issues and ensures understanding across all relevant operational departments	<ul style="list-style-type: none"> » Senior leadership exhibits understanding and ownership of process for resolving land grievances » All functional managers are aware and engaged » Community engagement, agreed FPIC procedures, and proposed solutions have been integrated into operational plans » Engagement activities are properly resourced, including the possibility of establishing a corporate “black box” or escrow account to address land grievances 	Rio Tinto Guide on Why Agreements Matter FAO VGGT Technical Guide on FPIC
2.	The company establishes stakeholder engagement plan with affected communities	<ul style="list-style-type: none"> » A stakeholder engagement plan, including roles and responsibilities, has been developed for regularly engaging with affected communities, particularly those from differentiated social and economic backgrounds » Communities are aware of their rights and (legal and non-judicial) redress options and the channels through which they can contact the company, raise concerns, file complaints, and seek or appeal decisions 	Rio Tinto Guide on Why Agreements Matter CDC Legacy Land Issues Guidance Note
3.	The company acknowledges past injustices (even those committed by previous operators) and issues an apology for past actions that have negatively impacted the community	<ul style="list-style-type: none"> » Formal apology or acknowledgement of past injustices and experiences has been made » Action(s) taken to develop a redress and remedial plan and/or agreement 	OECD Guidance for the Extractive Sector on Stakeholder Engagement

2. Producer Responsibilities			
	Statement	Indicators	Resources
4.	The company documents consultations and agreements through a new Free, Prior and Informed Consent process	<ul style="list-style-type: none"> » Key components of community engagement and mediation are documented, including commitments, roles and responsibilities, governance arrangements, targets, and performance indicators » FPIC negotiated with community for new agreements on redress and remedial actions required 	<p>Rio Tinto Guide on Why Agreements Matter</p> <p>IIED Analytical Paper on Legacy Land Issues</p>
5. ³⁷	The company carries out restitution of land to communities displaced by earlier land acquisitions and/or negotiated access	<ul style="list-style-type: none"> » Land with conflicting claims is identified and demarcated on a map » Clear procedures have been established for the solicitation and validation of claims together with government and community representatives, including eligibility criteria that are age- and gender- sensitive and provide a clear and sufficiently long period for filing claims » Claims process is just, timely, accessible, free of charge, age- and gender- sensitive, and conducted in local languages » Persons needing special assistance have been provided with assistance through legal aid or other means and, with secure tenure, have been returned to affected households 	<p>Pinheiro Principles</p> <p>VGGT (Section 14)</p> <p>IIED Analytical Paper on Legacy Land Issues</p>
	The company negotiates a community agreement for the provision of access/use rights to certain parts of concession land	<ul style="list-style-type: none"> » The land access constraints and concerns voiced by the community have been documented to the satisfaction of the community » Agreement negotiated to provide land access and consent for certain activities 	<p>Rio Tinto Guide on Why Agreements Matter</p>
	The company negotiates land for land transfers, ³⁸ including access to land for women and youth (applicable only when restitution is not possible)	<ul style="list-style-type: none"> » Same restitution indicators as above are followed » As a result of negotiation with communities through process of FPIC, alternative land of similar size and quality is identified for transfer to company by government and/or community » Concession contract renegotiated to reflect new boundaries and agreements with communities 	

³⁷ Multiple options available for operator to choose from depending on context.

³⁸ In land-for-land transfers the operator swaps part of their concession for new uncontested land identified by government/community.

2. Producer Responsibilities

	Statement	Indicators	Resources
	The company provides secure tenure over alternative land of at least equivalent value, ensuring access to land for women and youth (applicable only when restitution is not possible)	<ul style="list-style-type: none"> » Land with conflicting claims is identified and demarcated on a map » Vacant land of similar size and quality identified outside of concession boundaries in collaboration with community and government » Secure rights to alternative land has been provided through company financing and logistical support, and using transparent and participatory process that ensures access for women and youth 	<p>World Bank Operational Manual on Involuntary Resettlement</p> <p>IFC Performance Standards (PS 5)</p> <p>CDC Legacy Land Issues Guidance Note</p>
	Based on informed and good faith negotiations, the company provides compensation for loss of land and livelihoods consistent with common international standards for fair valuation	<ul style="list-style-type: none"> » Same restitution indicators as above are followed except in lieu of returning land compensation is provided for land and assets lost » Land is valued according to international standards for fair valuation » Compensation completed in transparent, simple, and quick manner and that strong records are maintained documenting the process 	<p>Pinheiro Principles</p> <p>VGGT (Section 16)</p> <p>World Bank Operational Manual on Involuntary Resettlement</p> <p>IFC Performance Standards (PS 5)</p>
6.	The company provides a negotiated package of support to improve the livelihoods of affected communities	<ul style="list-style-type: none"> » Communities and relevant local government officials have been consulted to identify ways to promote local development, environmental co-management, and preservation of local cultural heritage practices » Joint projects have been identified and documented within community agreement with clear goals, budget allocations, governance arrangements, and performance indicators » Projects have been properly resourced, including through the possibility of establishing a community fund, foundation, or trust » A socio-economic baseline is established to monitor program impact over time 	<p>Rio Tinto Guide on Why Agreements Matter</p> <p>CDC Legacy Land Issues Guidance Note</p>

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2. Producer Responsibilities			
	Statement	Indicators	Resources
Actions for Monitoring Resolutions and Preventing Future Problems			
1.	The company institutes participatory monitoring of agreed actions	<ul style="list-style-type: none"> » A joint monitoring and evaluation team has been established comprising company, community and government officials to monitor implementation of agreed actions » A predictable and responsive stakeholder engagement plan and grievance mechanism has been established to resolve jointly identified problems 	Advisory Series Lessons from CAO Cases: Land IIED Analytical Paper on Legacy Land Issues
2.	The company maintains proper record keeping and public transparency with stakeholders	<ul style="list-style-type: none"> » All communications and agreements with communities documented and recorded » All relevant project information is made publicly transparent and accessible to affected stakeholders 	

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About the Interlaken Group

The Interlaken Group is a multi-stakeholder forum composed of individuals from leading companies, investors, international organizations, and civil society groups. The group first convened in 2013 during the International Conference sponsored by RRI, Helvetas, Oxfam, and IUCN on Scaling-Up Strategies to Secure Community Land and Resource Rights. Their discussions focused on insecure land tenure in land acquisitions and the particular roles of companies and investors in addressing these challenges while protecting the rights and livelihoods of existing rights holders. The Interlaken Group has met regularly since this conference to identify practical ways that companies and their investors can support improved land governance and the land rights of rural populations.

The Interlaken Group is convened by the Rights and Resources Initiative (RRI). Representatives from the following organizations have participated in the Interlaken Group process: Nestlé, Stora Enso, Rio Tinto, Coca-Cola, Unilever, IFC, Rabobank, TMP Systems, Oxfam, Global Witness, RRI, ERM, The Forest Trust, Landesa, Forest Peoples Programme, Olam, Omidyar Network, and Dfid. The meetings are held under the Chatham House Rule.

THE RIGHTS AND RESOURCES INITIATIVE (RRI)

RRI is a global coalition consisting of 15 Partners, 7 Affiliated Networks, 14 International Fellows, and more than 150 collaborating international, regional, and community organizations dedicated to advancing the forestland and resource rights of Indigenous Peoples and local communities. RRI leverages the capacity and expertise of coalition members to promote secure local land and resource rights and catalyze progressive policy and market reforms. RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington, DC. For more information, please visit www.rightsandresources.org.

The views presented here are those of the authors and are not necessarily shared by the agencies that have generously supported this work or all of the Partners and Affiliated Networks of the RRI Coalition.

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INTERLAKEN
 **GROUP**



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