



PILLARS 2 & 3
SUSTAINABLE OPERATIONS & VALUE CHAINS

12

RESOURCE RIGHTS

STANDARD



Commitment

Respect all legitimate resource and tenure rights, and support smallholder farmers and communities in retaining and defending their natural resource rights, with a particular focus on vulnerable rights holders.

Falisse tending to her crops in the Zambezi valley of Mozambique.
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Save the Children

Land is a finite resource, and globally, a set of contributing factors are increasingly putting pressure on natural resources and contributing to increasing land inequality. In the absence of adequate legal regimes and enforcement, agribusiness activities often cause negative impacts on local communities' rights to land, water, and other natural resources. The largest 1 percent of farms operate on more than 70 percent of the world's farmland, threatening the livelihoods of an estimated 2.5 billion people involved in smallholder agriculture, as well the world's poorest 1.4 billion people, most of whom depend largely on agriculture for their livelihoods.¹ By promoting alternative investment models that enable smallholders to strengthen their land rights, food companies can therefore contribute to addressing land inequality.

Even when companies have a government's permission to develop or operate on a land concession, they are likely to infringe on people's basic rights if they do not have the free, prior, and informed consent (FPIC) of relevant individuals or communities.² This is because, in most jurisdictions, there are legitimate rights holders – with customary, collective, or usage rights over lands, fisheries, and forests³ – whose rights are not formally recognized in statutory law.⁴ Companies thus cannot rely solely on government permission to use land. Doing so without the FPIC of rightsholders constitutes a failure to respect those tenure or resource rights, and often results in the infringement of other human rights.⁵



Communities also experience obstacles to accessing other natural resources, including water and seeds. Water rights are impacted by both water pollution and water scarcity caused by the depletion of local water reserves by industrial or agricultural activities.⁶ Impacts on all of these resource rights disproportionately affect certain communities and community members, including Indigenous peoples and women.

Globally, Indigenous peoples^a experience disproportionate economic insecurity^b, and their lands, territories, and natural resources are essential for their basic needs and livelihoods, as well as for socio-cultural and spiritual reasons. According to both the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)⁷ and ILO Convention No. 169,⁸ Indigenous peoples have the rights to the lands they have traditionally occupied, as well as a right to determine their development, which gives rise to interrelated rights to consultation and participation, and a requirement for their FPIC.⁹ Ensuring the choice to give, or withhold FPIC to a project or activity that is planned to take place on their land is not only a recognized right of Indigenous peoples under international law but also benefits companies and investors by helping to mitigate risks.¹⁰

At the same time, women, make up more than 43% of the agricultural labor force but own less than 15% of the world's land.¹¹ They are often excluded from formal and informal natural resource rights and enjoy limited agency over and are left out of decision-making regarding those rights.¹² Companies can play a critical role in protecting women's land rights by ensuring that no forms of exploitation of women in their supply chains are ever tolerated¹³ and by meeting their commitments under the Beijing+25 Action Coalitions.¹⁴ Land inequality along the lines of gender also impacts overall global food security. It is estimated that if women and men had the same access to resources, including land, agricultural yields would increase by almost a third, which would mean that 150 million fewer people in the world would continue to go hungry.¹⁵ Therefore, while contributing to addressing land inequality, companies can also make progress towards meeting their commitments under the Food Security, Living Incomes and Wages, and Non-Discrimination and Equality Standards.

Defenders of land, water, and other natural resources who oppose agribusiness development activities too often face intimidation and attacks that violate their physical integrity. In 2020, the Business and Human Rights Resource Centre identified 137 cases of attacks on defenders related to agribusiness, including killings. Many of these attacks stemmed from a lack of consultation or the failure to secure the FPIC of affected communities.¹⁶

Purported climate solutions such as the sale of carbon offsets and other “nature-based solutions” often add additional pressures to community lands, thus increasing the risk of breaching community land and resource rights.¹⁷ By respecting natural resource rights and communities' rights to participate equally and effectively in development planning, food sector companies support sustainable development and align their practices with the SDGs.

Oxfam has highlighted that the large brands have made significant progress in their global commitments, but that “implementation is uneven within specific supply chains and geographies.”¹⁸ There is a need for food processing/manufacturing companies to invest in efforts across their value chains.

BOX 12: KEY RESOURCES FOR RESPECTING RESOURCE RIGHTS

- CFS Principles for Responsible Investment in Agriculture and Food Systems.¹⁹
- FAO Respecting Free, Prior and Informed Consent: Practical Guidance for Governments, Companies, NGOs, Indigenous Peoples and Local Communities in Relation to Land Acquisition.²⁰

- a. Indigenous peoples are “peoples in independent countries who are regarded as Indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions” (Source: ILO, “Indigenous and Tribal Peoples Convention (No. 169),” 1989, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314,Article 1). A fundamental criterion for determining whether someone is Indigenous is self-identification as Indigenous. The criteria outlined in international law for identifying Indigenous peoples mean that groups that display all or some of those criteria can be treated as Indigenous for the purpose of safeguarding their rights, regardless of whether a national government has or has not recognized them as such.
- b. While the 370 million Indigenous People in the world only amount to around 5% of the world's population, they represent 15% of the world's extreme poor and one-third of the rural poor. (Sources: Gillette Hall and Ariel Gandolfo, “Poverty and Exclusion among Indigenous Peoples: The Global Evidence,” 2016, <https://blogs.worldbank.org/voices/poverty-and-exclusion-among-indigenous-peoples-global-evidence>; Hall and Gandolfo.)



SDG-ALIGNMENT: THIS STANDARD CONTRIBUTES TO ACHIEVING THE FOLLOWING SDGS:



SDG 1 – No poverty

Target 1.4: By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.



SDG 2 – Zero hunger

Target 2.3: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.



SDG 10 – Reduced inequalities

Target 10.6: Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions.



SDG 5 – Gender equality

Target 5.a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

Target 5.5: Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.



SDG 6 – Clean water and sanitation

Target 6.1: By 2030, achieve universal and equitable access to safe and affordable drinking water for all.

Target 6.3: By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally.



SDG 12 – Responsible consumption and production

Target 12.2: By 2030, achieve the sustainable management and efficient use of natural resources.



SDG 15 – Life on land

Target 15.1: By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements.



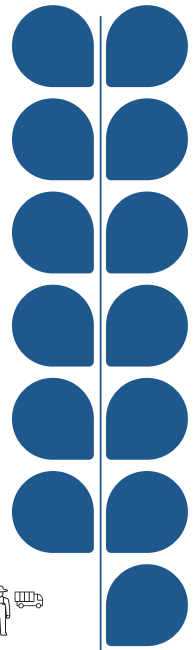
SDG 16 – Peace, justice, and strong institutions

Target 16.1: Significantly reduce all forms of violence and related death rates everywhere.

Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels.



SUSTAINABLE OPERATIONS
SUSTAINABLE VALUE CHAINS





STEPS TO MEET THE COMMITMENT

1. ADOPT A POLICY AND EMBED IT INTO GOVERNANCE AND MANAGEMENT SYSTEMS

1.1. ADOPT A POLICY

The board or the most senior governing body of SDG-aligned companies adopt a policy that aligns with a commitment to recognize and respect legitimate rights (including informal rights) to land, water, seeds, and other natural resources and support responsible agricultural investments. The policy:

- Aligns with and explicitly refers to the international standards listed in Box 13.
- Includes adherence to the principle of FPIC and zero-tolerance policies for land grabs, improper land acquisition, and harassment of resource rights defenders in their value chains.
- States that, where the local law regarding land and resource rights in the territory where a company and its business relationships operate conflicts with international law, the company defers to the higher standard.

BOX 13: INTERNATIONAL HUMAN RIGHTS STANDARDS ON LAND AND WATER RIGHTS AND THE RIGHTS OF INDIGENOUS PEOPLES, PEASANTS, AND COMMUNITIES

- Universal Declaration of Human Rights, Article 17.²¹
- International Covenant on Economic, Social, and Cultural Rights, Article 11.²²
- UN Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs).²³
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP).²⁴
- United Nations Declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP).²⁵
- ILO Convention No. 169.²⁶
- General Comment No. 15.²⁷

1.2. EMBED THE POLICY INTO GOVERNANCE & MANAGEMENT SYSTEMS

To embed the policy commitment, SDG-aligned companies:

- Communicate expectations for implementing the policy internally and externally with business relationships, including through procurement policies, responsible sourcing policies, and contractual terms with business relationships in their value chains (e.g., the expectation of FPIC is included in supplier contracts).
- Offer tailored capacity building by specialists with an understanding of resource rights issues in the country context to relevant in-country staff and business relationships in geographies and supply chains with a heightened risk of resource rights impacts.
- Set and measure relevant key performance indicators (KPIs) while concurrently establishing other mechanisms that incentivize and hold company staff and suppliers accountable for implementing the policy (e.g., time-bound improvement plans accompanied by triggers for suspension, longer-term contracts, and covering costs for impending necessary changes).²⁸

2. ASSESS ACTUAL & POTENTIAL IMPACTS

SDG-aligned companies identify where their suppliers and other value chain business relationships have a physical footprint and, in particular, where they may be expanding through land acquisitions before investments are made.²⁹ The companies identify legitimate rights holders by involving relevant local government bodies and communities and assess actual and potential impacts on communities' resource rights on an ongoing basis.

SDG-aligned companies evaluate the likelihood and severity of risks of impacts by assessing, among other things:

- The presence of Indigenous peoples in regions impacted by their operations or value chain activities,^c including lands and resources traditionally owned or under customary use for livelihoods or cultural purposes.
- The lack of formalized land tenure rights.
- The instances of environmental degradation or destruction resulting from operations and value chain activities (e.g., deforestation, soil erosion, contamination)
- Water scarcity.
- The record of human rights abuses committed by military and security functions in the jurisdiction, which may be contracted by agribusiness to quell protests regarding resource rights.^d

c. According to ILO Convention No. 169, Indigenous Peoples' 'lands' includes territories, which cover the total environment of the areas which the peoples concerned occupy or otherwise use. (Source: ILO, "Indigenous and Tribal Peoples Convention (No. 169).")

d. Useful assessment tools include: Landscape for tenure risk assessment (<https://landscape.info/>) and LandMark for assessing the extent to which tenure rights are formally protected (<http://www.landmarkmap.org/>).



To assess risks and impacts, SDG-aligned companies:

- Regularly engage in dialogue with communities, environmental and land rights defenders, and relevant civil society organizations.
- In the value chain's high-risk regions, develop long-term engagements or partnerships with qualified experts on resource rights, community-based organizations, and/or resource rights NGOs with mandates to center the needs of the most vulnerable to assess risks and impacts.³⁰
- On their own or together with peer companies or suppliers, commission third party human rights impact assessments, preferably conducted through a multi-stakeholder approach that would see communities and companies carry out the Human Rights Impact Assessment (HRIA) together,³¹ in regions and commodities with a high risk of impacts on resource rights.

3. INTEGRATE BY SETTING TARGETS & TAKING ACTION

SDG-aligned companies integrate the findings of their comprehensive assessment of resource rights impacts outlined in **Step 2** into business decisions, processes, and functions by **setting targets** and then **taking action** to align with the standard within set target dates.

3.1. SET TARGETS

SDG-aligned companies set specific time-bound intermediate and long-term targets on eliminating and preventing negative impacts on resource rights. These targets should be ambitious enough to contribute significantly to the SDGs' achievement. The intermediate targets are relevant for the companies to monitor their continuous improvement towards meeting the standard and, where possible, measure outcomes rather than outputs or activities. These targets are tailored to the business activities and relationships of companies based on their assessments of actual and potential resource rights impacts. The following are some examples of performance indicators to track progress over time:

- By 2023, substantially increase the proportion of sourcing from alternative business models that avoid the transfer of resource rights from smallholder farmers and local community members.
- By 2023, the company has established effective management systems to ensure that new investments respect legitimate resource and tenure rights.
- By 2030, the company returns land to rights holders who were arbitrarily or unlawfully deprived.
- By 2025, all business relationships allow producers to save, use, exchange, and sell their farm-saved seed or propagated material.

3.2. TAKE ACTION

SDG-aligned companies integrate the findings of their assessments of risks and impacts to resource rights into relevant internal functions and processes. They take appropriate action to cease, prevent, and mitigate impacts, and use leverage to prevent and mitigate harms in their value chains. Depending upon assessment findings, measures to align practices with the standard could include:

- **Ensuring free, prior, and informed consent:** Consulting, or using leverage to ensure business relationships consult, in good faith with communities to achieve and maintain consent on an ongoing basis throughout the life of industrial operations or agricultural supply chains with identified impacts on resource rights. Consultations are conducted with individual and collective rights-holders through legitimate representatives and representatives of groups within the community (including but not limited to women, youth, ethnic minorities, people with disabilities) at an early stage to enable the community to influence decision-making about investments.³² Consultations are based on the full disclosure of information about the potential impacts of a project, including possible mitigation measures and potential benefits. Any mitigation measures, compensation, or benefit-sharing mechanisms are established through participatory processes and respect the human rights of all affected individuals and groups.
 - Where business relationships are engaged in activities that violate a company's resource rights policy commitment, including land acquisitions without respecting FPIC, involuntary resettlements, or being an immediate beneficiary of expropriation by a host government when acquiring land,^e the company uses leverage to improve the business relationship's practices. Where the business relationship's practices do not improve, the company publicly leaves the relationship as a last resort, citing the misalignment.³³ For further guidance on FPIC, refer to FAO's practical guidance on respecting free, prior and informed consent.³⁴
 - **Consulting underrepresented groups, particularly women:** SDG-aligned companies take proactive measures to consult with or use leverage to ensure consultation with, women in resource-related decision-making processes and to ensure they are not disproportionately disadvantaged by the land impacts of their operations or supply chains and receive fair benefits from development and compensation for loss of livelihood.
 - **Compensating for transfer of resource rights:** Ensuring that individuals or communities that provide their FPIC to the transfer of resource rights through legitimate processes receive adequate compensation.
- e. Currently, major agribusinesses, Barry Callebaut, Cargill, Olam, and Wilmar have commitments around FPIC that apply across their commodity sourcing, but "[n]one have committed to refraining from causing or contributing to involuntary resettlement or being an immediate beneficiary of expropriation by a host government when acquiring land." (Source: Cole, "Companies Spoke. Did Their Suppliers Listen? Tracking Behind the Brands Sustainability Commitments through the Supply Chain with the 'Agribusiness Scorecard.'")



- **Addressing power and resource imbalances to support resource rights:** One step to address such imbalances is paying for communities' technical support needs throughout the lifecycle of an investment. SDG-aligned companies avoid the risk of such payments becoming a lever of undue influence over communities by making such payments through innovative solutions such as basket funds, which decouple and anonymize financial contributions from the support that is funded.³⁵
- **Participating in collective action initiatives to build leverage:** Increasing leverage through country-level collective action initiatives with other companies to support suppliers in complying with policy commitments.
- **Pursuing alternative business models that avoid land transfer:** Using leverage and supporting suppliers in pursuing alternative business models that avoid the transfer of resource rights from smallholder farmers and local community members and promote responsible land investments.³⁶ For example, supporting the establishment of farmer-owned cooperatives, contract farming arrangements that maintain land rights,³⁷ and ensuring a fair share of benefits and participation in decision-making.
- **Protecting local access to water:** Using water efficiently and disposing of water responsibly in industrial and agricultural activities, and using leverage to influence business relationships to do so. Additionally, managing water in partnership with communities, and without depleting water reserves, even when granted extraction rights by local governments. SDG-aligned companies also take action and put in place adequate measures to avoid water pollution.
- **Providing smallholders access to seeds:** Respecting farmers' rights to access seeds, including by using leverage to influence business relationships to freely allow producers to "save, use, exchange and sell their farm-saved seed or propagated material."³⁸
- **Using leverage to support State action to strengthen resource rights:** Supporting relevant government efforts to improve natural resource governance, including those that support smallholders in securing their land rights, through country-level collective action with peer and cross-industry companies, and in coordination with communities and civil society organizations.³⁹ In supporting the documentation of resource rights, SDG-aligned companies do not influence the way in which local land rights are adjudicated or documented to their benefit and at the expense of smallholders.⁴⁰
- **Supporting environmental and land rights defenders and groups:** Recognizing the vital role played by civil society organizations and land rights defenders in raising concerns regarding the impacts of value chains, SDG-aligned companies respect their rights and use their leverage to influence business relationships where they, or their use of security forces, threaten those exercising their rights.

4. ESTABLISH AND PARTICIPATE IN EFFECTIVE GRIEVANCE MECHANISMS & PROVIDE OR ENABLE REMEDY

4.1. ESTABLISH GRIEVANCE MECHANISMS

To ensure prompt access to adequate remedy, SDG-aligned companies have, and use their leverage to ensure business relationships in their value chains have effective grievance mechanisms.^f Operational-level grievance mechanisms are developed together with affected communities. These mechanisms are accessible to any person from the community for reporting instances of impacts on resource rights. Accessibility is enabled by providing financial support to communities in pursuing grievances.

4.2. COOPERATE IN STATE-BASED GRIEVANCE MECHANISMS

SDG-aligned companies cooperate with and support legitimate judicial and non-judicial State-based mechanisms to report and adjudicate impacts on resource rights. Where State-based mechanisms order sanctions or remedy, the companies comply and use leverage to ensure their business relationships comply.

4.3. PROVIDE OR ENABLE REMEDY

When SDG-aligned companies have identified impacts on resource rights in its operations or value chain, it acknowledges its part in the harm done and provides remedy through legitimate processes. Where the company did not cause or contribute to the harm directly, it enables remedy through legitimate processes.^g Remediation actions determined in partnership with affected stakeholders include:

- Restitution by returning land to rights holders who were arbitrarily or unlawfully deprived.
- Restored access to natural resources.
- Just, fair and lawful compensation when restoration is not possible.
- Guarantees of non-repetition.⁴¹

f. As defined by the UNGPs' Effectiveness Criteria for Non-Judicial Grievance Mechanisms ("In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be: (a) Legitimate... (b) Accessible... (c) Predictable... (d) Equitable... (e) Transparent... (f) Rights-compatible... (g) A source of continuous learning... Operational-level mechanisms should also be: (h) Based on engagement and dialogue...") (see UNGP 31 for further information). (Source: United Nations, "Guiding Principles on Business and Human Rights: Implementing the United Nations' 'Protect, Respect and Remedy' Framework," 2011, https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

g. Coca-Cola, PepsiCo, Nestlé, and Illovo Sugar Africa have committed to ensuring remediation of land rights violations, and major agribusinesses, Olam and Wilmar "have committed to providing for or cooperating in remediation of adverse impacts related to land tenure across their supply chains." (Sources: Fawcett and Zweben, "Shining a Spotlight: A Critical Assessment of Food and Beverage Companies' Delivery of Sustainability Commitments"; Cole, "Companies Spoke. Did Their Suppliers Listen? Tracking Behind the Brands Sustainability Commitments through the Supply Chain with the 'Agribusiness Scorecard.'")



5. TRACK PERFORMANCE

SDG-aligned companies track the implementation of measures to meet the standard within their target dates through qualitative and/or quantitative outcome-based performance indicators on an ongoing basis and in partnership with qualified independent professionals, and relevant actors in their value chains. The following are some examples of performance indicators to track implementation of measures to recognize and respect legitimate rights (including informal rights) to land, water, seeds, and other natural resources and support responsible agricultural investments:

- Percentage of investments in or sourcing from alternative business models that avoid the transfer of resource rights from smallholder farmers and local community members.
- Percentage of new investment plans, mitigation measures, compensation, or benefit-sharing mechanisms developed through participatory processes.
- Percentage of resource-related decision-making processes that involved comprehensive participation of women and other underrepresented groups.
- Percentage of relevant investments and business relationships that manage water resources in partnership with communities.

SDG-aligned companies track the effectiveness of their efforts to meet the standard and adjust their efforts based on data gathered through, among others, the following mechanisms:⁴²

- Third-party human rights impact assessments and labor rights-oriented audits.
- Community data collection and ground-truthing.⁴³
- Surveys, interviews, other feedback mechanisms to collect perspectives from potentially affected stakeholders, as well as civil society organizations, with a focus on those most vulnerable to impacts.
- Complaints and grievances raised through grievance mechanisms.

6. DISCLOSE PERFORMANCE

To enable transparency and accountability, SDG-aligned companies communicate publicly on their performance against their resource rights commitment and targets, particularly when concerns are raised by or on behalf of affected stakeholders. Where relevant, SDG-aligned companies also share aggregate data and high-level findings directly with affected stakeholders and organizations, including human rights organizations and researchers.

Regular public disclosure is accurate, clear, accessible, and third-party verified information about the actual and potential impacts on resource rights in their operations and value chain, their efforts to address these to implement their policy commitment, and performance against targets. Disclosure includes sufficient information to evaluate the adequacy of the company's approach and activities. Formal disclosure includes information on the following:

- Information about their agricultural commodity supply chains, including:
 - Names of suppliers for key commodities, with maps of supply chains to the farm level.
 - Supplier performance against the expectations stemming from company policies, particularly in high-risk supply chains.
 - Grievances related to resource rights reported.
 - The engagement with and, in cases where necessary after failed attempts of engagement, the suspension of suppliers based on resource rights impacts.^h
- Full assessments of natural resource rights-related risks and impacts.ⁱ
- Efforts to advocate for governments, peer companies, and suppliers to address systemic challenges to securing resource rights, tackle land grabbing, support responsible agricultural investments, and promote alternative business models to avoid the transfer of land rights.

^{h.} Many consumer-facing companies have already disclosed the names of their palm oil suppliers. Unilever discloses all palm oil suppliers, all grievances related to its palm oil supply chain, and a list of suspended suppliers. Nestlé publicly reveals 95% of its "core agricultural product supply chains", AB Sugar provides a map of all of its mills and Illovo Sugar Africa provides all mill contacts on its website. (Source: Burt et al., "Behind the Brands: Independent Evaluation of Implementation of Land Rights Commitments.")

^{i.} Coca-Cola, PepsiCo, Nestlé, and Illovo Sugar Africa have published assessments of land-related risks and impacts. (Source: Fawcett and Zweben, "Shining a Spotlight: A Critical Assessment of Food and Beverage Companies' Delivery of Sustainability Commitments.")



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