



# ALIGN

Advancing Land-based Investment Governance



COLUMBIA CLIMATE SCHOOL  
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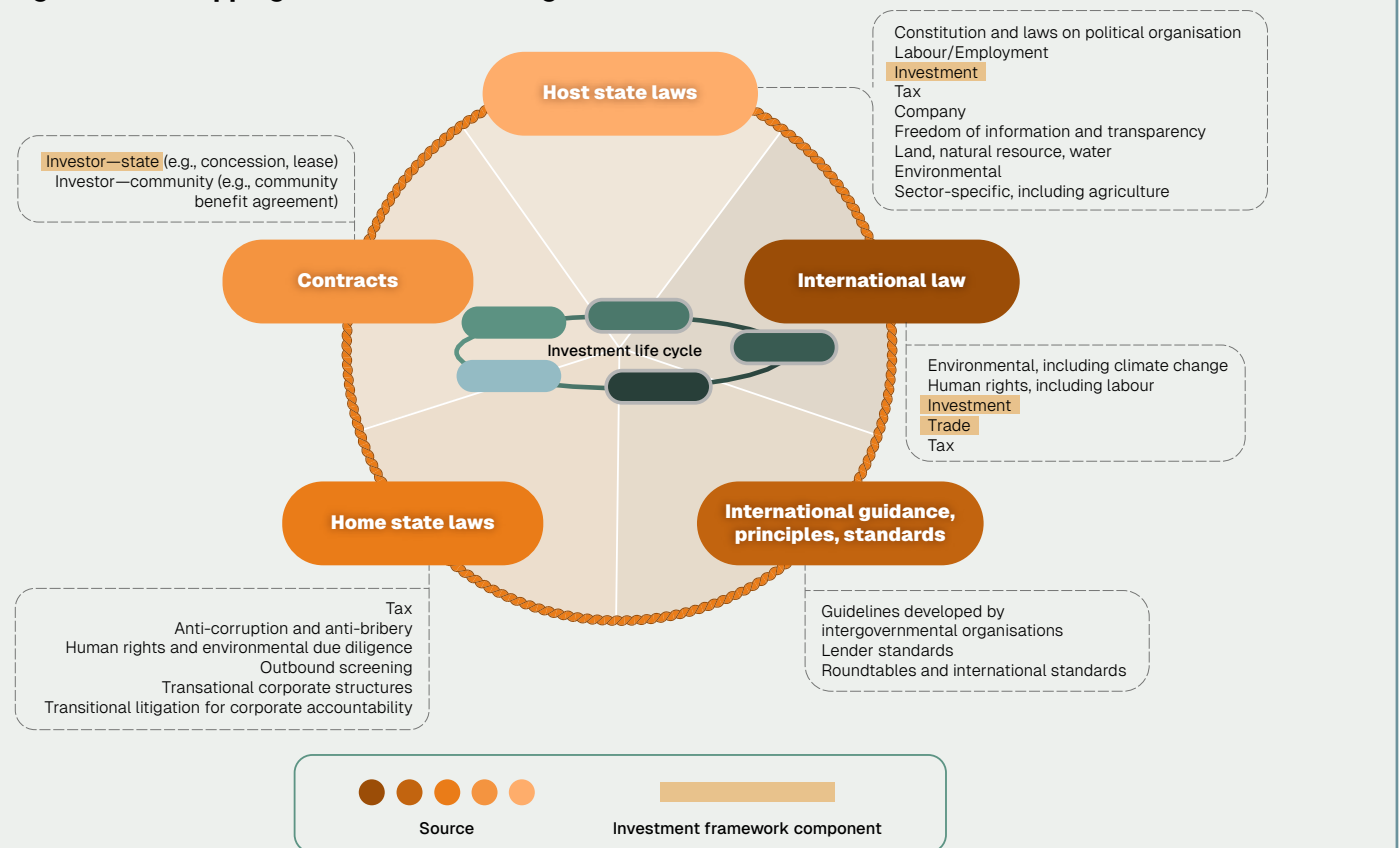


## Governance Flash

# The outsized impacts of investment frameworks on responsible land-based investments

Governments are often seeking responsible investments for sustainable outcomes. Land-based investments are governed by a tangled web of domestic and international rules that overlap with one another and interact with responsible investment objectives. At times, these rules can create barriers for realising responsible land-based investment (RLBI), but they can also be tools to shape responsible practices and sustainable outcomes, if carefully drafted and implemented.

**Figure 1. Overlapping sources of law and guidance for land-based investments**



Source: Adapted from Cotula, L. (2016). Foreign investment, law and sustainable development: A handbook on agriculture and extractive industries. IIED, London.

## What is the problem?

Land-based investments are governed by many different sources of obligations and guidance (**Figure 1**). Investment frameworks are an influential subset of these rules that are made up of **investment treaties, national investment laws** and **investor–state contracts** (see highlighted in Figure 1).

**Figure 2** depicts the key phases of a RLBI life cycle for a proposed large-scale agricultural investment, with essential elements outlined for each phase. Investment frameworks can interact with and shape every element of an investment life cycle: from establishing conditions and safeguards to shaping admission of investment, to operation, monitoring and closure of investment projects.

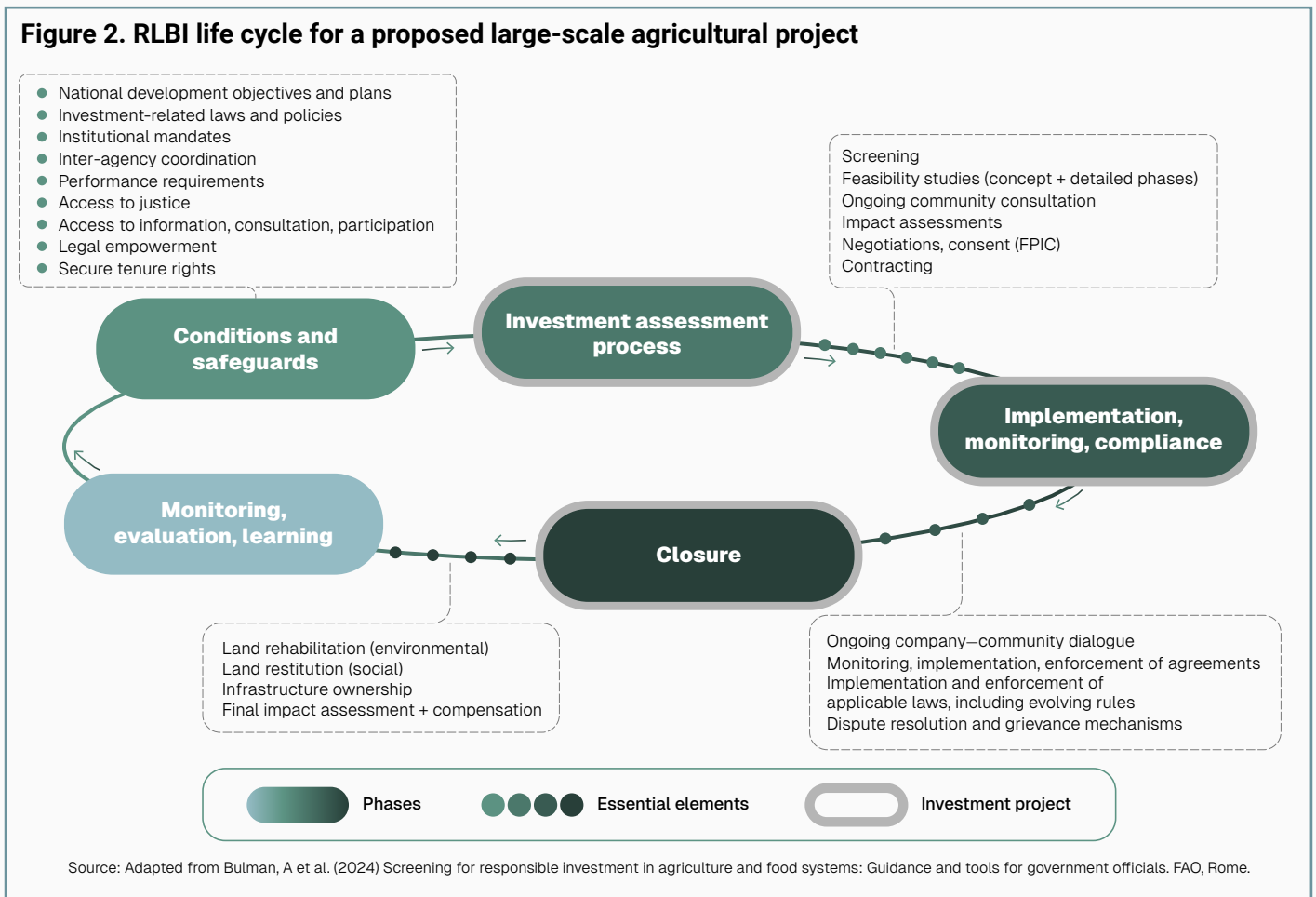
Central to this, investor-state dispute settlement (**ISDS**) is a procedural mechanism that enables

covered investors to bring claims directly against states before international arbitral tribunals. These arbitrations have resulted in multi-million and billion-dollar awards against host states for measures aimed at protecting the local environment and people or otherwise advancing responsible investment objectives.

## Why is this important to governments?

Governments might seek to pursue measures to make investments more responsible but find that existing investment frameworks expose them to liability for such measures.

**Table 1** shows a snapshot example of some points of contact that arise between investment frameworks and RLBI.



**Table 1. Illustrative points of contact between investment frameworks and RLBI**

RLBI Phase	Essential Element	Potential Impact of Investment Frameworks
Establishing conditions and safeguards for investment	Performance requirements, such as training, local employment, technology transfer, local services	Some existing investment treaties contain restrictions that go beyond WTO law, enabling investors to bring successful ISDS claims if states seek to adopt or enforce performance requirements.
Determining assessment of proposed investments	Screening proposed investments	Rigorous screening processes can be constrained by application of pre- and post-establishment investment treaty protections, potentially restricting a government's ability to decline admission of investments based on national screening priorities.
Implementation and monitoring	Implementation and enforcement of applicable rules, including evolving laws or regulations	Investor-state contracts that contain stabilisation clauses can create liability for states seeking to enforce new or modified rules applicable to investments. Some ISDS tribunals have interpreted certain investment treaty standards to require stability of legal and business environments.
Managing project closure or exit	Addressing land grievances	Investment frameworks that provide investors with access to ISDS can undermine the ability of host states to meaningfully address land grievances experienced by other stakeholders – at project closure/ exit or throughout the project life cycle.

## What governments can do

Governments can:

1. Seek context-specific advice and technical support on how investment frameworks interface with RLBI interface in their specific country or region
2. Explore terminating, withdrawing from or deeply reforming outdated investment treaties that have failed to yield sustainable development benefits for host economies and populations, bringing instead considerable societal and financial costs, and
3. Work with other relevant actors to reshape national and international investment frameworks so that they advance rather than constrain responsible investment objectives.

### Want to know more?

Coleman, J. and Bulman, A. (2026) Investment frameworks and responsible land-based investments: Illustrating points of contact. IIED, London.

### Get in touch!

We welcome conversation on this topic. If you have information or ideas to share, contact Jesse Coleman ([jesse@change-collective.co](mailto:jesse@change-collective.co)) and Anna Bulman ([anna@change-collective.co](mailto:anna@change-collective.co)).

ALIGN supports governments, civil society, communities and peoples, and other relevant actors in strengthening the governance of land-based investments. The project is implemented by a consortium led by the International Institute for Environment and Development (IIED), the Columbia Center on Sustainable Investment (CCSI) and Namati, and is funded with UK International Development from the UK government.

Find out more: [www.iied.org/align-advancing-land-based-investment-governance](http://www.iied.org/align-advancing-land-based-investment-governance)  
Contact: [align@align.org](mailto:align@align.org)

**ALIGN Governance Flash:** a series of short guidance notes designed to alert government officials of critical land-based investment governance considerations and possible responses to issues that might be falling through the cracks, leading to conflicts and poor outcomes.

This Governance Flash has been produced by CCSI and IIED as part of ALIGN, however the views expressed do not necessarily reflect the official views or policies of ALIGN partners or the UK government.

