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MINISTRY OF AGRICULTURE

Monitoring Scheme for Monitoring Large Scale Agricultural Investments in Ethiopia



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für Internationale
Zusammenarbeit (GIZ) GmbH

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Abbreviations

CAMIS	Commercial Agriculture Management Information System
EAILAA	Ethiopian Agricultural Investment and Land Administration Agency
EHAIA	Ethiopian Horticulture and Agricultural Investment Agency
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
EPA	Environmental Protection Authority
FPIC	Free Prior Informed Consent
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
LSAI	Large Scale Agricultural Investment
ILO	International Labor Organization
JRC	Joint Research Center of the EU
MEFCC	Ministry of Environment, Forestry and Climate Change
MoU	Memory of Understanding
NRLAIS	National Rural Land Administration Information System
RLAUD	Rural Land Administration and Use Directorate under the Ministry of Agriculture
SECoP	Social and Environmental Code of Practice
S2RAI	Support to Responsible Agricultural Investment (Title of GIZ Project)
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

1. Introduction

In Ethiopia, agriculture plays a fundamental role for economic growth and development. It provides primary commodities, especially food for domestic consumption, as well as raw materials for the processing industry, and it brings foreign currency into the country through exports earnings.

Currently, numerous investors have leased land from the Ethiopian government, thus investment promotion has been successful in attracting foreign and local investors. Among these, some have shown encouraging progress. However, for various reasons investors often take very long to start developing the land for agricultural investments. Leased land often keeps lying idle for several years. Also, environmental and social impacts are often considerable and can result in environmental degradation and/or produce conflicts with the local community. Even the investors themselves sometimes do not benefit from their investment project as originally planned.

Investment promotion, land identification and land leasing are important activities for bringing land in productive agricultural use. However, solely conducting these activities does not guarantee that the investment projects develop as planned and agreed. This implies that for the overall success of large-scale agricultural investments (LSAI) regarding their economic, social and environmental impacts a monitoring system has to be in place to follow up on agricultural investment projects in a timely manner.

Since interests of investors as lessees and interest of states as lessors of state-owned land are not completely congruent, monitoring is absolute necessary for states to ensure that their policies and strategies for promoting agricultural investment and safeguarding tenure rights achieve their stated goals. Ideally, monitoring also benefits the investment project itself by getting timely technical and administrative support to improve the development of the project. Feedback should be provided at each stage of development of the investment project in order to allow for corrective measures, if necessary. Further, it has to be ensured, that results of monitoring and consequent actions are not subject to arbitrary decisions. Therefore, transparent procedures must be installed.

This manual illustrates a monitoring scheme for monitoring LSAI in Ethiopia. It aims at providing orientation for establishing a monitoring scheme and implementing monitoring activities in the framework of LSAI at the Ethiopian Horticulture and Agricultural Investment Agency (EHAIA) and the regional Bureaus. Both authorities are responsible for leasing out land to agricultural investors and supervising related activities.

A monitoring scheme has to determine the following points:

- What is going to be monitored?
- How is monitoring going to be implemented (method and procedures)?
- How often will monitoring take place (monitoring cycles)?
- How is monitoring going to be documented?
- What are monitoring results used for?

This manual highlights these issues and provides answers. While chapter 2 points out some general considerations regarding monitoring of LSAI and lists the responsible and involved institutions for monitoring, chapter 3 summarizes the issues that require monitoring. Chapter 4 forms the heart of the monitoring scheme by illustrating the methods as well as the procedures used for monitoring. In chapter 5 a discourse on IT-supported monitoring is made. Chapter 6 illustrates how monitoring results are used for assessment of LSAI.

2. General considerations and responsible institutions

This chapter summarizes general considerations regarding monitoring and points out which institutions are responsible for monitoring on national and regional level.

General considerations

In order to supervise and control the impacts of Agricultural Investments, a monitoring system has to be in place. On the one hand, monitoring ideally provides information for necessary interaction with each single investor and on the other hand offers basic information for the state regarding success or failure of agricultural investments). Monitoring of LSAI is a precondition for taking government actions, as it delivers the required information that is needed to assess the impact of LSAI. When monitoring reveals that investment projects do not deliver the expected results, or negative impacts exceed the positive outcomes, corrective measures on the policy level have to be applied. This in theory could even result in revising the current agricultural strategy.

The issues that demand monitoring have to be determined against the country specific background and formulated government policies.

Aside of the requirements mentioned above for monitoring LSAI at country level, a monitoring system is also needed in order to control the factual obligations the investor has committed to by entering into a lease agreement with a public authority. This not only refers to obligations and duties governed in the lease agreement itself but also to the documents forming an integral part of the agreement, i.e. the Environmental Impact Assessment (EIA) and the investor's business plan. Both documents together with the lease contract have binding character for the investor. Without a monitoring regime in place at the institution responsible for leasing out the land for investments, the contractual obligations cannot be enforced.

A precondition to make monitoring effective in regard to the objectives followed, is to conclude comprehensive and legally binding agreements and related documents that clearly determine what the investor has to do and what consequences can be expected in case of non-compliance. Monitoring in this respect is only effective when the monitoring criteria (investor's obligations) are clearly stated in the agreements with the investor and when the agreements contain means for enforcement (penalty and termination clauses). Otherwise, monitoring will only serve for recording the current status of investment projects without practical consequences for the investor.

Another important aspect for successfully designing a monitoring scheme is the consideration of available capacity. It will be unrewarded to design a sophisticated monitoring regime when implementation fails due to the lack of financial means, skilled staff and transportation means for carrying out monitoring in the field. So, on the one hand, when deciding for implementing a comprehensive monitoring scheme, the readiness to allocate necessary funds has to be in place. On the other hand, a monitoring scheme should be designed fit for purpose without losing sight of eventual capacity limitations.

Collected data not only serves the institutions responsible for monitoring but should be used as basis for monitoring and evaluation reports directed at the policy level, where – if necessary - corrective measures can be made.

Responsibilities

According to the *Ethiopian Horticulture and Agricultural Investment Authority Establishment Council of Ministers Regulation No. 396/2017* EHAIA in coordination with regional states and relevant sectoral authorities is responsible to monitor agricultural land leased out for agricultural investment and to take corrective measures if necessary. In other words, EHAIA is responsible for monitoring LSAI at country level.

However, the factual leasing out of land for agricultural investments lies in the responsibility of the regions, unless the regions have delegated this task to EHAIA. Therefore, the regions also have monitoring responsibilities that result from their role as lessor of land for agricultural investments and contracting partner of the investor.

According to the Environmental Impact Assessment Proclamation No. 299/2002, the Environmental Protection Authority (EPA) is responsible for issues concerning EIA. However, EPA delegated these assignments including all related competencies to the sectoral authorities. Regarding agricultural investments the competencies were given to the Ministry of Agriculture which again delegated the assignments related to EIA to the Ethiopian Agricultural Investment and Land Administration Agency – EAILAA (now EHAIA). When EPA was closed, its competencies were taken over by the Ministry of Environmental Forest and Climate Change. However, the delegation of assignments and competencies to the sectoral agencies according to MEFCC are still valid. Therefore, it can be presumed that on the federal level EHAIA's (as successor of EAILAA) Environmental and Social Protection Directorate is responsible for the issue of EIA in the context of agricultural investments. On regional level the responsibilities lie with the Environmental Dept. of the respective regional Bureau.

Moreover, the monitoring of general environmental and land use issues also lies within the competencies of the Regions.

Resulting from this, both EHAIA (national level) and the regions have similar and partly overlapping responsibilities in the context of monitoring. Therefore, a monitoring scheme has to consider the different roles and responsibilities of EHAIA and the regions and facilitate that monitoring activities are organized in such a way that received information and data can be bundled and processed at EHAIA.

In practice this means that – when it comes to inspections – teams formed by staff from EHAIA and the regional Bureaus will have to be established¹. At EHAIA, different Directorates are involved in monitoring. The Investment Support Directorate is responsible for providing technical support to investors and to deal with impediments that influence investment activities. The Environmental Protection Directorate is

¹ Taking in account the above-mentioned lack of staff, it should be considered, how inspection tasks could be divided between authorities by delegation. Therefore, harmonized procedures and principles should be established.

responsible for monitoring environmental issues that arise in the context of LSAI in general and the implementation of the obligations according to the Environmental Impact Assessment (including the Environmental Management Plan (EMP)) in specific. The Legal Directorate is responsible for checking compliance of the investor with the lease contract while the Land Administration Directorate's task is to check whether the land is used according to the proposed purpose as determined in the lease contract and the parcel maps attached to the lease contract.

In the regions, the Environmental and Land Use Departments of the Regional Bureaus are responsible for monitoring environmental and land use issues related to LSAI and are also responsible when it comes to monitoring contractual obligations in the case that the lease contract with the investor has been concluded by the regions.

The establishing of a monitoring system at EHAIA also requires extensive data from different sectoral institutions, for example the Ethiopian Central Statistical Agency, investment agencies, national and regional land administration and environmental authorities. It is important that data from these sectoral agencies concerning agricultural investment land or areas being influenced by such investments is made available for EHAIA.

Regarding the monitoring of contractual obligations stipulated in the lease agreement, (including obligations resulting from documents belonging to the lease agreement such as the EIA and the business plan) the responsibility clearly lies in the hands of the institution that has concluded the agreement, i.e. in general the Regional Bureaus responsible Land Use. However, since EHAIA has a supervising and monitoring responsibility for LSAI at country level, it is feasible that EHAIA also – jointly with the regional level - takes an active role in monitoring contractual obligations.

As agency responsible for promoting and supervising LSAI, EHAIA should be responsible for compiling, aggregating, processing and analyzing all available monitoring data. This implies that data flow from other institutions collecting monitoring data to EHAIA has to be facilitated.

3. Issues to be monitored

Based on policy formulation of the Ethiopian government and problem statement of Ethiopian authorities dealing with Agricultural Investments, monitoring (at least) should focus on the following issues:

- General framework data
 - Number of investors investing into Agriculture
 - Amount of land allocated for Agricultural Investments
 - Amount of land cultivated
 - Farm structure and production line
 - Agro-Economic Performance data
 - Employment Data
 - Technology Utilization
- Investors profiles
 - Foreign
 - Local
 - Joint venture
 - Natural or legal person
 - Capital for Investment
 - Name(s) (Investor and company)
- Impacts
 - Economic
 - Social
 - Environmental (bio-physical)

The core question that drives monitoring activities against the background of existing land and agricultural policies is the question of how LSAs impact economic development regionally and countrywide, and how they influence the environmental and social situation in the region where the investment takes place.

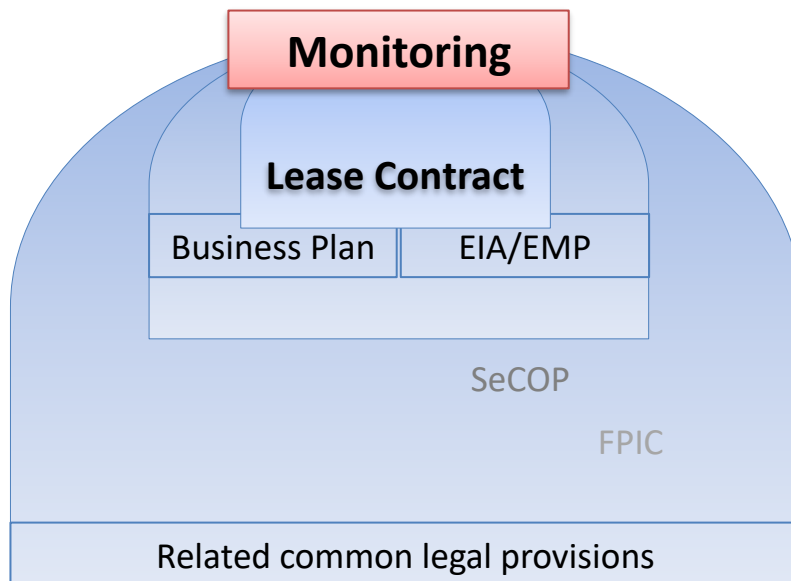
The current land and agricultural policy of Ethiopia reflects in the Growth and Transformation Plan that envisages the development of the agricultural sector, and more specific the increase in agricultural production, by supporting large scale commercial agriculture in the low land regions of Ethiopia. At the same time, legal regulations limit the expansion of LSAI by regulating that land offered for investments has to be “free of third parties possessions”² and investment projects are subject to an EIA.³ Furthermore, regulations in the labor laws and international standards, such as those stated by the International Labor Organization (ILO), govern the terms of employment that should also be valid for agricultural investment projects. Last but not least Ethiopia also commits to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). In other words, the government promotes LSAI under the condition that social and environmental issues are being acknowledged and considered.

² Compare Regulation No. 396/2017, §6(3)

³ Compare Proclamation 299/2002

As mentioned in chapter 2, obligations of the investor that are governed in the lease agreement, the business plan and the EIA have to be monitored. In fact, this has two effects. On the one hand, it reveals compliance or non-compliance of the investor with the contract and related documents and enables the responsible institution (lessor) to take action in the case of non-compliance. On the other hand – as all environmental, economic and social obligations ideally are governed in the lease contract – it delivers monitoring data for evaluating LSAI as a whole by analyzing to what extent the investor has actually implemented his obligations. For example, if looking at the implementation of the business plan, the comparison of the planned investments (which serve as benchmark) within a determined time frame with the actual investments made after the mentioned time frame serves as indicator to what extent the specific investment was achieved.

Monitoring the investor’s implementation of contractual obligations draws a good picture about the status of LSAI in Ethiopia. However, additional issues that might not reflect in the lease agreement should also be subject to monitoring. This especially counts for the level of satisfaction of the local community with



Box 1: Scope of monitoring

the investment project.

In this context the Free Prior Informed Consent (FPIC)⁴ concept comes into play. The technical guide on FPIC governs that “...monitoring and verifying activities ...should be carried out once consent has been

⁴ FAO Governance of Tenure Technical Guide no. 3 RFPIC

- Sets out practical actions for government agencies to respect and protect FPIC and for civil society organizations, land users and private investors globally to comply with their responsibilities in relation to FPIC
- Refers to the Voluntary Guidelines (VGGT) (Section 3 B 6, 9.9. and 12.7)
- Has emerged to an international human rights standard
- **Provides guidance for governments (and others) to respect the right of indigenous people or communities to self-determination, to their lands, territories and other properties, to make decisions through their freely chosen representatives and to give or withhold their consent prior to the approval by government of any project that might affect the land and resources that they customarily own or use.**

given for the project to begin operating, and independent periodic reviews should be commissioned at intervals satisfactory to all interest groups” (FPIC, pg. 35). Last but not least, monitoring also has to focus on the compliance of an LSAI-project with applicable law.

Based on what has been stated above, the following paragraphs highlight the specific issues that require monitoring.

General framework data on LSAI is required to evaluate LSAI at country level. The Ethiopian state aims to stay informed about how many investors are investing into agriculture on the basis of a lease contract concluded with the responsible body on regional or national level. The state also needs to know how much land is allocated to investors of LSAI and what share of this land is actually being cultivated. Furthermore, general data for example on farm structure, production lines, operating and production equipment as well as marketing channels is required.

Information about the investor’s profiles is important for evaluating if the type of investor correlates with success or failure of investment projects. It also facilitates an analysis on what type of investors engage in LSAI in Ethiopia and what challenges the different investors face. Generally, this data is recorded in the scope of handing out investment permits and is also available as information in the lease agreements concluded. Any changes in the form of organization should be subject to reporting to the responsible body, so that the monitoring effort and data maintenance is fairly low.

The monitoring of social and environmental impacts resulting from LSAI in general and environmental obligations of the investor in specific is crucial since negative impacts of investment projects can be considerable. An environmental⁵ monitoring will need to focus on monitoring the obligations investors have committed themselves to. It concerns all regulations laid down in the lease contract, including the compliance with environmental and labor legislation and all assignments listed in the EIA. The implementation of the EMP, belonging to the EIA, is of special importance, since it precisely lists measures that have to be taken in order to mitigate negative impacts. As basis for a comprehensive environmental monitoring, the EIA ideally points out environmental and social management tasks as precisely as possible. This includes for example measures to engage in local community development, to safeguard worker’s health and safety, to mitigate hazards evolving from the application of pesticides and to protect indigenous flora and fauna.

Another important document that is relevant in the context of environmental monitoring is the Social and Environmental Code of Practice (SECoP). The SECoP was updated in 2016 and is currently still in a drafting

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- In the context of large-scale investments, FPIC’s underlying principle is that such projects and land deals should be subject to (prior) consent given by the indigenous communities.

⁵ Note: according to the F.P. 299/2002 : "Environment" means the totality of all materials whether in their natural state or modified or changed by human; their external spaces and the interactions which affect their quality or quantity and the welfare of human or other living beings, including but not restricted to, land atmosphere, whether and climate, water, living things, sound, odor, taste, social factors, and aesthetics.

stage, however, it is envisaged to make the described minimum (bronze) level for social and environmental compliance in Ethiopia legally binding in future⁶.

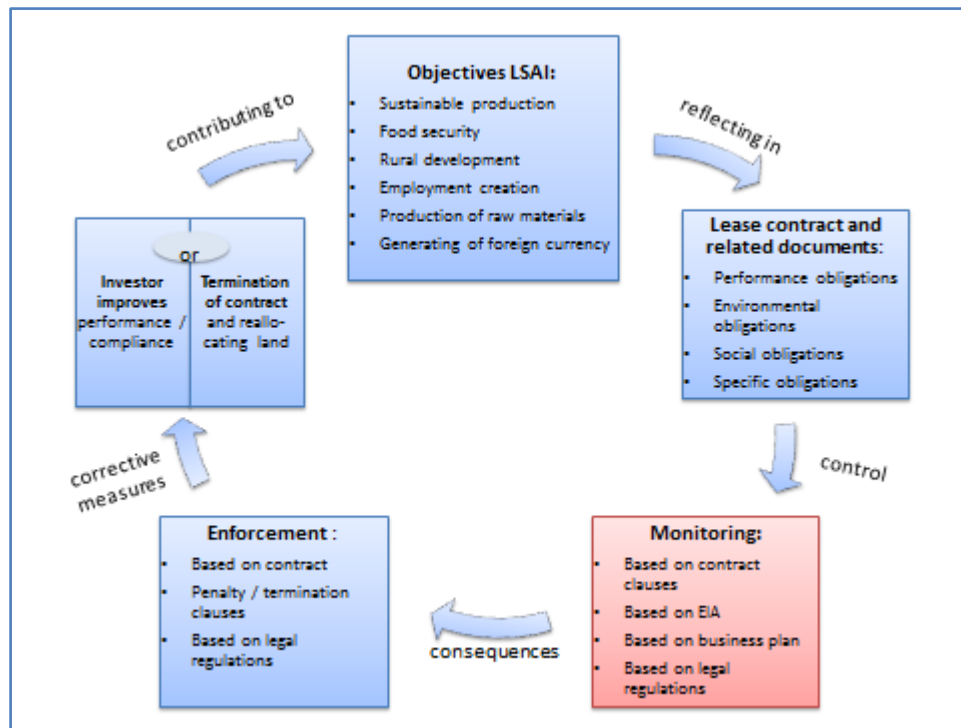
Furthermore, as mentioned before, compliance with the legal framework, i.e. environmental and labor law, as well as with internationally accepted standards that Ethiopia has committed itself to, has to be monitored.

For monitoring the economic impact that LSAI have, the investor's investment and production performance requires monitoring. The business plan serves as benchmark to compare the de facto existing investment and production with the planned business concept. In the cases that existing business plans have not been well developed additional performance indicators will have to be determined that will be checked during on-site visits and/or on the basis of the investor's reporting requirements. For instance, some important performance indicators are i) the stage of land development (cleared and cultivated to what extent), ii) establishment of farm buildings and facilities, iii) average yields (quintals / ha), iv) set-up of accounting system, v) existence of processing facilities, vi) contribution margin / ha.

The monitoring of contractual obligations of the investor is fundamental for any monitoring activities. As already mentioned, all agreements made between the investor and the responsible body leasing out the land should reflect in a complex lease contract. The lease contract should govern all issues that aim at mitigating negative environmental and social impacts and should determine in detail the investment and production responsibilities that are bound to lead to positive economic impacts in the region and at country-level. Therefore, the monitoring of the extent to which the lease contract is actually implemented by the investor already provides monitoring data for most of the issues that require monitoring. Furthermore, the lease contract contains contractual issues that are not relating to the investor's economic performance or his social and environmental obligations and that nevertheless need to be monitored. For example, timely lease payments, general reporting requirements, and limitations in using the land will also have to be monitored. Although this data might only partly be relevant for the monitoring of LSAI at country level it is still needed by the responsible body that leased out the land in order to take measures in the case of breach of contract.

Box 2 shows the relationship between the objectives followed with leasing out land for LSAI, the lease contracts with investors, monitoring and enforcement. It hence illustrates how monitoring integrates in the process of leasing out land for LSAI.

⁶ Information contained in internal project document "Information management system for agricultural investment land administration and utilization in Ethiopia"

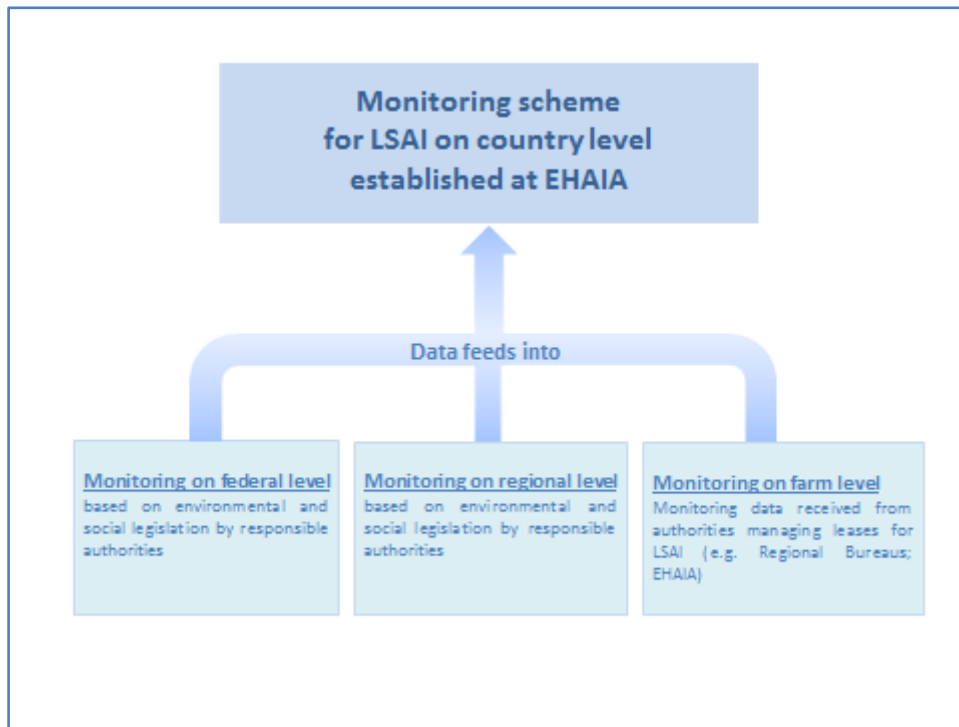


Box 2: Integration of monitoring in the lease process

4. Methods and procedures

While chapter three dealt with the question of *what* to monitor, this chapter will focus on the question of *how* to monitor.

Monitoring of LSAI is a multi-dimensional task. It requires the collection of data on field level, regional level and federal level. Box 3 shows the data flow for a monitoring on country level.



Box 3: Data flow for monitoring at country level

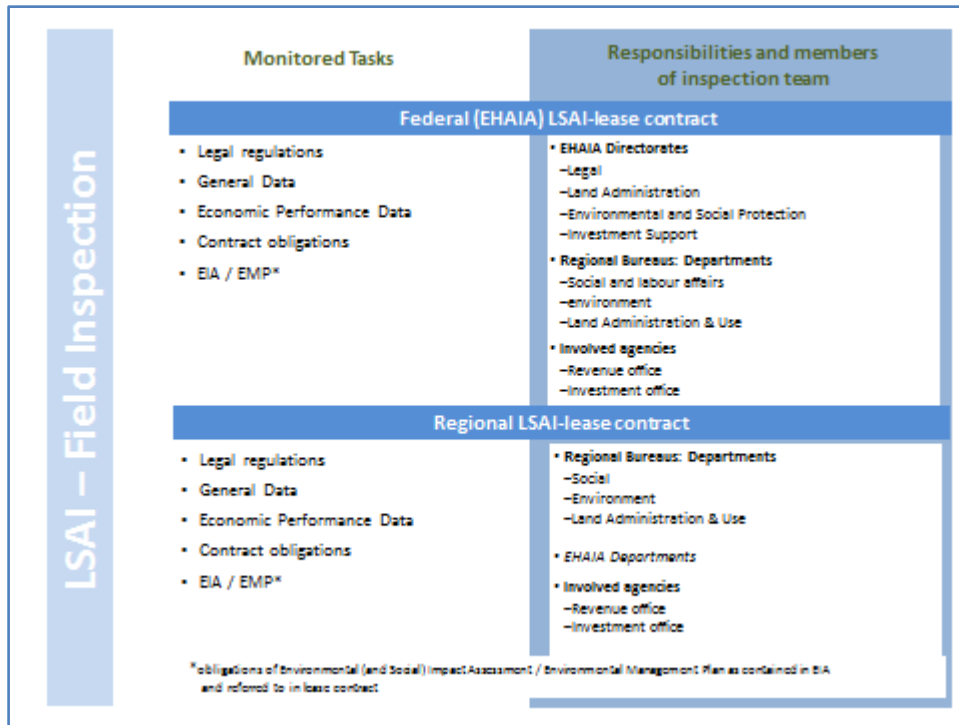
Regular field inspections

On-site visits in the project area in order to check the situation on the ground are indispensable for monitoring LSAI. Cross-disciplinary teams from the responsible institutions have to be formed for field inspections. The agreements made in the lease contract and related documents serve as benchmark for the inspection. In order to save travel costs and time, field inspections of LSAI-investment projects should be organized in blocks, covering various investment sites in the same region.

It can be argued whether the investor should be informed about a field inspection or not. Both procedures have advantages and disadvantages. To make sure that responsible persons are actually on-site and available for providing the information and necessary documents needed, an announced on-site visit is surely more promising than an ad-hoc inspection. On the other hand, unannounced inspections can reveal shortcomings that otherwise would remain hidden. Therefore, it is recommended to announce regular on-site inspections while so called “occasion related” inspections (see below) often – depending on the occasion – can also be made unannounced. For regular field inspections it can help to save time and

resources when preparatory documents (e.g. used checklists – see below) are sent to the investor in advance.

Box 4 summarizes the monitoring tasks and members of the inspection team depending on whether the lease agreement for the LSAI was concluded on federal or regional level.



Box 4: Monitoring LSAI on field level

As during field inspections, a lot of different issues have to be controlled and recorded, it is advisable to work with check lists to make sure that all issues subject to control are actually addressed and the results of the inspection are recorded. Used checklists have to cover all economic, social and environmental issues as well as the contractual obligations. The content of the checklist reflects the content of the lease contract and related documents, i.e. the business plan and the EIA. The Annex of this manual provides a complete template including checklists to use for field inspections. The inspection based on checklists includes a systematical inspection of the farmstead, machinery park, farming, packaging and processing facilities (as far as existing), housing facilities for workers, a tour around the fields and an inspection of relevant accounting information. Each field visit should start with a team meeting where the inspection team distributes tasks and responsibilities among each other.

Aside of the monitoring activities based on checklists, the field inspections should be used to clarify any difficulties the investor faces with the implementation of his investment project. Reasons for revealed shortcomings should be discussed and solutions found. In this respect, EHAIA’s Investment Support Directorate has a special responsibility.

An important source of information is the local community and the workers on the investment site. Structured interviews (anonymized) should be held with the workers in order to find out about their level

of satisfaction with the project and any shortcomings regarding labor safety and social issues. A meeting with the local community has to be an integral part of a field inspection. Based on the FPIC principle, the local community has to get the chance to report about the impact of the project on their livelihood and any shortcomings the community experiences. It can be argued if the meeting with the local community should take place in the presence of the investor. On the one hand the community might be intimidated to voice their concerns and complaints. On the other hand, a joint meeting could be used to find solutions on the spot and formalize agreements for improvement, for example by drafting a Memory of Understanding. It is suggested to use the regular field inspections for meetings with the community together with the investor or his representative(s). In the case of occasion related field inspections - if the occasion is related to social issues, for example a complaint by the local community (as a whole or certain groups) within the local community it is recommended to hold separate meetings with the local community.

Occasion-related field inspection

Occasion-related field inspections can be necessary when a responsible body has received any kind of information about an LSAI-project that is significant and requires action of the responsible body. Such occasion can relate to negative social or environmental impacts reported by different stakeholders. The stakeholders themselves might or might not be directly affected. For example, when complaints of the local community about the LSAI are addressed to the responsible authority, when other administrative bodies or individuals report about environmental pollution, or when workers, their relatives or other stakeholders report about lacking workers safety or deficient labor conditions, the responsible body for LSAI has to pursue the accusation. If the matter cannot be resolved otherwise, an on-site inspection is necessary. Therefore, the occasion-related field inspection is a complementary monitoring activity to the regular field inspection that delivers monitoring data. As mentioned above, this inspection can be announced or unannounced. The responsible authority should have some flexibility in deciding which approach delivers the best results. Furthermore, the responsible body can decide if in the inspection will only focus on the reported issue or will include a full inspection of the investment project. It can also decide on whether to delegate the inspection to only part of the team responsible for field monitoring or to make an inspection with the whole team. This will depend on when the last inspection was made and the significance and extent of the reported issue. In case the lease contract of the LSAI-site was concluded the regional Bureau (as lessor) is the responsible body. However, since EHAIA has the overall supervising responsibility for LSAI, the regional Bureau should inform EHAIA about the matter in question so that EHAIA can decide if it takes part in the occasion related field inspection.

Examination of records

Since on-site inspections are time consuming and costly, the examination of records is an appropriate tool to flank on-site inspections and keep track of developments on LSAI-projects in between on-site inspections. In order to collect records on specific LSAI-projects, files for each project should be compiled to store relevant information concerning the project.

Such files have to be generated by the authority that has concluded the lease contract. In the case, that the regional level is responsible for creating such a file, it is important that EHAIA as supervising authority

can also access the files. An electronic file management system simplifies the sharing of information (see chapter 5).

Key records that support monitoring of LSAI are the reports that the investor has to generate on a yearly basis⁷. In these reports the investor is obliged to report about the stage of implementation of his contractual obligations as well as to provide information about his agricultural performance, such as crops in total and in tons (or quintal)/ha, reasons for increasing or decreasing production, marketing channels, etc. Based on the gained information, the responsible authority can decide whether an issue arising can be solved by giving the investor instructions in writing, by checking the issue during the next regular field-inspection or by initiating an occasion-related field inspection. For eventual field inspections, information contained in the files also serve as benchmark for checking the situation on the ground during on-site visits.

Examination of information from other sources

Also, information gained through other sources concerning the project itself or the project area has to be examined and might require action. For example, reported complaints of the local community or negative results of cross-checks by other line Departments, such as the Environmental Dept. of the Regional Bureaus, require reaction of the responsible authority holding the lease contract for the LSAI-project in question. Also, remote sensing data received from other sources that shows unwanted developments on the investment site can indicate that the responsible authority has to react. Again, based on the gained information, the responsible authority can decide whether an issue arising can be solved by giving the investor instructions in writing, by checking the issue during the next regular field-inspection or by initiating an occasion-related field inspection.

Data based monitoring

Data that provides information about the status and impact of an LSAI-project can be generated through different sources. Sectoral agencies collect data in the framework of their responsibilities that can also provide information about the state of an investment project. For example, when the authority responsible for the quality of surface water detects water pollution in the scope of routine water analysis in the area where the investment lies, on-site inspection has to take place (if suspecting that the pollution originates from the LSAI). Again, the responsible authority for LSAI can decide whether to take part in the inspection itself or to rely on an inspection made by the responsible sector agency (Environmental Dept. of the regional Bureaus), provided that the exchange of information between the agencies is guaranteed. Remote sensing data and orthophotos are also a source of information that can be used for monitoring purposes. With the help of these tools, land cover changes on investment sites can be detected, so that for example the stage of land clearing can be monitored. In case that provided data indicates that the LSAI-project is not developing as agreed or produces negative impacts, the responsible agency for LSAI has to take action.

⁷ Compare suggested model contract, § 12.2

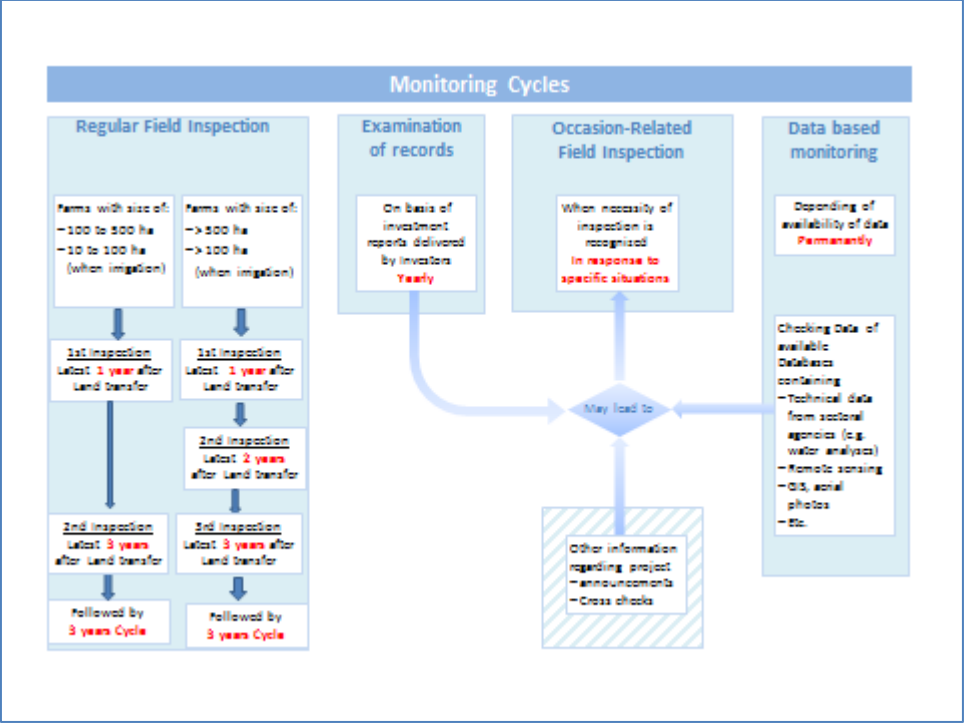
Monitoring cycles

Regular field inspections have to be organized periodically. However, the question in which intervals the inspections should take place *inter alia* depends on available financial means to carry out the inspections. Taking into consideration that large distances have to be surmounted for on-site visits and the availability of staff as well as required equipment is limited, a compromise between the aim to closely monitor LSAI and the available means to do so, has to be made.

Box 5 shows the proposed monitoring cycles for regular field inspections. The underlying assumption regarding regular field inspections is that in the case of larger projects a closer monitoring is required in the first two years since major development activities have to start in the early stage of investment. However, it can't be excluded that also smaller projects plan major investment and development activities. Furthermore, also smaller projects can pose a high conflict potential or risk of environmental damage. In the course of preparing the lease agreement the responsible authority has to make an adequate assessment and determine the respective monitoring cycle for the specific project. Therefore, the illustration only shows minimum requirements for monitoring cycles. Responsible institutions can always decide to tighten the cycle.

Since the lease contract for LSAI envisages that the development of the lease object starts within six months after land transfer and determines the percentage of land that has to be developed after one year, the first field inspection should take place latest one year after land transfer. The contract also determines when the development of the entire lease object shall be terminated. It refers to the business plan, so that the determined date can vary from contract to contract. However, usually a time line of three years is set. Therefore, the monitoring cycle includes a field inspection after three years. The following field inspections should take place (minimum) every three years.

Box 5 also shows that the examination of records should be exercised on a yearly basis, based on the obligation of the lessee (investor) to hand in yearly reports. Data based monitoring takes place permanently, provided that the data is accessible by the authority responsible for LSAI-monitoring.



Box 5: Monitoring cycles

Reporting

Monitoring results must be collected in order to facilitate an evaluation. The evaluation is necessary as basis for taking corrective measures on project as well as on country level. The completed template for field inspections at the same time functions as a report of the field examination as it contains filled out check lists, protocols on interviews made and a written summary of the results of the inspection. In case the investor has not fulfilled his obligations, the reasons for this – as explained by the investor – should also be written down in the report. Furthermore, the report is also the basis for taking further actions by the responsible authority that concluded the lease contract for LSAI, if necessary. This includes, for example, the writing of a first warning letter to the investor, the imposing of a penalty or the termination of the contract.

It is recommended to send the report to the investor in order to give him the chance to make immediate improvements to avoid penalties or contract termination.

A field-inspection, aside of detecting possible shortcomings regarding the fulfillment of the investor’s obligations, also aims to improve the investor’s performance and to support further development of the LSAI-investment project. Therefore, a possibility to formalize the commitment of the investor to implement discussed measures that serve improvement, a Memory of Understanding (MoU) can be signed between investor (lessee) and responsible body leasing out the land (lessor). This especially counts for situations, when issues arise that are not clearly regulated in the lease contract. If the issue concerns the local community it is advisable to include the local community or its representatives in the discussion of the issue and have the community sign the MoU as well. A template for a MoU is included in the annex.

5. Discourse – IT-supported monitoring

This chapter provides a discourse on IT-supported management and focusses on the IT-system currently under development at EHAIA as well as the possibilities of monitoring LSAI with the help of remote sensing.

CAMIS

Nowadays, IT-support for land management activities has become indispensable. Numerous software tools are available as proprietary as well as open source software and are used all over the world to facilitate effective, efficient and transparent land management.

A monitoring scheme for LSAI should be supported by a comprehensive IT-system, ideally combining a GIS with a spatial database to facilitate the recording of spatial and non-spatial information. Currently, EHAIA together with RLAUD and with support of the GIZ S2RAI-Project is developing a Commercial Agriculture Management Information System (CAMIS) in Ethiopia to support all business operations related to leasing out land for LSAI. One module of the system will support monitoring activities of LSAI⁸.

The system will facilitate the recording of required data sets in a database and the electronical storage of all necessary documents, including templates. Referring to monitoring this means that the system will provide functionalities that help to manage the existing contracts in order to track the progress (or failure) of investment projects and to support the authority responsible for the contracts to take action, if necessary. In any case, all contractual obligations (which also serve as performance indicators) governed in the lease contract should be stored in the database of the CAMIS in order to facilitate the monitoring the investor's compliance (or non-compliance) with the contractual obligations.

Data collected in field and/or through file inspections and/or received by other authorities (e.g. water protection agency) will be stored in a data base. Functionalities that allow for analysis of such data will facilitate an assessment of LSAI.

CAMIS in the context of monitoring will be designed to facilitate the extraction of statistics, reports, lists etc. using appropriate indicators. It will also consider different GIS-functionalities that support the overall administration of land and investments in general and monitoring activities in specific. CAMIS uses the concept of a land bank, which is a repository of spatial data about land ready for leasing. Land is added to the land bank in two instances, a) when new investment land is identified through study, and b) when a lease contract is terminated either due to poor performance of an investor or the contract period ending. In both cases, investment land is stored in a common database designed to store spatial and non-spatial data.

However, an IT-system should not only be designed to monitor the development of single LSAI-investment projects but also to provide data about the development of LSAI in a region or Ethiopia as a whole. This

⁸ Once the system is developed and the monitoring module is fully developed, an updating of this chapter will be necessary.

requires additional functionalities that provide aggregated cross-project data. For example, the government might request information on how much land is leased out for LSAI a) in total, b) to foreign investors and c) to local investors (nationals). Also, information on the actual development of the LSAI-projects, or on environmental impacts of the projects might be requested. This requires the definition of certain indicators and related data that would need to be extracted from the IT-system. For example, performance indicators could be the share of land actually developed in relation to the land leased out or the degree to which buildings, facilities and infrastructure have been built according to the business plan after five years of operation.

The evaluation of environmental impacts of LSAI is more complex, as many parameters have to be considered. Nevertheless, the IT-system can provide data (for example from field inspections or received from other agencies) that can be extracted and analyzed. Accompanying such a qualitative analysis, the degree to which the EMP as part of the EIA has been implemented can serve as indicator for the environmental impact, implying that the environmental impact is negative if the EMP is not implemented.

In the course of development of the CAMIS a constant feedback from future users (of the IT-system) to the software developers is necessary in order to determine what kind of data has to be collected, which indicators are relevant and what kind of analysis tools are necessary. The question of “which information required by the stakeholders/users will be addressed and solved by which report/statistics/performance indicator (provided by the IT-system)” should drive the development of this IT-System and influence the data-architecture. A focus should lie on the question how to meet the relevant stakeholder information-needs with the help of the CAMIS and who can collect/update this information with the lowest effort but with reliable quality.

The Annex includes a template for generating indicator data during field inspections that can be recorded in an IT-system and used to assess LSAI. In the course of development of CAMIS, this template has to be amended and/or extended once all important standard-indicators and related basic-data needed have been determined and the calculation formula/algorithms to compute these indicators have been defined.

After the implementation of CAMIS, all the reporting requirements will be functional. Automated time-based reporting is considered as a requirement to be included in the system development. Therefore, once developed and implemented, CAMIS will facilitate the drafting of automated monthly / quarterly and yearly reports that summarize the current status of LSAI in Ethiopia and provide underlying data. CAMIS, once installed, will serve as basic information source to store and handle data in order to measure the success of the government program of LSAI.

Remote sensing

Monitoring land cover developments via remote sensing is on the rise globally.

The monitoring tool proposed by S2RAI in cooperation with the Joint Research Center (JRC) of the EU-Commission is based on satellite remote sensing data and constitutes one important pillar of the comprehensive monitoring concept. It will facilitate the regular assessment of the physical implementation of LSAI in an objective, timely and cost-effective manner. Contractual agreements on the investment boundaries, the crop types and the pace of cultivation can be counterchecked with remote

sensing monitoring tool. It will help to identify suspected cases of infringement of contracts and will indicate which LSAI-projects need to be controlled in detail, e.g. through field visits.

The monitoring tool will make use of high-resolution satellite imagery from the Copernicus earth observation program of the European Commission, namely Sentinel-1 and Sentinel-2 satellites. The major functionalities of the monitoring tool will consist in downloading satellite images, pre-processing these data sets, and transforming the satellite data into information related to the actual land use and land use change within LSAI-projects. The latter can either be done by visual interpretation of Sentinel satellite images, occasionally supplemented by purchasing high-resolution imagery (1-3 m) or using advanced machine learning algorithms for crop type recognition (“supervised image classification”). Finally, the results are visualized and provided as digital maps, reports, and statistics. With the use of geographical information systems (GIS), changes in the land use and land cover can be monitored regularly (e.g. weekly, monthly or annually). The tool can be applied on country-level for the monitoring of all LSAI or for monitoring of specific LSAI-projects on-demand.

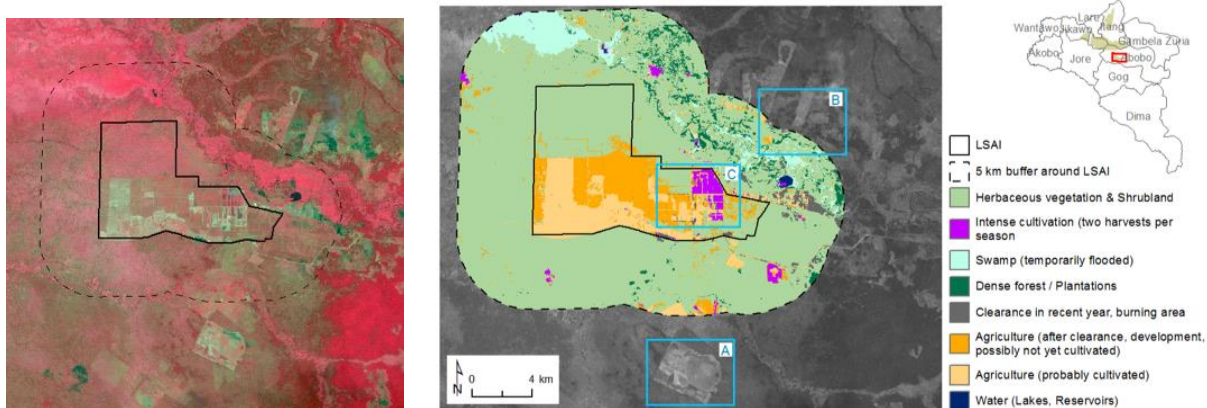


Figure 1: From data to information for decision making. **Left:** Sentinel-2 image of an investment site in Gambella. The LSAI (black contour) stands out thanks to its regular structure, indicative for extensive irrigation infrastructure, and its bright colors, which relate to different rice cultivars at various stages in the growth cycle or bare soils after clearance. Dark red colors in the east are dense forests. **Right:** Land use maps created from the satellite imagery.

The added value of such a tool is that each LSAI-project can be monitored with objective spatial data, without spatial limitations (view from space, independent from access on ground) and with a scientifically sound and accurate methodology. The tool can provide accurate indication whether or not an investor of a LSAI-project is compliant to contractual agreed implementation schedules. In addition, such a tool is cost-effective due to the fact that Sentinel satellite images are free and openly accessible. Thus, considerable cost savings can be achieved by reducing comprehensive and regular in-situ ground control by survey teams to a minimal amount necessary for the validation of the results.

The tool is based on a modular development approach: The very basic option, which is currently under development, is based on visual interpretation of satellite images and facilitates to monitor the spatial implementation progress of a LSAI-project. This approach is relatively easy to implement, as only limited technical knowledge is needed. Nevertheless, this basic approach can already deliver basic monitoring results on a satisfactory level of reliability.

After having established the basic version, the tool could subsequently be upgraded to more sophisticated analysis like crop identification or the assessments of crop health. A more sophisticated version could also entail complex automated, algorithm-based data processing and analyses. It could be even further extended to other fields of application and other spatial planning contexts (e.g. forest management, environmental monitoring, drought early warning, etc.). Copernicus offers a long term perspective, as Sentinel satellites operate at least until the year 2027. This enables systematically collecting and archiving information, e.g. a documentation of land use change and the assessment of socio-economic and environmental impacts of land conversion.

As the backend of the monitoring tool a robust spatial database will be established, in which the monitoring results and necessary auxiliary data will be kept. The interconnectivity with or integration into other relevant databases like those of CAMIS or NRLAIS needs conceptualize and ensured.

The various modules require IT infrastructure and qualified staff. Whereas the initial tool will be based on the basic option it should grow and be further extended in line with the capacity of the appointed operators within the responsible Government agency.

6. Evaluation of Monitoring Results

Monitoring only has an effect if it is followed by an analysis of collected data and an assessment of the results.

The Power of Measuring Results

- If you do not measure results, you cannot tell success from failure.
- If you cannot see success, you cannot reward it.
- If you cannot reward success, you are probably rewarding failure.
- If you cannot see success, you cannot learn from it.
- If you cannot recognize failure, you cannot correct it.
- If you can demonstrate results, you can win public support.

World Bank 2004

Box 6: The power of measuring results⁹

While monitoring is a continuous systematic collection of data on specified indicators to provide the main stakeholders with indications of the extent of progress and achievement of a project or policy, “evaluation is the systematic and objective assessment of an ongoing or completed project, program, or policy, including its design, implementation, and results. The aim is to determine the relevance and fulfillment of objectives, development efficiency, effectiveness, impact, and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process” (World Bank, 2004, pg. 21).

As shown in the previous chapters, EHAIA is the central authority responsible for all issues regarding LSAI. All monitoring data should be bundled at this agency. As long as the collection of monitoring data is organized decentral and an IT-supporting system is still under development, it must be made sure, that all data, for example investor’s reports and reports from field inspections are forwarded to EHAIA.

EHAIA should evaluate the collected data in an evaluation report for the policy level on a yearly basis. Once the supporting IT System AIIMS-CCF is developed automated reports generated from the system about defined indicators can be extracted and summarized in a written report. Until then, data analysis will have to be made manually. Inter alia the template for generating indicator data (see Annex) will serve as basis for such a report. Based on the feedback from the policy level on what additional indicator data is requested, the list of indicator data will have to be extended.

⁹ Source: Adapted from Osborne & Gaebler 1992 by Kusek and Rist, in World Bank 2004: Ten Steps to a Results-Based Monitoring and Evaluation System

“What typically has been missing from government systems have been the feedback component with respect to outcomes and consequences of governmental actions. This is why building an M&E system gives decision makers an additional public sector management tool”

(World Bank, 2004)

Box 7: M&E as feedback component¹⁰

Good summary of investor’s performance can be achieved by implementing a rating system that rates the performance of LSAI-projects. This on the one hand quantifies the success or failure of an investment project and on the other hand can serve as basis for distributing awards for good performance. However, when designing such a system it is important that it is not only based on a mere scoring system where a number of points are added but that it considers minimum requirements that have to be fulfilled. Otherwise, an investment project might get an average or even good rating based on very good economic performance despite the fact that for example, he has not implemented an EMP.

¹⁰ See footnote 9

7. Annex

Explanatory note for signing the checklists and templates for field inspection

The annex makes reference to the new model contract suggested by S2RAI.

Checklist 1 summarizes all issues in the lease contract itself that require checking during a field inspection. Articles with content that does not require checking are not listed.

Checklist 2 refers to the content of the business plan as governed by the Ministry of Agriculture and Rural Development's Guideline for Agricultural Project/Business Planning. However, since business plans do not all stick to the given format, it leaves room for additional lines to insert in case the business plan in question provides additional chapters / issues that require monitoring.

Checklist 3 refers to the EMP. The underlying assumption is that all required mitigation measures and environmental management issues are dealt with in the EMP, as the EMP is the heart of the EIA. Therefore, environmental monitoring by field inspections has to focus on the question to what extent the EMP was implemented.

The template 1 and 2 are to be used as support for conducting structured interviews with employees of the LSAI-project (1) and the local community and affected parties (2).

Template 3 is a suggestion for a Memory of Understanding (between lessee and lessor/between lessee, lessor and local community)

Template 4 aims at summarizing the content of the checklists by using indicators that provide the necessary information to assess the success or failure of a LSAI-project itself and - if aggregated and evaluated - of LSAI on country level. A distinction between qualitative and quantitative indicators is made. **(The identification of indicators needs discussion).**

Template 5 should be used to summarize the main findings as written down in the checklist and templates and to lay down the required measures.

For the field inspection check lists should be printed out so that they can be filled out by hand during the field inspection. Alternatively, an e-version of the checklist can be used and filled out electronically during the field inspection.

The column "Compliance / Issue achieved" provides for "yes" and "no" options depending on whether the lessee complies with contractual regulations or not. In some lines a qualitative assessment is required that also provides for the options "largely" complying or "barely" complying with contractual regulations. As some issues require prior approval or permits this column also provides for determining if prior approval / permit was given (see below).

In the column remarks write down necessary information/issues discussed during the field inspection, for example why the investor has not complied with the contractual obligations or has not implemented measures listed in the business plan or the EIA (according to the investor's explanations).

In the column “necessary measures” write down what actions have to be taken, for example warning letter to the lessee, making of a Memory of Understanding, levying of penalties, termination of contract, necessary follow-ups, additional measures.

Checklist 1 – Implementation of contractual agreements

The checklist contains all contractual issues that are subject to scrutiny and should be checked during field inspection. Each line makes reference to the respective article in the model contract. The model contract in question was developed in the scope of the S2RAI project. To prepare the field inspection, the lease contract concluded with the investor/investment company whose investment site will be inspected has to be checked and all relevant information transferred into the checklist.

For easy reference the lines of this checklist is numbered. In case there is not enough space in the columns for remarks or additional necessary information, notes can be taken on extra paper with reference to the numbered lines.

Line 1: In the column “Agreement” insert crops to be cultivated according to contract, in the column “Current Status” record which plants are currently cultivated.

Line 2: refers to an optional clause in the contract. If the contract in question contains this clause (which defines the percentage of produce that has to be sold to the local market) then fill out the percentage that has to be sold according to contract and the amount (in %) actually sold.

Line 4: If lease price adjustment is necessary name the reasons under “remarks”.

Line 5-8 and 10: put a cross behind permit / approval available, if a permit / approval was granted.

Line 9: refers to a clause that (under certain conditions) allows the lessee to built infrastructure outside the lease object. The clause also determines when this infrastructure will turn into public property. In line 9 record this number of years as stipulated in the contract and write down how many years have already passed after the completion of building the infrastructure. If the due date when the infrastructure turns into public property is reached, write down what measures have to be taken (e.g. formal handing over of property into the responsibility of the responsible regional authority).

Line 12 and 13: belong together, under line 12 record how many ha were to be developed according to the contract and how many ha were actually developed after one year, under line 13 record how many percent of the land were to be developed according to the contract and how many percent were actually developed after one year.

Line 14 – 17: belong together, in line 14 write down deadline (in number of years) when the land has to be fully developed according to contract. In line 15 record the amount of ha to be developed at that time and actually developed, in line 16 record how many percent were actually developed at the due date for 100 % development. In line 17 (as result of line 14 – 16) record if the lessee has fulfilled his obligations (“yes” only, if 100 % were developed). If date of inspection is before deadline write this down this under “remarks”.

Line 21: Note - the checklist 2 records in more detail to what extent the lessee has implemented the business plan. Use this column to summarize the major shortcomings (if existing) referring to the implementation of the business plan and respective measures that have to be taken by the authority (e.g. warning / termination of contract / MoU with investor). Make a qualitative estimation to what degree the lessee has implemented the business plan (yes, no, largely, barely)

Line 22: the field inspection should also be used to discuss if the business plan is still realistic or for whatever reasons needs amendments. A necessary amendment of the business plan also requires a respective amendment of the contract. The field inspection team should write down what measures have to be taken (e.g. amended business plan proposal to be handed in by investor=> scrutiny by responsible body=> if accepted => contract amendment).

Line 24: Note- the checklist 3 records in more detail to what extent the lessee complies with the EMP, use this column to summarize the major shortcomings (if existing) referring to the bio-physical environment and measures that have to be taken by the authority (e.g. warning / termination of contract / MoU with investor). Make a qualitative estimation to what degree the lessee has implemented the EIA (yes, no, largely, barely).

Line 27: Note- the checklist 3 records in more detail to what extent the EMP was implemented, use this column to summarize the major shortcomings (if existing) referring to the social environment.

Line 32: Note- the structured interviews with the local population and community serve as indicator for answering this question. Make a qualitative estimation and use the column “remarks” to summarize the main issues, conflicts, problems or good developments.

Line 33-35: refer to optional clauses and only have to be filled in if the lease contract contains such clauses.

Line 36 and 37: belong together, in line 36 record number of employees according to contract and currently employed, in line 37 based on line 36 determine to what degree the lessee has complied with his obligations regarding no. of staff.

Line 38-40: belong together: In line 38 record the no. of Ethiopian citizens employed, in line 39 thereof the number of locals, in line 40 make a qualitative estimation to what degree the lessee has complied with his contractual obligation regarding the origin of staff.

Lines 41-42: belong together and refer to an optional clause. They are only relevant if the clause is in the contract. In line 41 record the percent of senior management positions held by Ethiopian citizens according to the contract and according to the current status. Based on the figures in line 41 make a qualitative estimation to what degree the lessee has fulfilled his obligations in line 42.

Line 43-50: make a qualitative assessment to what degree the lessee has complied with the regulations in the contract.

In line 45 in the column “remarks” summarize to what extent the lessee complies with national and international labor standards, assess shortcomings.

In line 46 in the column “remarks” summarize what kind of precautions the lessee has installed and what measures are still missing. (In case of severe shortcomings, determine the measures to be taken (warning, penalties, termination) under “Necessary measures”).

In line 47 in the column “remarks” assess to what extent staff is aware of the contingency plan and what measures have been installed to make the implementation of the plan possible in a case of emergency. (In case of severe shortcomings, determine the measures to be taken (warning, penalties, termination)).

Line 51: determine if the lessee has installed a grievance mechanism for / and accepted by the local community affected by the investment project. If not, discuss with local community and investor and try to negotiate a MoU that governs the mode and implementation of a grievance mechanism.

Line 52: determine if the lessee has installed a grievance mechanism for / and accepted by employees (and their organization). If no: discuss with staff and investor and try to negotiate a MoU that governs the mode and implementation of a grievance mechanism.

Line 53 and 54: If “yes”, under “remarks” write down, if the lessee has notified this issue or not.

Line 55: It is assumed that general accounting and bookkeeping is governed by respective law and companies are checked by respective agencies (finance, trade), therefore it is not a task of the inspection team to examine the records of the lessee unless representatives of the responsible agencies are part of the inspection team. However, if there are indications that bookkeeping is not up to standard, the inspection team should notify to the respective agency (write down, what measures have to be taken)

Line 56: this should already be answered before the inspection (during preparation of the field inspection). The field inspection should be used to discuss the issue with the investor in case he has not submitted a report, or the quality of the report is not adequate.

Line 57: If “No”, under the column “remarks” determine, if such inspection should be commissioned by the lessor.

Line 58: If “yes”, put a cross behind permit / approval available, if a permit / approval was given.

Line 59: If “yes”, put a cross behind permit / approval available, if a permit / approval was given. Check if the conditions under which this is allowed (see Art. 13.2 in lease contract) have been followed.

Line 60: If “yes”, check if the breach of obligations/non-performance is owed to circumstances the lessee cannot be held liable for. In this case the lessee is obliged to provide evidence for this.

Line 61: If “yes”, write down that termination has to be initiated by the responsible authority (lessor)

Line 62: If “yes”, write down that warning letter or termination has to be initiated by the responsible authority (lessor) (under column necessary measures).

Checklist 2 – Business Plan

The checklist refers to the relevant content of the business plan, assuming the business plan follows the structure as stipulated in the *Guideline for Agricultural Project / Business Planning*, EAILAA from May 2010.

The column “Issue/activity according to business plan” should already be filled out during preparation of the field inspection. It should list the issue or activity that is stated in the business plan. During the field trip, an assessment is made to what extent the lessee has fulfilled the obligations according to the business plan (yes, no, largely, barely) in column “Compliance / Issue achieved”.

If the lessee has not complied with the business plan, mention the reasons the investor states for not having complied with the business plan in the column “remarks”. In the column “remarks” write down any issues discussed during the field inspection.

In case the business plan of the investment in question has another structure, the lines in the checklist have to be amended accordingly.

Checklist 3: Implementation of EMP

Since all activities to mitigate negative environmental impacts are listed in detail in the EMP, the EMP is the relevant part of the EIA whose implementation should be subject to scrutiny. Since the EMP is tailored to the respective investment project, during preparation of the field visit each environmental issue and the respective measure have to be filled into the checklist.

The budget allocated for the measure, the monitoring measures and the budget allocated for implementing the monitoring measures have to be filled in individually.

During field inspection a qualitative assessment (yes, no, largely, barely) is made to what degree the measures were implemented and the budget allocated in the EIA was actually spent.

If the lessee has not complied with the EMP, mention the reasons the investor states for not having complied with the EMP in the column “remarks”. In the column “remarks” write down any issues discussed during the field inspection.

Templates 1 -3

Templates (1-2) for interviews with the local community, staff and / or focal persons representing these groups are provided. The questions in the templates can be changed and / or extended as deemed necessary. Template 3 can be used for a Memory of Understanding with the investor.

Template 4

Template 4 provides a list of quantitative and qualitative indicators. Respective data should be collected during field inspection. The analysis of aggregated indicator data can help to draw a picture of the performance of LSAI on country level. The indicators can be amended / extended. The template needs additional discussion on what data can serve as indicators for good or poor performance of LSAI, in what

format this data should be collected and how it can be processed to deliver monitoring information on country level.

Template 5

In template 5 main findings of the field inspection should be summarized.

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MINISTRY OF AGRICULTURE

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