



Food and Agriculture
Organization of the United
Nations

Office of Evaluation

Strategic Evaluation of FAO's work on tenure, rights and access to land and other natural resources

Final evaluation report

Final
January 2012

Food and Agriculture Organization of the United Nations

Office of Evaluation (OED)

This report is available in electronic format at: <http://www.fao.org/evaluation>

Permission to make copy, download or print copies of part or all of this work for private study and limited classroom use is hereby granted, free of charge, provided that an accurate citation and suitable acknowledgement of FAO as the source and copyright owner is given. Where copyright holders other than FAO are indicated, please refer to the original copyright holder for terms and conditions of reuse. All requests for systematic copying and electronic distribution, including to list servers, translation rights and commercial reuse should be addressed to copyright@fao.org.

For further information, please contact:

Director, OED
Viale delle Terme di Caracalla 1, 00153
Rome, Italy
Email: evaluation@fao.org

The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of FAO concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. The mention of specific companies or products of manufacturers, whether or not these have been patented, does not imply that these have been endorsed or recommended by FAO in preference to others of a similar nature that are not mentioned.

Contents

Acknowledgements	vi
Composition of the Evaluation Team and Expert Panel	vii
Abbreviations.....	viii
I. Executive Summary	1
Background.....	1
Summary of main findings and conclusions	1
The role of tenure, rights and access to land and natural resources (TRA)	1
TRA situation in the developing world today and the links to governance	1
FAO support to TRA 2006-2010	2
Assessment of Land-related TRA work (2006-10)	3
Cross-cutting TRA themes	4
Review of the TRA work related to Water, Forestry, Wildlife and Fisheries	7
Others involved in TRA related activities and their complementarities with FAO work	8
Key gaps and future challenges.....	8
Main recommendations	9
II. Introduction	12
Evaluation objectives.....	12
Approach and methodology.....	12
Report Structure	14
III. Background and Context.....	14
Development of FAO's interest in tenure, rights and access to land and natural resources (TRA) .	14
Scope of FAO's support to TRA.....	15
Structure for TRA work.....	15
Programming of tenure, rights and access work	15
Financial resources for normative work.....	18
Financial resources for field projects	19
Human resources for TRA work	19
Partnerships and alliances.....	20
IV. Land Sector: Assessment of Performance 2006-2010	21
Normative work of the Land Tenure Team	22
Publications	22
Conferences and workshops	25
Solutions for Open Land Administration (SOLA)	29
FAO field programme in land tenure.....	30
Meta-evaluation (ME) of past evaluations in the land sector.....	31
Review of selected field projects in the land sector	33
FAO-World Bank Cooperative Programme (CP) in Land Tenure.....	35

V.	Key cross-cutting themes and programme areas	41
	Gender and disadvantaged groups.....	41
	Emergencies	45
	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security	48
	The Voluntary Guidelines and other natural resources	49
	Large-scale Land Acquisitions	52
VI.	Review of FAO support to TRA for other natural resources	55
	TRA challenges and opportunities related to water: water rights and alternative means of water allocation	56
	Water and TRA: FAO's contribution.....	57
	TRA challenges and opportunities relating to forests: FAO and the global priorities related to forest tenure, and rights and access to forests	62
	Forests and TRA: FAO's contribution	66
	FAO TRA challenges and opportunities related to wildlife.....	72
	Wildlife and TRA: FAO's contribution.....	73
	TRA challenges and opportunities related to fisheries: rights and access to ocean and inland capture fisheries and aquaculture.....	77
	Fisheries and TRA: FAO's contribution.....	79
	An Evaluation Team perspective on TRA activities in FAO related to the “other” natural resources – water, forests, wildlife and fisheries	83
	TRA elements in non-TRA projects.....	84
	In-house collaboration	85
	LEGN has made valuable input on TRA challenges related to other natural resources	85
VII.	Future Directions of FAO Support to TRA	86
	What others think: FAO's TRA activity in the future	86
	The evaluation team's perspective on how TRA elements relate to the rest of what FAO does that contributes to sustainable food security and poverty reduction.....	87
	Proposed strategic visioning exercise to determine the best way forward for FAO's TRA activity	92
	Additional Suggestions in terms of the future of TRA work in the FAO.....	94
VIII.	Recommendations	98

Annexes

Annex 1: Documents consulted.....	101
Annex 2: Inventory of tenure-related field projects as identified by FAO staff, 2006-2011.....	108
Annex 3: Stakeholder Perception Study.....	112
SPS Appendix 1: List of interviewees.....	137
SPS Appendix 2: Methodology.....	143
Annex 4: Web-based surveys of FAO staff, member countries and CSOs.....	145
Survey Appendix 1: Questionnaire Schedules.....	169
Annex 5: Meta-synthesis of past evaluations.....	190
Annex 6: Review of field operations in selected countries.....	212
<i>Serbia</i>	212
<i>Lithuania</i>	214
<i>China</i>	216
<i>Africa (region-wide)</i>	218
Southern Africa.....	219
<i>Namibia</i>	220
<i>Mozambique</i>	221
<i>Angola</i>	223
Emergency and rehabilitation.....	228
<i>Tajikistan</i>	228
<i>South Sudan</i>	229
Annex 7: Inventory of normative work.....	231
Annex 8: Citation analysis and website hits.....	238
Annex 9: Concept Paper.....	240
Concept Paper Appendix 1: Background on FAO Cooperation in Tenure, Rights and Access to Land and other Natural Resources.....	245
Concept Paper Appendix 2: Possible Framework for the Evaluation.....	248

Acknowledgements

In the process of compiling this document, the evaluation team received information, advice and assistance from numerous FAO staff and consultants in HQ and in regional and country offices, as well as from the Expert Panel. FAO's international partners and collaborators in governmental institutions and civil society organisations have also been very helpful to the evaluation. Finally we also gratefully acknowledge the very useful feedback received from FAO staff on an earlier version of this report.

Composition of the Evaluation Team and Expert Panel

Evaluation Team

Mr Martin Adams, Evaluation Team Leader (United Kingdom/Republic of Ireland)

Mr Hans Gregersen, Evaluation Team Member (United States)

Ms Zongmin Li, Evaluation Team Member (China/United States)

FAO Office of Evaluation

Mr Carlos Tarazona, Evaluation Manager (Peru)

Mr Enrique Lora, Evaluation Officer (Mexico)

Ms Brenna Moore, Evaluation Analyst (South Africa/Australia)

Expert Panel

Mr Jorge Muñoz, Land Tenure Adviser, World Bank (Bolivia)

Ms Ruth Meinzen-Dick, Coordinator of CGIAR program on Collective Action and Property Rights, IFPRI (United States)

Mr Robin Palmer, Independent consultant (United Kingdom)

Mr Paul van der Molen, former Director Kadaster International and Professor ITC (the Netherlands)

Ms Kay Muir-Leresche, independent consultant (Zimbabwe/South Africa)

Abbreviations

AGRA	Alliance for a Green Revolution in Africa
ARRDL	Afforestation, reforestation and restoration of degraded lands
AUC	African Union Commission
AWF	African Wildlife Foundation
CBD	Convention on Biological Diversity
CFJJ	Legal and Judicial Training Centre (Mozambique)
CFS	Committee on World Food Security
CGIAR	Consultative Group on International Agricultural Research
CIC	International Council for Game and Wildlife Conservation
CIFOR	Centre for International Forestry Research
CIRAD	International Cooperation Centre of Agricultural Research for Development
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLEP	Commission for Legal Empowerment of the Poor
COFI	Commission on Fisheries
CP	FAO/World Bank Cooperative Programme
CPA	Comprehensive Peace Agreement (Sudan)
CPF	Collaborative Partnership on Forests
CSO	Civil Society Organisation
CWGER	Cluster Working Group on Early Recovery (UNDP)
DFID	Department for International development (UK)
DNPDR	National Directorate for the Promotion of Rural Development (Mozambique)
EC	European Commission
EB	Extra-budgetary (resources)
ESA	Agricultural Development Economics Division
EST	Trade and Markets Division
ESW	Gender, Equity and Rural Employment Division
ET	Evaluation Team
FAOR	FAO Representation (country level)
FI	Fisheries and Aquaculture Department
FIG	International Federation of Surveyors
FIP	Fisheries and Aquaculture Economics and Policy Division
FLOSS	Free/Libre Open Source Software
FNOP	FAO Norway Partnership Program
FO	Forestry Department
FOE	Forest Economics, Policy and Products Division
FPMIS	Field Programme Management Information System (FAO)
GCP	FAO/Government Cooperative Programme
GEF	Global Environment Facility
GLTN	Global Land Tool Network
GWP	Global Water Partnership
HIC	High Income Country
HLPE	High Level Panel of Experts on Food Security and Nutrition (for the CFS)
HQ	FAO Headquarters (Rome)
IAH	International Association of Hydrogeologists
ICARRD	International Conference on Agrarian Reform and Rural Development
ICRAF	World Agroforestry Centre
ICSF	International Collective in Support of Fishworkers
IDMC	Internal Displacement Monitoring Centre of the Norwegian Refugee Council
IDP	Internally Displaced Person

IWMI	International Water Management Institute
IFAD	International Fund for Agricultural Development
IGRAC	International Groundwater Resources Assessment Centre
IIED	International Institute for Environment and Development
ILC	International Land Coalition
ILRI	International Livestock Research Institute
ITC	International Institute for Geo-information Science and Earth Observation
ITTO	International Tropical Timber Organization
IUCN	International Union for Conservation of Nature
IUFRO	International Union of Forest Research Organizations
IUU	Illegal, unreported and unregulated fishing
LDC	Least Developed Country
LEGN	Development Law Service
LEP	Legal Empowerment of the Poor
LIC	Low Income Country
LMC	Lower Middle Income Country
LSLA	Large scale land acquisition
LSP	Livelihood Support Programme
LTT	Land Tenure Team
LTU	Lead Technical Unit
MCC	Millennium Challenge Corporation
MDG	Millennium Development Goal
ME	Meta-evaluation
MFI	Multilateral Financial Institution
MICCA	Mitigation of Climate Change in Agriculture
MTP	Medium Term Plan
NR	Natural Resources Management and Environment Department
NRC	Climate, Energy and Tenure Division
NRL	Land and Water Division
NRLA	Former Land Tenure Service
NRLW	Water Development and Management Unit
NWFP	Non-wood forest product
OCHA	UN Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the UN High Commissioner for Human Rights
OED	Office of Evaluation (FAO)
OR	Organisational Result
OSCAR	Open Source Cadastre and Registration
OSRO	Office for Special Relief Operations
PE	Programme Entity
PLAAS	Programme for Land and Agrarian Studies, UWC
PNTD	Participatory and Negotiated Territorial Development
PWB	Programme of Work and Budget
RAF	Regional Office for Africa
RAI	Responsible Agricultural Investment (principles)
RAP	Regional Office for Asia and the Pacific
RECOFTC	The Centre for People and Forests
REU	Regional Office for Europe and Central Asia
RFC	Subregional Fisheries Commission
RLC	Regional Office for Latin America and the Caribbean
RNE	Regional Office for the Near East and North Africa
RP	Regular Programme

SADC	Southern African Development Community
SDA	Former Rural Development Division
SDAA	Former Land Tenure Service
SEAGA	Socio-economic and Gender Analysis Programme
SO	Strategic Objective (of FAO)
SOFA	State of Food and Agriculture
SOLA	Solutions for Open Land Administration
SPS	Stakeholder Perception Study
SSLC	Southern Sudan Land Commission
STDM	Social Tenure Domain Model
TCE	Emergency Operations and Rehabilitation Division
TCI	Investment Centre
TCIA	Africa Service
TCIN	Near East, North Africa, Europe, Central and South Asia Service
TCIO	Latin America, the Caribbean, East Asia and the Pacific Service
TCP	Technical Cooperation Programme
TCS	Policy and Programme Development Support Division
TRA	Tenure, rights and access
UMC	Upper Middle Income Country
UNCCD	United Nations Convention to Combat Desertification
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNJP	United Nations Joint Programme
UNHCR	United Nations High Commissioner for Refugees
UN-REDD	UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
UR	Unit Result
UTF	Unilateral Trust Fund
UWC	University of the Western Cape, South Africa
VGs	Voluntary Guidelines (on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security)
WB	World Bank
WHO	World Health Organisation
WMO	World Meteorological Organization
WWC	World Water Council
WWF	World Wildlife Fund

I. Executive Summary

Background

1. The FAO Programme Committee at its 103rd session (September 2009) requested the Office of Evaluation to conduct an evaluation of FAO work on land tenure and access to land. In view of the strong linkages between tenure, rights and access issues, and the broader focus of recent FAO work in land tenure and water rights, which has also included work on tenure of other natural resources (e.g. forestry, livestock, fisheries), the evaluation's scope has been expanded to reflect this evolution.

Summary of main findings and conclusions

The role of tenure, rights and access to land and natural resources (TRA)

2. FAO's remit covers crops, livestock, fisheries, forestry and wildlife from policy to technical work to training. FAO's sphere of activity is more comprehensive than any other international entity working in food security and agricultural development. Significant progress towards achievement of FAO's goals depends on recognizing and capitalizing on many of the potential synergies that exist within FAO's departments and working with outside partners. The evaluation concludes that in its work on TRA, FAO should take greater advantage of this comparative advantage, integrating its expertise and knowledge related to food security and agricultural development for poverty alleviation.
3. The issues related to TRA that are faced in FAO member countries are as broad as the scope and content of the work being undertaken by FAO. TRA encompasses the technical aspects of land administration; advice to States on the strengthening of customary land rights and the tenure of vulnerable groups; and assisting States with the more political aspects of water rights, forest tenure reform, access rights in fisheries, land use conflicts and control of illegal forest and fishing activities that directly affect the effective economic access to resources by legitimate rights holders, men and women.
4. Progress in all of these TRA areas is a necessary, but *not sufficient* condition for sustainable food security and sustainable poverty reduction¹. Thus, a practical and effective strategy for addressing the Global Goals of FAO must consider how the diverse TRA activities link with the other activities in FAO to create the necessary and *sufficient* conditions for achieving the Global Goals.

TRA situation in the developing world today and the links to governance

5. In the face of greater competition for natural resources, with increasing demographic pressure, climate change, land degradation and the clearing of more land for cultivation, little progress has been made by poorer countries with controlling the rate of depletion of natural resources. To a varying degree, reform of policies, laws and practices are overdue in many Member States.

¹ In this evaluation document, "sustainable food security and poverty reduction" are taken to represent the three main goals of FAO and its members. The third goal is: "sustainable management and utilisation of natural resources, including land, water, air, climate and genetic resources, for the benefit of present and future generations." Taking the last phrase as the operative one, we have combined this goal with the first two by adding the term "sustainable" to food security and poverty reduction.

While being aware of the need for responsible governance to achieve more sustainable and socially equitable management and administration of natural resources, they face numerous challenges, including:

- illegal and irregular allocation of state/public land and other natural resources and lack of transparency and accountability in the public sector
 - weak legal and institutional frameworks, which disregard informal and customary rights, gender and social equity and often discriminate against vulnerable groups;
 - arbitrary eviction of holders of customarily acquired rights from land and forests ;
 - the weakening of customary systems of common property resource management;
 - unsustainable agricultural land use and natural resource exploitation;
 - inadequate, over-centralised, inaccessible and out-of-date land and property records, forest and woodland inventories and hydrological information;
 - high levels of illegal use and extraction of outputs from forests and fisheries;
 - the complexity of establishing, monitoring and enforcing rights regimes over fisheries;
 - inadequate arrangements for dispute resolution, for grievance and redress; and
 - in extreme cases, civil war and natural disasters, some precipitated by climate change.
6. There is an increasing need for FAO to work with Member States on the introduction of gender-sensitive policies and programmes that will give the poor secure access to land and natural resources. Without significant improvements in governance and related measures, effective economic access of poor people to land and other resources is unlikely. Accordingly, there is greater need and urgency for the Organisation to invest in a comprehensive vision and strategy for incorporating TRA into its agenda as a necessary (albeit not sufficient) condition to achieving the global goals.

FAO support to TRA 2006-2010

7. FAO's institutional arrangements reflect the cross-cutting nature of TRA issues. The groups working on TRA challenges and opportunities within FAO include the Land Tenure Team (LTT) within the Climate Change, Tenure and Bio-energy Division (NRC), personnel in the Land and Water Division (NRL), in the Investment Centre (TCI), in the Regional Office for Europe (REU), the Fisheries and Aquaculture Policy and Economic Division (FIP), the Forestry Department (FO) and the Water Development and Management Unit (NRLW). The Gender, Equity and Rural Development Division (ESW) advises on gender and land issues and the Development Law Service (LEGN) provides support on legal matters. The Emergency and Rehabilitation Division (TCE) liaises with the land tenure group on post-emergency technical support and the Trade and Markets Division (EST) engages on matters relating to large-scale land acquisition by investors. Some decentralised offices have also been working on TRA-related issues. Personnel in Fisheries, Forestry and Water Department have also been working on very important TRA issues.
8. The evaluation finds that there is a lack of coordination and convergence between the various groups within FAO that deal with TRA issues. Further, there are currently few real incentives to change this situation. The evaluation concludes that if staff members are to stay within their divisions and to devise and agree a joint work programme, then stronger management support is necessary. It further concludes that the acceptance of any proposal for reorganisation should follow from an agreed vision and strategy for future work agreed by the tenure group as a whole.

Assessment of Land-related TRA work (2006-10)

9. **Normative activities:** Following the ICARRD in Brazil in 2006 work advanced on the governance of land tenure under the regular programme and the umbrella of the Livelihood Support and the Legal Empowerment programmes. The tenure components of the two major partnership programmes encouraged better collaboration between the land tenure group and the FAO divisions responsible for other natural resources. Extra-budgetary funds for consultations on the VGs became available in 2009. In the review period, the number of publications on FAO's Land Tenure web pages increased in quantity and in quality; linkages between the normative and field operations were also improved. Overall, the programme of normative work of the LTT appears to have been effective, efficient and relevant, reflecting the high level of professional competence and wide experience of team members.
10. The evaluation team finds FAO's land tenure publications to be a valuable resource, with the potential to deliver useful information to a range of actors: officials (administrative and technical cadres), CSOs, researchers and academics. The evaluation concludes that more attention should be given to tailoring the pages of the global land tenure website to the needs of particular actors, sub-regions and language groups.
11. The ET finds that FAO's global land tenure website is not as well known as it deserves to be. Ways should be found of publicising the available tenure resources more widely. These include the LTT publications, the Gender and Land Rights Database and the very useful tenure-related publications of the FAO Development Law Service. Access via the FAO home page to the TRA-related pages could be more closely integrated and made more user-friendly.
12. The evaluation concludes from country visits, from the Stakeholder Perception Study and from the responses to the survey questionnaires that regional and country-level personnel wish to learn much more about TRA issues. Small, sub-regional workshops dealing with TRA issues were greatly appreciated by participants. Joint efforts have recently been made by FAO and its partners to develop training manuals on tenure-related issues that are likely to arise in emergency response and disaster risk management. A follow-up plan of action should provide for training courses in these aspects for sub-regions most at risk.
13. **Land tenure field programme:** In the review period (2006-2010), the field programme involved the provision of technical assistance for 42 field projects. The focus was Eastern Europe, Central Asia and to a lesser extent sub-Saharan Africa; and areas affected by conflict and/or major political and economic changes. With the exception of some countries in Central America, there was relatively less TRA work in Latin America. In South East Asia, there were field activities in China and the Philippines. The geographical distribution of projects in the review period was largely the result of country demands and historical factors which drove the work of FAO in those years. Field and desk studies by the evaluation covered half of the TRA related field projects (21 out of 42) carried out during the period under review.
14. The ET also reviewed all OED evaluations which contained information on support to TRA operations. Most of the field projects covered by the meta-evaluation were found to be relevant. Efficiency and effectiveness in achieving outputs varied across the range of interventions. Generally the field programme was found to be relevant to the countries involved and effective in achieving planned outputs. However, it was rarely possible to reach firm conclusions about the sustainability and impact of these outputs.
15. **FAO-World Bank Cooperative Programme (CP) in Land Tenure:** Some 40% (21) of the total projects (50) undertaken in the review period (2006-2010) by FAO's Land Tenure Team (LTT)

were for the World Bank (WB). Over the past ten years, the LTT has provided technical inputs through FAO's Investment Centre (TCI) to the WB on 45 projects in 35 countries. During the WB's Fiscal Year 2010, LTT work in the Europe and Central Asia (ECA) region constituted about 28% of the work delivered by TCI under the CP. The LTT also provided its staff (or supervised outside consultants) on investment projects in Central America (5), sub-Saharan Africa (7) and Southeast and South Asia (12). In view of the high demand for LTT support in the ECA region (21 projects), NRC negotiated the establishment of two staff posts funded by the CP to support WB projects in this region, under the LTT's technical supervision.

16. Judging by the evidence presented by TCI and WB informants, the programme scores highly in terms of service delivery and the contribution made by FAO. However, concerns were expressed by internal and external informants of an overconcentration by FAO on land administration in Eastern Europe and Central Asia for the WB as compared with the amount of work done in poorer countries. The ET's attention was drawn to the lack of alignment of WB and FAO's priorities, the use of FAO staff as consultants and FAO being less strategic in its work and more opportunistic.
17. The evaluation team finds that the volume of tenure related work conducted through the CP has led to an imbalance in the overall project portfolio of the LTT and a shortage of land tenure advisors with experience in other regions. The funding available to the LTT through the TCI appears to have favoured a particular type of work at the expense of a more holistic programme, both regionally and in technical content, that focuses more on the poorest of the poor². Further, several stakeholders interviewed by the ET perceived that the strong relationship of FAO with the WB on land tenure issues was influencing the type of work undertaken, which could thereby potentially undermine one of FAO's recognized comparative advantages – namely its neutrality and 'honest broker' image.

Cross-cutting TRA themes

18. **Gender and TRA:** 'Gender equity in access to resources, goods, services and decision-making in rural areas' has been one of FAO's eleven Strategic Objectives since 2010. Gender sensitivity is necessary in all TRA projects, not only the few projects which specifically focus on women. The evaluation finds that there has been good integration of gender insights into TRA work, which is based on a dual strategy: maintenance of a relatively strong TRA capacity in the unit responsible for mainstreaming gender (i.e. ESW), and the inclusion of gender-sensitive expertise among all the units working on land tenure. As recommended by the 2010 evaluation of FAO's role and work on gender, approved by the FAO Conference in July 2011, the evaluation team supports the increase of gender capacity, particularly at regional level, as it will allow FAO to keep abreast of the expanding needs for guiding the mainstreaming of gender-sensitive TRA for land and other natural resources in the regions.
19. **Post-emergency support for TRA:** Given the increasing importance of TRA issues in FAO's emergency and rehabilitation work, the ET examined the records of recent FAO interventions in countries emerging from post-conflict situations. Both interventions followed political settlements after civil wars. In each case, the assistance to the land sector was a component of a larger programme. In Tajikistan, the poorest country in Central Asia, FAO was deemed successful in assisting with the reorganisation of state farms into family farms in partnership

² "FAO's vision is of a world free of hunger and malnutrition where food and agriculture contributes to improving the living standards of all, **especially the poorest**, in an economically, socially and environmentally sustainable manner." (emphasis added) . Source: FAO's Strategic Framework and Medium Term Plan of 2009.

with UNIFEM (now UN-Women) to ensure gender-sensitive land redistribution. In Southern Sudan, however, the resources available were found to be wholly inadequate. The ET was variously informed that FAO was unable to spare staff due to prior commitments to the FAO/WB Cooperative Programme and/or was unable to raise the necessary funds from donors. Internal differences on how to approach TRA related issues in post-emergency contexts played a role. The scarcity of resources and the unavailability of staff at short notice were at the root of the problem.

20. Progress has been made with the compilation of manuals for training country-level staff in risk-mitigation and response, and with the proposal for a consultancy position (yet to be filled) within the LTT to deal with land tenure issues arising in post-emergency contexts. However, the evaluation concludes that, given the evidence of the increasing scale and frequency of emergency work, an additional short-term consultant at HQ dedicated to the topic can provide only a temporary respite. More resources will be needed if FAO is to play a useful role in reducing the impact of conflict-related emergencies and to advise and assist with TRA issues arising from natural disasters. There is also a need to sensitize and build the capacity of FAO staff at HQ, regional, sub-regional and country levels to deal with TRA issues in emergencies and in the recovery phase.
21. **Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the VGs).** Because of the cross-cutting nature of the VGs, mechanisms were developed by the LTT for interacting with other organisational units within FAO. The magnitude of the task and the need for extra-budgetary resources also required FAO to partner with other international actors and donor organizations. Within FAO, the consultations succeeded in sufficiently accommodating the wishes of fisheries and forestry for the respective departments to remain part of the process. The ET finds the content of the draft VGs to be comprehensive in the coverage of the essential policy principles.
22. It concludes that FAO was correct in taking water out of the process for the various reasons put forth. At the same time, it believes that if extra-budgetary funding can be found it should be a priority of FAO to produce a set of VGs for water along with the water implementation guidelines that already are started.
23. It is premature for the evaluation to reach a conclusion as to whether the investment in the VGs was worthwhile. So far, the principal investment has been in the consultation process, about which the evaluation team received generally positive feedback, and which will no doubt contribute to the credibility of the VGs and raise the profile of tenure issues. This is in itself a very important achievement. The process has provided an opportunity for FAO to interact on a variety of critical issues with the Member States, civil society groups and private sector actors.
24. The evaluation recognises that obtaining a satisfactory return on the investment will be very challenging. There is no doubt that it has been expensive. In addition to a large proportion of the regular budget and some USD 4.6 million in extra-budgetary support, it has taken up much of the staff time available for work on land tenure, and to a lesser extent on TRA related issues in water, forestry and fisheries, since 2008.
25. The evaluation has been informed that serious consideration has been given to developing options for the implementation of the VGs, but decisions on 'roll out' must await the approval of the VGs by the CFS and requests for assistance from Member Countries. Set-piece policy development processes that embrace all the relevant guidelines are unlikely to be feasible for most countries, which will wish to tackle their many and complex tenure issues by adopting a

more incremental approach. To obtain buy-in from poor countries in Africa and Asia will be most difficult. This is where governance of tenure is most in need of attention.

26. While Member States clearly have the right to develop their own approaches, FAO should nevertheless be pro-active in pursuing issues that are of concern to the Organisation. The guidance documentation for VG implementation should not be constrained by the consensus nature of the VGs, but represent a clear FAO position on key issues. Guidance should be sector-specific, dealing not only with land governance but forestry, fisheries and water governance as well, within a coherent and integrated vision of what elements are important in terms of contributing to achieving the basic goals of FAO and its members.
27. **Large-scale Land Acquisition (LSLA):** LSLA is being driven by rapid increases in food and fuel prices. The land, most often registered as state/public land, under savannah grassland, woodland or tropical forest, is invariably used, at least seasonally, by local people. LSLA threatens their rights and their livelihoods.
28. At the international level, the Trade and Markets Division (EST) commissioned studies of LSLA to raise awareness and influence policy and practice. FAO, with the World Bank, UNCTAD and IFAD are developing a minimum set of 'Principles for responsible agricultural investment that respect rights, livelihoods and resources', the so-called 'RAI Principles'. These aim to provide a framework to which national regulations, international investment agreements, global corporate social responsibility initiatives and individual investment contracts refer. The CFS has agreed that consultation and finalisation of the RAI principles will occur after finalisation of the VGs, which should provide the opportunity for the points made in the VGs on local land rights to be raised in that discussion and for the CFS to be fully briefed on FAO's programme in Mozambique.
29. In October 2010, the CFS requested its High Level Panel of Experts on Food Security and Nutrition (HLPE) to conduct a study on land tenure and international investments in agriculture. The HLPE report was published in July 2011 and contains recommendations related to land rights of local populations which have implications for follow up by the LTT and future FAO support to TRA.³ Broadly, the role of FAO in this area would be to provide sound counsel to governments and development agencies on how to manage the LSLA process, a role in which FAO has considerable credibility and experience gained through its TRA field programmes and its role in the gathering of international agricultural statistics to monitor the situation. The ET agrees with the relevant recommendations in the HLPE report.
30. As the pre-eminent responsible UN body, the evaluation finds that FAO has responsibly engaged in the 'land grabbing' debate, fully aware of the sensitivities of the diverse and sometimes conflicting interests among Member States, MFI's, major corporations and international NGOs. At the same time, FAO has commissioned relevant and timely research by recognized world authorities and made the results freely available on its website.
31. On the other hand, the evaluation finds that at the FAOR level the organisation has rarely been able to provide adequate advice to individual Member States on LSLA, due to the lack of resources and information on the topic at country level. An exception to this has been Mozambique, where FAO has been practically involved in with communities since the mid-1990s devising and testing procedures to promote community-investor partnerships involving

³ Recommendations 3 and 12: http://typo3.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE-Land-tenure-and-international-investments-in-agriculture-2011.pdf.

agriculture, forestry and wildlife development projects, with growing success. FAO has also provided assistance to Ethiopia under TCP/ETH/3302 'Technical Assistance to Investment Support Directorate' since May 2010.

32. **Land Rights and REDD:** The evaluation notes that LSLA and the consequent agricultural or other development on the land are a main direct cause of deforestation. Since FAO is also a major actor in terms of developing strategies and programs to help reduce deforestation (e.g. the UN-REDD connection), it has an opportunity to take advantage of some of the potential synergies between its work related to LSLA and that related to deforestation. FAO is now involved in UN-REDD and that work can be informed by FAO and partners' work on LSLA and vice versa. Also, deforestation issues should be considered as a central part of the RAI principles.

Review of the TRA work related to Water, Forestry, Wildlife and Fisheries

33. Challenges to tenure, rights and access to resources other than land – water, forests, fisheries and wildlife – are as critical as they are for land. Secure, effective economic access to these resources is a necessary condition for sustainable food security and poverty reduction in most countries. Challenges include:
- dealing with illegal activity in the fisheries, wildlife and forestry sectors that rob legitimate rights holders of the benefits due to them;
 - instituting sustainable management plans and practices in situations where access rights are difficult to establish, monitor and enforce due to the mobile and often transboundary nature of fishery resources, which are already subject to over-harvesting and large if not excessive numbers of rights claimants;
 - pervasive poverty and insecurity of poor people without adequate long-term rights to access these various resources; and
 - forest tenure reform related to public domain forests – in most tropical nations, public domain forests are 80 or more percent of total forest area, and hundreds of millions of poor people depend on these forests for their survival.
- Secure economic access to these resources has a number of direct and indirect links to FAO's major goals of *sustainable* food security and poverty reduction.
34. FAO has been short of funds for TRA activity related to 'other natural resources'. During the review period, around US\$ 1 million of extra-budgetary funding was devoted to normative TRA activities for water, forests, and fisheries. Most of this was for preparation of contributions to the VGs and related work on implementation guidelines. Almost all of the normative work on TRA from within FAO was contributed on an *ad hoc* basis. FO had a few paid consultants at various times during the evaluation period; and the LTT person managing the VG process also worked on the forestry and fisheries inputs.
35. Given the scarcity of funds, the normative TRA work accomplished for these 'other' natural resources is significant and of good quality. The scope and content of the normative outputs generated in forestry, water, fisheries and wildlife support the conclusion that FAO professionals understand the critical importance of secure, effective economic access to resources for the attainment of the goals of FAO and its members, despite the paucity of funding.
36. With regard to field operations related to these natural resource areas, it was initially thought that there was a dearth of projects dealing with TRA issues. However, based on a more thorough look at projects dealing with these other natural resources, the ET reached the conclusion that there were significant TRA elements in many projects, where such elements were neither mentioned in their title nor in project summaries. In total, about one fifth of all

non-emergency FAO projects approved since 2006 with budgets over US\$ 2.0 million contained notable TRA elements. There was insufficient time to check each of the projects to see how the TRA questions and challenges were (or are being) handled, the extent to which TRA expertise was used or could have added to the positive results from the projects, and the extent to which the TRA elements led to useful lessons for the future. A more thorough look at this part of the FAO TRA work is needed.

37. Different units within FAO have worked together on TRA challenges. However, we conclude, and many of the respondents in the stakeholder analysis agree, that there are opportunities for increased collaboration in TRA activity that will further sustainable food security and poverty alleviation. Dedicated funding is needed to provide the incentive for this type of collaboration. To attract further funding, FAO should sort through the possibilities for collaborative work and establish priorities and modalities for action in order to provide a coherent structure of TRA activity with a defined pathway toward more sustainable food security and poverty reduction.

Others involved in TRA related activities and their complementarities with FAO work

38. The Meta-Evaluation describes numerous ways in which work on TRA has been conducted in collaboration with partners, including UN organisations, international donors and other external stakeholders such as international and national CSOs/NGOs and research centres. The World Bank (WB) is a major partner of FAO in TRA work through the FAO-WB Cooperative Programme, particularly in countries in transition in Eastern Europe and Central Asia, and in specific projects as in Honduras and China.
39. FAO has developed partnerships with several UN Agencies for the development of normative products and for field operations – UNCTAD, UNDP, UNEP, UNHCR, UNHSP, UN-WOMEN; the most prominent being UNHSP, aka UN-HABITAT. The Stakeholder Perception Study (Annex 3) reports different perceptions of the complementarity between FAO's TRA work and that of UN-HABITAT. Their work potentially intersects in peri-urban areas and it is therefore in the interests of Member States that the two agencies collaborate. They have successfully cooperated on several publications and UN-HABITAT contributed funds and participated in the VGs process; some issues were strongly debated. The ET believes that there are indeed important synergies between the work of FAO and UN-HABITAT, and that greater collaboration could usefully occur between them in future.

Key gaps and future challenges

40. These are identified as follows:
 - a. **There is a lack of shared awareness** of what must be done in order to make sure that FAO's support to TRA is more relevant to achieving the Global Goals of FAO and its Members. The currently restricted understanding of the scope and content of TRA stems from a lack of appreciation of the potential benefits of more closely integrating TRA work with FAO's other programme areas. FAO has a strategic plan and individual Departments and Divisions have strategic plans, but TRA is not a focus or even a minor element of concern. First, the TRA units should agree in principle on what needs to be done to ensure that TRA work in FAO is expanded and awareness raised on its contribution to sustainable food security and poverty reduction. A vision of what is necessary is important for FAO to internalise the role of FAO in achieving its Global Goals. Having a strategic plan for TRA will strengthen and serve as a guide for future institutional planning of TRA work. This vision has to come from FAO and be clearly owned by officers in all the relevant divisions both in HQ and in the field.

- b. **Operational uncertainties:** From the operational point of view, there is a lack of clarity about how to move ahead with the next phase of the VGs process. The follow-up process must be driven by Members' requests and the content and scope of such requests is presently unclear. A possible strategy would be to convene a series of small-scale, sub-regional consultative workshops which would identify and focus on specific policy principles, challenges or topics where the VGs might provide ways and means for resolution, e.g. harmonisation of customary and statutory law; statutory recognition of customary rights and implications for land administration; decentralisation of land administration; land tenure regularisation in peri-urban areas; access to information, justice and training; and gender equity; issues related to large-scale land acquisitions and community-investor partnerships.
- c. **Funding constraints:** Currently, the main gap is in TRA work related to the other natural resources, to which hardly any resources have been devoted. But, the scarcity of RP and EB funds may not be a constraint in the future judging by the evidence that good ideas, with a coherent statement on how they relate to the members goals, can get funded. It is understood that, contingent on the approval of the VGs by the CFS, FAO has entered into talks with prospective donors for the next phase. The TRA work related to UN-REDD may also be able to secure additional support for forest related TRA work through the UN-REDD programme and its sponsors.
- d. **Professional training:** In tandem with the roll out of "implementation of the VGs", it will be necessary to organize workshops/seminars and develop learning materials for FAO staff including in regional, sub-regional and country offices, to train them on the policy principles behind the TRA strategy and relevant regional/country elements (such as TRA issues in disaster risk management, large scale land acquisitions, etc.) Training will also be needed at the sub-regional and country level of government officials and NGOs engaged in land rights advocacy and public interest law, and risk mitigation and post-emergency response in TRA matters. For this purpose, FAO should work in partnership with local organisations specialising in such training (e.g. PLAAS, CFJJ).
- e. **Professional staffing:** The ET is aware that addressing some of the above gaps will require strengthening FAO capacity to deal with TRA issues, both at HQ and in the field. It is understood that under the Regular Programme any expansion is unlikely, beyond the likely creation of a TRA related position in the Forestry Department in 2013 or 2014. Filling key gaps will thus be contingent on moving forward with the next phase of the VGs, linking normative and field operations with the latter (perhaps with long-term multi-bilateral assistance), and the development of a strategic plan anchored in a understanding of FAO TRA priorities.

Main recommendations

- 41. Under this heading, the evaluation team has confined itself to what it considers to be recommendations of strategic importance.
- 42. **Recommendation 1:** *FAO should carry out an assessment of its strategic options for strengthening its TRA work in relation to achieving the basic goals of FAO and its members.* Significant progress towards achievement of FAO's Global Goals depends on recognising and capitalizing on many of the potential synergies that exist for TRA activity. This would require that FAO upgrade its approach to TRA and make greater use of its main comparative advantage, namely the breadth and depth of its portfolio of expertise and knowledge related to food security and agricultural development, for poverty alleviation. Similar to strategic planning exercises conducted by others within FAO and aligned with the new programming system, the

evaluation recommends that FAO develop a corporate strategic plan for TRA work, perhaps through an inter divisional working group chaired by NR. The task of this group would be to:

- (a) Carry out a thorough diagnosis of the relative importance of tenure, rights and effective economic access to land and other natural resources in achieving increased, sustainable food security and poverty reduction;
- (b) Carry out a “gap analysis” (the gap between what is being done and what needs to be done to improve TRA contributions to achievement of its members’ goals);
- (c) Decide what FAO should focus on more in the TRA arena, making sure that choices consider members priorities and FAO's comparative advantages and that they complement the on-going work related to the VGs and other on-going TRA activity;
- (d) Decide how it should then organize its work institutionally, if more funding is forthcoming, with a stronger focus on the FAO goals; and
- (e) Prepare proposal(s) that would appeal to member countries and resource partners and would use FAO's comparative advantage in strategic partnerships with other entities involved in TRA work.

Improved internal communication and greater interaction among FAO TRA personnel at HQ, regional and country level will be essential for the success of this process.

- 43. **Recommendation 2: *Publicize more widely the outputs of its normative work.*** The evaluation team finds FAO’s land tenure publications to be a valuable resource. They have the potential to deliver useful information to officials (administrative and technical), civil society activists, researchers and academics. More attention should be given to tailoring the pages of the global land tenure website to the needs of particular actors, sub-regions and language groups. It should be publicised more widely, together with the Gender and Land Rights Database and the very useful tenure-related publications of the FAO Development Law Service. Access via the FAO website to the various TRA-related pages could be more closely integrated and made more user-friendly.
- 44. **Recommendation 3: *Undertake more systematic monitoring and evaluation of project performance.*** In the great majority of field projects reviewed, the evaluation was unable to reach conclusions about project impact due to the absence of quantitative approaches involving the use of baseline and follow-up surveys. Without attribution, measured outcomes cannot prove anything about project impact or allow deductions about improved food security and poverty alleviation. In at least a representative sample of field projects, time frames and budgets should allow for more rigorous assessment of outcomes and impact pathways. It is important that resources for this activity be separate from the project budget and that the commitment comes during project preparation.
- 45. **Recommendation 4: *Devise ways to develop a more balanced programme of support to member countries in the area of land tenure.*** During the period under review FAO has been increasingly focused on providing technical services to land tenure initiatives of IFIs through the CP. The funding available to the LTT through the TCI appears to have favoured a particular type of work at the expense of a more holistic programme, regionally and in technical content, that would, for example, focus more on countries having the poorest rural populations. Also, the LTT’s role of making consultants available through the TCI for IFI projects potentially undermines FAO’s independence and its ability to focus on its underlying goals and priorities. The evaluation team believes that if the LTT were to have a strategic plan, which would give higher priority to the overriding Global Goals of FAO and its Members, the focus of its field work would likely shift to poorer countries in Africa, Asia and Latin America. It is recommended that FAO, in coordination with funding partners and anchored on its own strategic plan, devise ways to develop a more balanced and proactive programme in land tenure that gives higher priority

to the needs of poorer countries⁴. Recognizing that FAO is demand driven, this will require a more proactive approach to discussing with countries and generating requests from them for FAO involvement. Due consideration should also be given to assessing and managing perceived reputation risks emerging from heavy involvement in the backstopping of other agencies' land tenure programmes.

46. **Recommendation 5: Provide HQ, regional, sub-regional and country level staff with training and learning resources on tenure, rights and access issues.** The evaluation team notes widespread interest from staff across the regions on TRA issues. It also notes that within FAO a variety of views and understandings about FAO's role in TRA exists. As part of the development of an FAO TRA strategic plan, the evaluation team recommends to organize workshops/seminars and develop learning materials for FAO staff including in regional, sub-regional and country offices to train them on the policy principles behind the TRA strategy and relevant regional/country elements (such as TRA issues in disaster risk management, large scale land acquisitions, etc.).
47. **Recommendation 6: Provide dedicated cover for TRA support for emergencies.** Over the evaluation period, there has been an ongoing and as yet unresolved discussion between TCE and the LTT on how best to provide staff cover for advice and assistance on TRA issues that arise in the course of emergencies. The ET recommends that at least one full time post should be set aside in the LTT for this purpose.
48. **Recommendation 7: FAO should be pro-active in pursuing TRA issues that are of concern to the Organisation in the context of moving towards its Members' fundamental goals.** In this regard, the guidance documentation being prepared to support the implementation of the Voluntary Guidelines should not be constrained by the consensus nature of the VGs, but represent a clear FAO position on these issues, far more specific and focused. Guidance should be sector-specific, as appears to be the plan, dealing not only with land governance but forestry, fisheries and water governance as well, within a corporate strategic plan.
49. **Recommendation 8: Strengthen FAO's role in providing advice and guidance on large scale land acquisitions by foreign investors.** The evaluation concurs with the recommendation of the High Level Panel of Experts on Food Security in their July 2011 report relating to large-scale land acquisitions by foreign investors that the role of 'FAO's Land Tenure Service' in this area should be to provide sound counsel to governments and development agencies on how to manage this process, a role in which FAO has considerable credibility, and for FAO to use its experience in the gathering, analyses and publication of international statistical data to monitor the situation closely. At the same time, given that LSLAs involving forest and woodlands end up becoming a major cause of deforestation, and given that FAO has a major interest in programs aimed at reducing deforestation, the ET recommends that FAO explore the opportunities to take advantage of potential synergies between its work on LSLAs and deforestation.

⁴ "FAO's vision is of a world free of hunger and malnutrition where food and agriculture contributes to improving the living standards of all, **especially the poorest**, in an economically, socially and environmentally sustainable manner" (emphasis added). From FAO's Strategic Framework and Medium Term Plan of 2009.

II. Introduction

Evaluation objectives

50. The overall objectives are: (i) To evaluate FAO's recent past work in tenure, rights⁵ and access⁶ (TRA) to land and natural resources⁷; and (ii) To assess and develop recommendations on future directions and priorities for FAO's work in TRA.
51. In order to achieve these two objectives in the context of FAO's strategic objectives, the evaluation considers the contribution of TRA to progress in achieving the global goals of FAO and its Members States: namely food security, poverty alleviation, and the sustainable management and utilisation of natural resources.^{8,9}
52. In short, the evaluation: (i) assesses the role of TRA elements in achieving FAO's "strategic objectives"; (ii) analyzes and defines how TRA activities do and should fit within FAO's defined "core functions"; and (iii) taking into account past performance, resources and other constraints, what others are doing and have the capacity to do, evaluates and recommends the priorities for the FAO in the area of TRA.

Approach and methodology

53. The approach adopted follows the methodology set out in the Concept Paper (see Annex 9). The key tools for data gathering are: (i) an inventory of FAO's TRA activity; (ii) a Stakeholder Perception Study involving face-to-face meetings and/or extensive phone interviews; (iii) three web-based questionnaire surveys; (iv) a meta-review of past evaluations conducted by OED; and (iv) selected field visits to countries. In addition, desk reviews of FAO's normative and field activities were conducted as an integral part of the above.
54. The inventory of FAO tenure-related field projects, as identified by FAO staff for the period 2006-2011, is in Annex 2 and that of normative work is in Annex 7. ET members reviewed a representative selection of the TRA publications, working papers and conference and workshop reports. In addition, an attempt was made to assess the use and accessibility of FAO normative

⁵ In this report, the meaning of "right" depends on the context. Constitutional lawyers refer to a fundamental "human right" or entitlement (e.g. "everyone has the right to have access to adequate housing"). The term is also used in the context of "traditional rights" of local communities to access and use natural resources. When land administrators refer to a right they may be referring to the privileges or benefits (i.e. rights) attached to a particular tenure category (e.g. to leasehold or freehold).

⁶ "Access" to land and other natural resources is taken to mean "effective economic" access. Thus, for example, individuals may have easy physical and legal access to the land in arid or semi-arid areas with scarce water, but without access to sufficient water they do not have effective economic access to the land in the sense of a productive resource that could contribute towards food security and poverty reduction.

⁷ The TOR for the evaluation did not include the task of evaluating FAO's support to rights to genetic resources for food and agriculture.

⁸ 'Global goals of Members', FAO's 'strategic objectives' and 'core functions' are further defined in Figures 1 and 2 in the Concept Paper in Annex 9.

⁹ As pointed out in chapter VII, we are not ignoring the third general goal of the members, "sustainable management and utilisation of natural resources, including land, water, air, climate and genetic resources, for the benefit of present and future generations." We have taken the final phrase of the goal as the operative one: "... for the benefit of present and future generations." Such benefits, in the context of what FAO can do, will come through achievement of *sustainable* increases in food security and poverty alleviation.

products in the land sector by the analysis of traffic information on the FAO land tenure website and by a citation analysis of selected TRA publications.

55. The Stakeholder Perception Study (SPS) (Annex 3) was designed to provide an essential part of the evidence base for the entire evaluation. The SPS conveys the perceptions of a wide range of stakeholders on the relevance and effectiveness of FAO's work relating to tenure, rights and access issues. By capturing the views of different stakeholders on the same topics (triangulation), the SPS helps to ensure non-partisan representation of opinions on FAO's work. A total of 165 key stakeholders were interviewed as part of this process.
56. Three web-based questionnaires were launched to reach a wider group: (i) FAO staff members, including Country Representatives; (ii) member state governments; and (iii) NGOs involved in advocacy for land rights and sustainable natural resource development. Annex 4 describes the outcome and findings of the web-based questionnaires. While grateful to those who did respond, the Evaluation Team is disappointed by the relatively low response from governments of member countries (36) and from CSOs (7). Fortunately, the response from FAO staff (123 replies) proved useful in number and content.
57. The meta-evaluation (Annex 5) consists of a review of over 35 corporate, country and project/programme evaluations carried out in the period 2006-10 covering issues related to tenure, rights and access to land and other natural resources. It aims to synthesize past findings, conclusions and recommendations made to FAO in relation to its TRA work.
58. Visits were made by the Evaluation Team to a sample of countries, where FAO has had a significant input and which represent the range of TRA activities which FAO supports at country and regional level. These visits provided an insight into the work of FAO in TRA, and an opportunity to draw upon the opinions of national stakeholders within government, the UN system, NGOs and academia at different levels. The visits also allowed the ET to meet with global and/or regional partners (such as UN-Habitat, IFAD and AGRA in Nairobi, Kenya). The objective of the country visits was to gather detailed inputs for the assessment of the relevance and effectiveness of FAO's TRA work.
59. As noted in the Concept Paper, the geographic focus of FAO field work and missions during the evaluation period (2006-10) was in Eastern Europe, Central Asia and southern Africa. In Latin America in general there has not been major work on tenure issues with the exception of TCI and LTT activity in some countries in Central America in support of WB projects, and some small TCPs in South America. In South and East Asia, FAO has conducted some field activities particularly in China and the Philippines. The country visits were selected taking account of the current limited scale of FAO's TRA field work. Consideration was also given to presence of regional and/or country level programmes and staff¹⁰. Criteria for country selection included:
 - A significant number and technical range of FAO supported TRA-related projects in that country;
 - No recent evaluation of either the TRA-related projects nor the overall FAO country programme;

¹⁰ The ET made extensive use of telephone and video-conference (Skype) facilities to reach FAO regional and country level staff working on TRA-related topics in regions/countries not visited by the evaluation team. Government officers and local non-government partners were targeted through specific survey questionnaires. The SPS and the meta-evaluation also provided relevant information on the views of these stakeholders.

- Representative coverage of the main technical areas of FAO TRA work as well as modality (cross-organisational functions); and
 - Presence of FAO TRA partners.
60. Furthermore, and in accordance with OED's policy, any project above US\$2 million is expected to be evaluated in the framework of larger evaluations, whilst projects above US\$4 million must be evaluated once in their lifespan. On the basis of these criteria, the following countries were selected: Kenya, Namibia and Mozambique (to assess the Dutch-funded project) in Africa; and Hungary and Macedonia in Europe. During the visit to Hungary, the evaluation team joined participants in a pre-arranged workshop being attended by representatives of Eastern and Central European Countries involved in FAO supported projects to consider land-related and rural development topics.

Report Structure

61. The remainder of this report is subdivided into six parts or chapters (III-VIII). Part III, Background and Context, describes the organisational structure, programming, and financial and human resources for TRA. Part IV evaluates the performance of land-related TRA work, both normative and field activities. Part V reviews four cross-cutting themes in TRA: gender, post-emergency support, the Voluntary Guidelines process, and FAO's response to large-scale land acquisitions. Part VI is devoted to a review of FAO's TRA activity in the water, forest, wildlife and fisheries sectors. Part VII considers possible future directions of FAO's support to TRA. Part VIII sets out the Evaluation Team's recommendations.

III. Background and Context

Development of FAO's interest in tenure, rights and access to land and natural resources (TRA)

62. FAO's interest in TRA issues, specifically land tenure, was recognised at the founding conference of FAO at Hot Springs, Virginia, USA in 1943. Specific recommendations on land tenure were included in the report prepared by the Interim Commission on Food and Agriculture set up by the Hot Springs Conference to assemble ideas for the activities that a new organization should take¹¹. FAO started to work actively in land tenure matters in 1947 when the first land tenure officer was recruited by FAO, and emphasis on land tenure increased following the move from Washington D.C. to Rome in 1951¹².
63. The topics addressed today by FAO have not changed significantly over the years, namely: the development and analysis of land policy, legislation and practical approaches related to land reform, land consolidation, land registration and cadastre, leasing, customary and communal land tenure, rural property taxation and the administration of state land. Greater emphasis is now placed on matters of good governance¹³, transparency and integrity, gender equity, recognition of the rights of indigenous groups and minorities, safeguarding the environment, participation of civil society, and the decentralization of land administration. In the past decade,

¹¹ <http://www.fao.org/docrep/009/p4228e/P4228E04.htm#ch4>

¹² FAO 2010a

¹³ 'Governance' refers to 'the mechanisms, processes, and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations, and mediate their differences' (UNDP 1997).

there has been increasing concern within FAO over the relationship of land tenure to food security and the consequences of large-scale acquisition of communal forested land for land clearing and the cultivation of food crops and biofuels for export and the need to develop international norms on the governance of land and other natural resources.

Scope of FAO's support to TRA

Structure for TRA work

64. FAO TRA work is conducted by some technical units at HQ and a few decentralized offices. They formally include the Land Tenure Team (LTT) within the Climate Change, Tenure and Bio-energy Division (NRC), the Land and Water Division (NRL), the Investment Centre (TCI), the Emergency and Rehabilitation Division (TCE) and the Regional Office for Europe (REU). In addition, the Gender, Equity and Rural Development Division (ESW) provides assistance on gender and land rights while the Development Law Service (LEGN) provides assistance with TRA-related legislation (drafting, implementation and dissemination)¹⁴.
65. However, it is clear that TRA issues are extremely complex and to achieve the agreed Organisational Results (ORs), both formal and informal horizontal linkages as well as the application of a range of different skills are required. Other technical and decentralized units also contribute to the above ORs or undertake TRA activity on their own, including: the Forest Economics, Policy and Products Division (FOE), the Fisheries and Aquaculture Policy and Economic Division (FIP), the Policy and Programme Development Support Division (TCS), and the Trade and Markets Division (EST). Some decentralized offices have also been working on TRA-related issues, including the Regional Office for Asia and the Pacific (RAP), the Regional Office for Latin America (RLC), and the Regional Office for Africa (RAF).

Programming of tenure, rights and access work

66. FAO TRA work during the period under review was programmed through a Medium Term Plan (MTP) initially prepared for the period 2006-11, which was operational until 2009 only. The current MTP, prepared following a major reform of the organization, covers the period 2010-13. The biennial Programmes of Work and Budget (PWB) covered by the evaluation include those prepared for the periods 2006-07, 2008-09, and 2010-11.

Situation prior to the FAO Reform (2006-2009)

67. At the beginning of the review period and before the adoption of a new Results-Based Management system in 2010, FAO TRA work related to land was divided into two Programme Entities (PEs): "2KA05: Land Tenure, Agrarian Reform and Access to Natural Resources" and "2KS01: Technical Support Services to Members and the Field Programme". The PEs in turn had three "Major Outputs" and six "Biennial Outputs". The Biennial Outputs associated are shown in the table below.

Table III-1: Biennial Outputs defined for the period 2006-09

Period	Biennial outputs
2006-07	Land Reform, Land Settlement and Cooperatives Journal
	Normative materials on land tenure support in emergencies

¹⁴ The placement of these divisions within the organisational structure of FAO can be seen at: <http://www.fao.org/about/27232-0eaaad223f05e87ebc02810ab56a191c7e.pdf>

Period	Biennial outputs
	Policy materials on state acquisition of land and compensation
	Normative materials on increasing tenure security through improved land administration
	Network on land tenure administration institutions
	Direct support to member countries
2008-09	Land Tenure Journal
	Policy and training materials on land tenure support in emergency settings, including natural disasters
	Policy and training materials on the tenure of public lands
	Guidelines on improved land administration
	Normative materials in support of development of international norms on land tenure
	Technical support and advice to natural resources management in particular land and water through normative and field programmes.

Source: Evaluation Team with information from PIREs

68. As the table shows, the Biennial Outputs were similar in 2006-07 and 2008-09. This was largely because both sets of outputs derived from the MTP 2006-11. In the latter period, the development of international norms on land tenure (such as the Voluntary Guidelines) started to appear more clearly in the work-plan of the organization. The lead technical unit during this period was the Land Tenure Service, which was first located in the Rural Development Division (SDA) where it was known as “SDAA”. Following the dissolution of SDA, it became part of the Land and Water Division (NRL), where together with land management it was known as “NRLA”.
69. TRA activities related to other natural resources were not included in the MTP or the concerned PWBs at the level of PEs or Biennial Outputs. They were undertaken largely in an ad-hoc manner (through extra-budgetary funds), or as part of broader initiatives within each thematic area. For example, equitable access to fisheries resources was included in PE 233A2 “Sustainable development of small-scale fisheries”; access to forest resources was included in PE 243PA “Sustainable forestry and livelihoods”; legal assistance was included in PE 3BA06 “Support to the development of regulatory frameworks for food and agriculture”; and work on gender and land was included in PE 252A3 “Gender and Natural Resources Management”.

Situation post-reform (2010-13)

70. Following Conference-approval of a wide-ranging reform in 2009¹⁵, FAO embarked on a profound process of change that affected, amongst other things, the approach to the planning and budgeting of its work. Since 2010, the organization’s planning framework is based on defined Strategic Objectives (SOs), Organizational Results (ORs) and Unit Results (URs). Several departments and some divisions have also developed or are in the process of developing strategic plans aligned with the new planning framework¹⁶. TRA work related to land and other natural resources has been included in several SOs, which are the responsibility of different lead units, including SO F (Sustainable management of land, water and genetic resources and improved responses to global environmental challenges affecting food and agriculture), SO L (Increased and more effective public and private investment in agriculture and rural development) and SO G (Enabling environment for markets to improve livelihoods and rural

¹⁵ Embodied in the Immediate Plan of Action (IPA) 2009-13.

¹⁶ See, for example, the “FAO Strategy for Forestry and Forests” available online at <http://www.fao.org/docrep/012/al043e/al043e00.pdf>; an inter-divisional steering committee led by the FAO DDG for Knowledge is currently producing the first-ever strategy plan for FAO work in Nutrition. Several decentralized offices have also prepared strategic plans to help prioritizing their regional or sub-regional work.

development). The table below summarizes the specific ORs and URs for the period 2010-13 by lead unit.

Table III-2: Organizational and Unit Results defined for the period 2010-13

Lead Unit	Organizational and Unit Results
NRC	F0412: Development of draft Voluntary Guidelines on responsible governance of tenure of land and its interface with other natural resources.
	F0413: Development of tools and methodologies for building capacity in the administration of natural resource tenure.
	F0414: Development of partnerships and alliances to stimulate the dissemination and application of information on secure and equitable land tenure and its interface with other natural resources.
	G0208: Increased integration of tenure and access to land issues into agricultural and rural development policies, programmes and partnerships in the context of rural employment and income diversification.
	L03G112: Support for policy and technical advice including for resource mobilization for investment programmes and projects of land tenure and administration.
NRL	F04G204: Support to land tenure and land management
TCI	F04G108: Policy advice and technical support provided for investments in land tenure and administration for sustainable agriculture and rural development.
TCE	F04G110: Implementation of emergency response in support of land access, tenure and sustainable management
REU	F04E103: Tools and methodologies are developed for building capacity in land consolidation and land tenure in the European Region

Source: Evaluation Team with information from PIREs

71. The shift to the new planning framework did not imply any major re-orientation in the subject matter or methods of working, although emphasis shifted in accordance with the changing concerns of Member States and their requests, these being made directly to FAO (e.g. requests for technical cooperation projects¹⁷) or through other fora (e.g. Committee on Agriculture, Committee for Food Security¹⁸; Regional Conferences¹⁹, etc). Indeed, some areas of work have received increased attention, notably those related to the development of Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources (VGs), and land consolidation and tenure reform activities in specific regions (such as Europe). Although during this period there has been a stronger focus on TRA work related to other natural resources (particularly in the context of the VGs, and prior to that, the Legal Empowerment of the Poor Initiative), no ORs and/or URs dealing with specific TRA issues in water, forestry, wildlife or fisheries were elaborated for the period 2010-11²⁰.

¹⁷ 24 Technical Cooperation Programme (TCP) projects (including the TCP Facility) on land tenure were implemented during the period under review.

¹⁸ A presentation on the voluntary guidelines was made to COAG in 2007. The reformed CFS selected land tenure as a core activity together with soaring food prices; see <http://www.fao.org/cfs/cfs-home/en/>

¹⁹ The FAO Regional Conference for Africa (2006) and the FAO Regional Conference for Europe (2006, 2008 and 2010) have called for support on land policy and tenure issues; see <http://www.fao.org/docrep/meeting/011/j8238e/j8238e.htm#Agrarian> and <http://www.fao.org/docrep/meeting/019/k8421e.pdf>

²⁰ A UR dealing specifically with forestry tenure issues might be established in the period 2012-13.

Financial resources for normative work

72. Regular Programme (RP) resources for TRA work have reflected the changes in the overall FAO budget, with marginal real changes over the period since 2006. As described above, RP resources have specifically been allocated for TRA normative work in land by the LTT and, more recently, NRL. The table below shows RP funding data for the period 2006-11.

Table III-3: Regular programme resources for land tenure normative work (US\$ 000)

Year	Regular Programme			
	Budget – Staff	Budget – Non-staff	Total Budget	Of which income
2006	1,030	378	1,408	87.5
2007	1,029	337	1,366	87.5
2008	1,319	395	1,714	87.5
2009	1,319	394	1,713	87.5
2010	1,138	384	1,522	115
2011	1,625*	148*	1,773*	104

* including NRL financial allocation for F04, support to land tenure and land management.

Source: Evaluation Team with information from NR and PIREs.

73. The evaluation team notes that non-staff resources are low by FAO standards (around 20% against an organisational average of 33%), and would have been even lower if the LTT had failed to meet their “income” targets. On the other hand, the LTT was successful in raising over US\$10 million of supplementary funds from extra-budgetary sources²¹ for normative work²².

Table III-4: Extra-budgetary resources for land tenure normative work

Project code and donor	Title	Budget (US\$)	Period
GCP/GLO/164/FIN (Finland)	Good Governance in Land Tenure and Administration	115,000	15/5/06 – 14/4/07
FNOP/INT/108/NOR (Norway)	Programme Cooperation Agreement – LEP	2,115,000	26/4/06 – 31/3/08
FNOP/INT/110/NOR (Norway)	Programme Cooperation Agreement – LEP	704,666	1/7/08 – 31/12/08
GCP/GLO/273/IFA (IFAD)	Support for Regional policy dialogue in the formulation of voluntary guidelines for responsible Governance of Tenure of Land and other Natural Resources	200,000	1/10/09 – 31/12/10
GCP/GLO/255/GER (Germany)	Support for formulating FAO Voluntary Guidelines for responsible governance of tenure of land and other natural resources	2,750,000	1/1/10 – 30/6/12
GCP/GLO/255/IFA (IFAD)	Support for formulating FAO Voluntary Guidelines for responsible governance of tenure of land and other natural resources	1,364,000	1/5/10 – 30/4/13
GCP/GLO/282/MUL	Support to the Development and Piloting of an	2,944,724	1/1/10 –

²¹ Extra-budgetary funds include a range of funding instruments, from large scale Partnership Agreements (such as the FAO-Norway Partnership Programme or the UN-Spain Joint Programme) to Government Cooperation Projects (GCPs), Unilateral Trust Funds (UTFs) and Emergency and Rehabilitation projects (OSROs).

²² A multilateral trust fund (worth US\$1.7m) in support of ICARRD was also implemented during the period under review. As this was intended to cover ICARRD-related expenses, it is covered in the report section on workshops and events.

Project code and donor	Title	Budget (US\$)	Period
(Finland)	Open Source Cadastre and Registration (OSCAR) Shell		31/12/13
GCP/GLO/255/SWI (Switzerland)	Support for formulating FAO Voluntary Guidelines for responsible governance of tenure of land and other natural resources	300,164	5/1/11 – 30/6/12
	Total	10,493,554	

Source: FPMIS

74. Regular Programme resources for TRA-related normative work on the other natural resources have been “in kind” only (staff time). TRA normative work in water, forestry, wildlife and fisheries has been exclusively funded by extra-budgetary contributions including from the projects above. For example, around US\$300,000 was allocated from the VGs trust funds for the water, forestry and fisheries implementation guides. Prior to that, around US\$840,000 was allocated to FOE, FIP, LEGN and ESW from the Legal Empowerment of the Poor (LEP) Initiative for TRA-related work.

Financial resources for field projects

75. During the review period, FAO implemented 42 field projects (worth US\$ 36.4 million) dealing exclusively with TRA related issues (Annex 2). Three units were particularly active as Lead Technical Units (LTU): the Land Tenure Team (LTT), NRL, and LEGN. The majority of projects were TCPs (24), followed by GCPs (10), UNJPs (4), UTFs (2) and OSROs (2). Funding for TRA field projects was largely external with resource partners investing US\$ 21.8 million through GCPs, US\$ 3 million through the UNJP, US\$ 2 million through OSROs, and member countries themselves US\$ 4 million through the UTF arrangement. FAO contributed US\$ 5.4 million from the TCP. The regional breakdown can be found below.

Table III-5: Field projects by region and type, 2006-2011

Region	GCP	OSRO	TCP	UNJP	UTF	Total
Africa	5	1	6	2	1	15
Asia & the Pacific	2	1	3	1	0	7
Europe	0	0	8	0	0	8
Global	2	0	1	0	0	3
Latin America & the Caribbean	1	0	6	1	1	9
Grand Total	10	2	24	4	2	42

Source: FPMIS

76. The evaluation team notes that many more projects implemented by FAO than those included above involve TRA-related work, even when this is not always acknowledged or evident from their titles. A review undertaken by the evaluation team of all FAO non-emergency projects with budgets over US\$2 million approved since 2006 showed that some 19% of these projects included TRA elements as either project activities or as constraints that needed to be addressed. Of this 19%, only one quarter of the projects had been identified by FAO staff as being TRA-related. This issue is discussed further in Section VI under the heading ‘TRA elements in non-TRA projects’.

Human resources for TRA work

77. Most professional posts dealing with TRA related issues are located within the Land Tenure Team (LTT). The LTT establishment financed by the Regular Programme presently (August 2011) consists of one principal officer (D1) and four technical posts. In addition, six fixed-term posts

have been created using extra-budgetary funding. They include one Associate Professional Officer, three technical officers working on normative projects (two for the Voluntary Guidelines and one for the SOLA project) and two technical officers working on investment projects (funded by the FAO-World Bank Cooperative Programme). Several consultancies have also been made available. The total number of staff working in land tenure on a full or part time basis within NRC, NRL, ESW and LEGN, has been relatively stable, and even increased lately compared to 2006. The major change has been the location (largely based at HQ) and funding source of the new positions (mostly extra-budgetary posts).

Table III-6: FAO Professional posts for TRA related work (all sources of funding)

Year	LTT		NRL		LEG		ESW		Reg/Subreg		Total	
	RP	EB	RP	EB	RP*	EB	RP*	EB	RP	EB	RP	EB
2006	6	0	0	0	0.5	1	0.5	1	3	0	9	2
2007	6	0	0	0	0.5	1	0.5	1	1	0	7	2
2008	6	1	0	0	0.5	1	0.5	0	1	0	7	2
2009	6	2	0	0	0.5	1	0.5	0	1	0	7	3
2010	5	6	1	0	0.5	1	0.5	0	1	0	7	7

** includes staff working on TRA related issues on a part time basis*

Source: Evaluation team with information from NR and PIREs

78. Within the Regional and Sub-regional offices²³, there are ten posts for Land and Water Officers. However, none of these are specifically dealing with TRA-related matters.²⁴ As a result, most work related to TRA is dealt with from HQ in Rome, with the exception of REU, which has one land tenure officer of its own, and RLC, which recently hired a natural resources tenure specialist. Technical units dealing with fisheries, forestry, wildlife and water do not have specific posts for TRA either (although some regional specialists such as the Forestry and Wildlife specialists in RAP and RAF have considered TRA-related issues in their respective regional field programmes). In the case of fishery, in-kind inputs on TRA issues are provided by two technical staff. In forestry, there are three technical staff dealing with TRA issues at HQ although on a part-time basis only. In the past, a consultant working full time on TRA-related issues was hired using extra-budgetary resources. A position for a “Forest Tenure Specialist” is now expected to be created in 2013 to follow-up on the implementation of the forestry implementation guides for the VGs. In the case of water, ad-hoc inputs are provided by two technical staff. A vacant position on “Water and Institutions” is expected to be filled during 2011, which will eventually strengthen FAO’s capacity to deal with water rights issues in the context of irrigation projects.

Partnerships and alliances

79. In order to fulfil its mandate, FAO collaborates with a wide range of partners, including other UN organizations, resource partners, inter-governmental organizations, civil society organizations, academia and research centres (see Table III-7 below for examples). Through these partnerships, FAO develops international norms and standards, establishes databases and information resources, implements and provides technical services to field projects, etc. Several of these partnerships (such as with the World Bank, UN-HABITAT and IFAD) are long-standing and are considered key alliances for the achievement of several normative outputs (like the

²³ These offices are all the five Regional offices plus the Sub-regional offices for Central America, the Caribbean, the Oriental Near East, Southern Africa and Eastern Africa.

²⁴ In 2011 a RLC post bearing the title of “land and natural resources tenure officer” was created and filled. A RNE post created in 2010 bearing the title of “land management and tenure officer” remains unfilled.

VGs). Selected joint activities are discussed in the relevant sections of this report. Annex 3, contains an analysis of perceptions of FAO's partnerships with external stakeholders in matters relating to tenure, rights and access to natural resources.

Table III-7: Examples of key partnerships²⁵

UN Organizations	Resource partners	Inter-governmental organizations	Civil society organizations	Academia and research centres
UN-HABITAT IFAD UNDP UNCTAD UNECA UN-Water UN-REDD	World Bank European Union Germany Switzerland Finland Netherlands Norway United Kingdom	Africa Union Commission	International Land Coalition FIAN International IPC Oxfam International Federation of Surveyors WWF etc.	IIED IFPRI CIFOR IWMI

IV. Land Sector: Assessment of Performance 2006-2010

80. This section of the report is primarily concerned with the evaluation of FAO's support to TRA in the land sector, which for descriptive purposes is subdivided into normative and operational activities. As explained in Box IV-1, the subdivision between FAO's normative work and technical cooperation programmes is in some measure unsatisfactory. In using this categorisation, efforts are made by the study to explore the relationship between what is being done in the normative area to produce relevant global public goods to support TRA, and what is being done to ensure their accessibility to those that need them.

Box IV-1: FAO's normative and operational activities

Interdependence of normative and operational activities: *To a great extent, it is artificial to examine FAO's normative role in isolation from its operational activities. The two sets of activities are not only largely interdependent but they are also mutually reinforcing: the quality of FAO's activities in the field is ensured by the constant nourishment derived from the Organization's normative resources. Likewise, FAO's normative work is constantly reinforced by lessons learned in the field. Indeed, it is this combination of normative and operational activities as well as the capacity to span the consequent divide in many of its programmes that give FAO its comparative advantages and explain the unique "value added" that it is able to provide Member Nations.*

Purpose of normative outputs: *For use as scientific or technical guides or references for global/universal applications; for use by FAO, Member Nations and the international community in setting common standards and methods; to provide input for the preparation of normative rules, criteria, approaches and methodologies or similar Regular Programme activities.*

Source: <http://www.fao.org/docrep/W8462E/w8462e07.htm>

81. For the description and assessment of FAO's normative activities over the five-year period 2006-2010, there are three possible approaches:

²⁵ See Annex 5 Meta-synthesis of past evaluations for a more detailed list of partners (paragraphs 57-61)

- by way of a chronological analysis, examining achievements within each biennium (2006-2007, 2008-2009, 2010-11) against the proposed biennial outputs in the Programme of Work and Budget;
 - by means of examination of thematic areas in which the LTT has worked (improving the governance of tenure, improving access to land through redistribution, improving access to land through leasing, etc) as is set out, for example by the LTT (FAO 2010a) and listed under its eleven contributions to improved access to land since 1994; or
 - by reference to outputs of normative and operational activities over the five years under review.
82. The third approach is adopted, namely that of describing outputs, while endeavouring to assess their contribution to the overall programme of the LTT and the achievement of the basic global goals of the FAO and its Members. In adopting this route it is recognised that the various normative outputs are simply components of a larger programme, which in turn must be assessed as a whole. Further, in making such an assessment over the five-year evaluation period, care must be taken not to pass judgement on the outcomes of on-going projects, for example, the work on the VGs or the Organisation's response to large-scale land acquisitions (LSLAs), neither of which have yet been put into effect. These on-going activities are reviewed in Section V of this report under the heading of 'Key Cross-cutting Themes and Programme Areas'.

Normative work of the Land Tenure Team

83. This section includes LTT publications, conferences and workshops. It also covers technical projects such as Solutions for Open Land Administration (SOLA). The full list of normative outputs can be found in Annex 7.

Publications

84. Most of FAO's land tenure publications fit the description of normative outputs specified in Box IV-1. Included within the normative category is the investigative work carried out with the aim of developing norms.
85. Of the several series of publications posted on the FAO Land Tenure website, the oldest is the biennial 'Land Reform, Land Settlement and Cooperatives' journal, which goes back almost 50 years, 20 years of which can still be accessed via Land Tenure 'Information Resources'. During the evaluation period, 2006-2010, six numbers were published, each one devoted to aspects of land tenure, with little sign of 'land settlement' or 'cooperatives'. The anachronistically named journal also had a rather dated format and in 2010 it was replaced by the 'Land Tenure Journal', which targets readers in the public and private sector. In announcing the new journal, the LTT hoped that it would be able to attract high-quality, practice-orientated articles and relevant academic contributions, and be put in contact with global professionals engaged in TRA matters.²⁶
86. The 'Land Tenure Studies' set of publications are described as 'concise presentations on the often complicated and controversial subject of land tenure, especially as it relates to food security, poverty alleviation and rural development'. The series is for specialists working in land tenure and land administration. In all, ten 'numbers' have been produced since 1995. Two were produced within the evaluation period: No. 10, 'Compulsory acquisition of land and compensation', a well conceived and written guide prepared by a distinguished panel, including

²⁶ At the time of writing, only two numbers have been issued so any assessment would be premature.

three internationally known lawyers with practical experience of drafting land-related legislation; and No. 9, 'Good governance in land tenure and administration', which contains some home truths about abuses by public land administration agencies. It promises to be useful for in-service training of land administrators.

87. NGOs are the target group for 'Land Tenure Notes', a series which started in January 2004 with 'Leasing Agricultural Land' and was followed by another in January 2006 'Improving Gender Equity in Access to Land'. Both are available in English, French, Spanish and Arabic and have been published in several editions. They are well written and conceived and draw on equivalent numbers in the parent 'Land Tenure Studies' series, but so far only two have been published, which raises the question why so few when the marginal costs of producing these summaries must be relatively low. It would indeed be good to see other Land Tenure Studies such as No. 10 'Compulsory acquisition of land and compensation' abridged for the 'Land Tenure Notes' series.
88. The 'Land Tenure Policy Series' provides information for policy makers and their advisers on aspects of land tenure and includes important policy recommendations on the subject involved. So far, two numbers have been published, No. 1, 'European Union accession and land tenure data in Central and Eastern Europe' 2006 and No. 2, 'Opportunities to mainstream land consolidation in rural development programmes of the European Union', both of which are good examples of FAO's normative work being reinforced by lessons learned in the field, even if their appeal is limited to EU accession countries.
89. The 'Land Tenure Manuals' provide 'detailed guidance and technical materials on land tenure to support field implementation and training ...'. No. 1, 'Operations manual for land consolidation pilot projects in Central and Eastern Europe', provides practical information relevant for the design of land consolidation pilot projects in Central and Eastern Europe and complements other publications on this topic produced by the LTT. The preparation of the second manual, No. 2 'Land tenure alternative conflict management', was closely linked to the Livelihood Support Programme and was prepared in collaboration with the International Land Coalition (ILC), drawing on experience from Africa, Asia and Latin America. The third manual 'Assessing and Responding to Land Tenure Issues in Disaster Risk Management' was published in 2011 and is the outcome of collaboration between FAO, UN-HABITAT and the Inter-Agency Cluster Working Group on Early Recover (CWGER). It is designed for the training of personnel involved in responding to emergencies arising from natural disasters which are of increased frequency and intensity as a result of climate change. It is designed for use in group training or as a 'user-friendly self-training instrument'. The manual aims to generate a common understanding of how land tenure arrangements can be disrupted by disasters and why an understanding of related land tenure issues and effective land governance are important. It is appropriately arranged into five modules and is without doubt an outstanding piece of work.
90. Since 2008, the LTT has overseen the preparation of 20 'Land Tenure Working Papers'. The first two were prepared in collaboration with the International Institute for Environment and Development (IIED) for the 'High Level Conference on World Food Security: the Challenges of Climate Change and Bio-energy'. They considered the implications of the expansion of biofuels production and climate change for land tenure and land policy. Working Papers Nos. 3-18 constitute policy briefs for the preparation of the 'Voluntary Guidelines on the Responsible Governance of Tenure'. They either focus on land and natural resource governance issues within specific regions, or on generic issues (e.g. women's land rights, or communal rights in Africa, or common property rights in Asia). There is also a working paper on civil society perspectives of good governance in land and natural resource tenure prepared by CSOs. Other papers provide guidance on the international institutional and legal dimensions of VGs. All of

the papers draw on an extensive international literature. Authors include academics, FAO's international consultants and staff from the LTT as well as from other departments and from field operations. In this way, information from operational activities is being fed into the normative process. Working Paper No. 11, 'Towards Improved Land Governance', was prepared in collaboration with UN-HABITAT. The majority of papers are published only in English, a few only in French or in both Spanish and English. The intended readership includes the drafters of the VGs, the delegates attending consultative workshops and those involved in e-consultation.

91. FAO's Land Tenure website also includes a web page entitled 'Miscellaneous Land Tenure Documents'. Eight have been published in the last five years and are the result of collaboration with other agencies. The two most recent, of which the latest is a summary of the preceding number, are concerned with the handling of emergency land tenure issues arising from natural disasters in Mozambique, Ecuador, Honduras, Indonesia, Philippines and Bangladesh, jointly published by FAO, UN-HABITAT and CWGER. Longer-term land and property implications of emergencies are the subject of the 'Handbook on Housing and Property Restitution for Refugees and Displaced Persons; Implementing the Pinheiro Principles', prepared by FAO, IDMC, OCHA, OHCHR, UN-HABITAT and UNHCR. The important 'Gender in Agriculture Sourcebook', a joint project of the World Bank, FAO (ESW) and IFAD, together with two well-known studies by IIED published jointly with IFAD relating to the LSLA issue, are also among the so-called 'miscellaneous' collection. In view of the importance of these publications, perhaps this collection could be more appropriately renamed, 'Important Collaborative Work'.
92. **A citation analysis** was undertaken for a selection of publications produced by the LTT from 2006 to 2010²⁷ (See Annex 8, Citation Analysis and Website Hits). The most cited publication produced by FAO during the given period was "Land grab or development opportunity? Agricultural investment and international land deals in Africa", produced in 2009 as part of a partnership with IIED and IFAD²⁸. The second most cited publication was FAO Land Tenure Studies No. 9 (2007), "Good governance in land tenure and administration"²⁹. The results of the citation analysis show that publications for which FAO partnered with another organisation (e.g. IIED, IFAD or the World Bank) were generally more frequently cited. Unfortunately, the citation analysis does not adequately cover some of the most important intended users of FAO's land tenure publications, namely governments and CSOs. There was no simple way to search for unpublished governmental and CSO outputs that could have referenced FAO land tenure publications.
93. **Assessment of LTT publications and website:** The evaluation team is impressed by the scope, content and presentation of the many publications produced and posted on the Land Tenure Portal, evidence of the team's access to a wide range of technical expertise. There can be no doubt about the relevance and usefulness of much of the material, which deserves to have a higher degree of recognition than it currently enjoys among practitioners and academics. Questions must be asked about the extent to which the LTT's target readership has sufficient access to its normative works; given that most documents are only in English and that the preferred media in much of the developing world is still the printed word. As a recent review of FAO's work in Mozambique (FAO 2011e) demonstrates, even in capital cities there are frequently internet constraints and a chronic lack of access to electronic printers and refill cartridges. English is increasingly used, but Portuguese is still much preferred. While feedback

²⁷ Those from 2011 were deemed too recent to appear in any search results.

²⁸ Authors: Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley.

²⁹ Authors: Richard Grover, Mika-Petteri Töhrönen, David Palmer and Paul Munro-Faure.

to HQ on FAO's work in Mozambique is excellent, more could be done to send information in the other direction.

94. It is reported by the LTT that, when the opportunity arises, hundreds of hard copies of selected publications are distributed at workshops, including those conducted in REU and in the numerous VGs consultations. Several informants in the Budapest land administration workshop in June 2011 spontaneously mentioned to the evaluation team the usefulness of the FAO publications made available in workshops, several of which have been specially prepared for the purpose. The distribution of CD ROMs can overcome many document 'marketing' constraints, but it is not clear that this option has been sufficiently exploited. Only five CD ROMs are advertised on the Land Tenure Website and these are mostly devoted to specialised topics (e.g. participatory community boundary delimitation, conflict management, etc). An exception perhaps is the CD ROM 'Multilingual Thesaurus on Land Tenure' which has been prepared in Chinese, English, French and Spanish in order to cover the socio-cultural differences in land tenure matters according to the linguistic contexts.
95. By any standard, FAO's land tenure publications and web pages are a very valuable resource. They have the potential to deliver detailed and useful information to land administrators, civil society activists, researchers and academics, but the evaluation team considers that the information currently available on the page about field operations is insufficient. If this information cannot be provided, the page should be deleted and users directed to regional, sub-regional or country links. Apart from this issue, the scope and content of coverage provided by the land tenure website is unsurpassed and its recognition can only grow. As pointed out by several interviewees, who are otherwise knowledgeable about TRA issues, they rarely if ever used the FAO Land Tenure Portal. The evaluation team believes that ways and means must be found of publicising it more widely, together with the Gender and Land Rights Database and the tenure-related publications of the FAO Development Law Service (LEGN). Also, easier access to TRA-related websites must be pursued since the current structure (which largely reflects FAO structural divisions and fails to provide inter-divisional links to related materials) can certainly be made more user-friendly. Publications are only useful if people use them and how many actually do, we cannot say.

Conferences and workshops

96. FAO has organised one major conference and several workshops during the evaluation period (2006-10) as part of its TRA-related normative programme. These events are intended as fora to share ideas and experiences. They provide a valuable platform for the exchange of knowledge both among stakeholders, and between stakeholders and FAO and its partners. Three of the key workshops and conferences held by FAO during the evaluation period are outlined in further detail below³⁰.
97. **ICARDD:** Porto Alegre, Brazil (March 2006). The International Conference on Agrarian Reform and Rural Development (ICARRD) was organised by FAO in partnership with the Government of Brazil in March 2006. IFAD and faith-based donor organisations in Germany and the Netherlands also contributed to the costs.

³⁰ Although the regional consultations held as part of the Voluntary Guidelines (VGs) process were also a key part of FAO's normative work during this period, they are discussed separately in the section on the VGs.

Box IV-2: Primary objectives of the ICARRD³¹

- Understanding, learning and constructive dialogue to address agrarian reform, sustainable rural development and rural poverty reduction; and
- Partnerships among governments, producer organizations, cooperatives, international institutions, donors and civil society organizations, with the aim of ensuring more equitable access to land, water, natural resources, agricultural inputs, markets and rural support services for the poor and to strengthen the role of the poor in policy-making and managing their own development.

98. To foster wide participation, the entire conference was made open to all stakeholders who wished to participate, including Governments, Civil Society Organizations (CSOs), the scientific community, farmers' organizations and international organizations. In the event, ICARRD was a huge undertaking, involving 92 of FAO's 180 member states and 1,400 individual participants attending the conference.
99. From the outset, FAO's principal concern was to ensure that ICARRD made the important connection between land tenure security and food security. In November 2004, the Voluntary Guidelines on the Right to Food³² were adopted by the 127th Session of the FAO Council, for which the LTT had assisted with the preparation of the texts on land tenure and the guidelines on access to resources and assets. In 2005, the LTT started working on the topic of governance of land tenure and looked at how the Voluntary Guidelines on the Right to Food could be mainstreamed into tenure reform. Members of the then FAO 'Land Tenure Service' in Rome were at the heart of preparations for the conference in 2006, including the facilitation of e-conferences to obtain agreement among stakeholders on the agenda - not a straightforward task.
100. To many civil society land-rights activists 'agrarian reform' was a construct of the Cold War to counter communist 'land reform'. The 'Alliance for Progress' prescriptions for 'agrarian reform' urged governments to go beyond land redistribution to support other rural development measures, such as the improvement of farm credit, cooperatives for farm-input supply and marketing, and extension services to facilitate the productive use of the redistributed land. Whilst conceptually sound, the land-rights activists perceived this as a distraction that discouraged governments from doing anything until they could do everything. Further, at the time of ICARRD, the international land rights movement was engaged in a tussle with international financing institutions over market-based land redistribution. Due to the wide interest in this debate, the ICARRD organisers eventually agreed to move what had been scheduled as an optional workshop session on agrarian reform and markets into a plenary session.³³
101. In the course of interviews conducted by the evaluation team, a number of stakeholders mentioned ICARRD as being an important reference point for the debate on land tenure. However, it was felt that although ICARRD had sent a strong political message, the momentum generated could not be used to advantage. There was a gap between the high expectations of agrarian reform post-ICARRD, and what FAO and its partners had the capacity to deliver.

³¹ <http://www.fao.org/Participation/icarrd-lessons.html>

³² <http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.htm>

³³ As Professor Michael Lipton has pointed out in his recent book on Land Reform (2009, page 67), quoting Herrera et al 1997, FAO's LTT were involved in this debate. <ftp://ftp.fao.org/sd/sda/sdaa/LR97/ART5.pdf>

102. ICARRD is nonetheless credited with being the forum at which the notion of voluntary guidelines for responsible governance of tenure gained international acceptance and legitimacy. The final report of the conference mentions, in paragraph 29, 'the possibility of considering the development of voluntary guidelines on agrarian reform and rural development'³⁴ along the lines of FAO's 'Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security'.
103. In association with ICARRD, in March 2006, the African Union, UNECA and the African Development Bank launched their initiative aimed at the development of the 'Land Policy and Land Reform Framework and Guidelines for Africa'³⁵. The process benefited from technical assistance from FAO's LTT.³⁶ In the period 2006-2008, the LTT was actively engaged in preparing the groundwork for the development of FAO's 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests', but formal commencement of the process was delayed until 2009 when the extra-budgetary requirements for consultations became available.
104. **Assessment of ICARRD:** Rigorous assessment of the performance of ICARRD, in accord with the OECD's standard evaluation criteria, would have to consider its impact in terms of its stated objectives (see Box IV-): positive and negative, primary and secondary, intended or unintended. This is beyond the capacity of the evaluation team within the scope of this evaluation. The event clearly provided an opportunity for understanding and learning, a legacy which will continue so long as the very useful ICARRD website stays on line. As for the establishment of partnerships among the diverse stakeholders, more investigation would be needed to reach a conclusive answer, but the perception of most key informants interviewed by the evaluation team considered this to have been lower than initially expected.³⁷
105. With regard to efficiency and effectiveness, some may consider ICARRD as the last of FAO's great conferences on land reform and rural development, because of the tendency of such events to encourage political grandstanding and to generate more heat than light. There are probably more efficient and effective ways of building international consensus on the importance of the links between tenure security and food security, without recourse to politically contentious and potentially discordant mass conferences³⁸.
106. **Improving Tenure Security for the Rural Poor:** Nakuru, Kenya (October 2006). By contrast and in the same year as ICARRD, FAO organised a regional workshop for participants from sub-Saharan Africa as part of the 'Legal Empowerment of the Poor' programme of activities, funded

³⁴ Paragraph 29, ICARRD Final Report http://www.icarrd.org/en/icarrd_docs_report.html

³⁵ ICARRD Follow-up Regional Initiatives <http://www.icarrd.org/sito.html#>

³⁶ TCP/RAF/3115: "Support to ICARRD follow-up and to the African Land Policy Initiative including regional stakeholders' dialogue" (2008-2009) sought to contribute to ensuring security of land rights, increased productivity, secured livelihoods and broad-based economic growth and sustainable development in Africa (see Appendix 6); while RLC TCP project "*Apoyo al seguimiento a la Conferencia Internacional sobre Reforma Agraria y Desarrollo Rural: Nuevos desafíos y opciones para revitalizar las comunidades rurales en Sudamérica*" (2009-2011) seeks to strengthen the capacity of grassroots organisations and social movements in South America to participate in the planning of new policies on agrarian reform and rural development.

³⁷ More detail on the 'lessons learned' can be found at <http://www.fao.org/Participation/icarrd-lessons.html>.

³⁸ In his book, *The Unpromised Land*, Demetrios Christodoulou (1990), a former FAO staff member (1960-1980) and Agrarian Reform Policy Adviser, assesses the performance of the FAO World Conference on Agrarian Reform and Rural Development (WCARRD), Rome 1979, according to three criteria: Deepening and Spreading of Understanding; Strengthening of the Will and Capacity to Take Effective Action; and Prospects for Rural People to Participate and Benefit. His analysis raises searching questions in each case.

by the Government of Norway. The workshop was to provide technical outputs to inform the Property Rights Working Group of the Commission for Legal Empowerment of the Poor (CLEP) by bringing together government representatives, professionals working in the field, academics, NGOs and international organisations. The workshop extended over three days and involved some sixty individual participants.

107. A distinguished legal authority³⁹ on land and property law in sub-Saharan Africa was commissioned by FAO to write a framework paper in order to:

“foster a comprehensive, balanced and objective discussion on the specific rural issues faced in sub-Saharan Africa when strengthening of property rights is attempted, to set the stage for a creative review of available empirical material and to pave the way for preparing the messages of the CLEP, with further guidelines of issues to address, questions to ask and answer and literature to review...” (p. viii)⁴⁰

108. The thought-provoking framework paper⁴¹, along with eight country case studies (Ghana, Mali, Kenya, Tanzania, Uganda, Rwanda, Namibia and Mozambique) by recognised authorities, was presented and discussed at the workshop. These documents, together with a synthesis paper by the author of the framework paper, have been made available on the FAO land tenure website.⁴² Four key issues were highlighted at the workshop: localism as the basis of land management; the role of customary tenure; access to information, justice and training; and gender equity.⁴³

109. **Assessment of Nakuru workshop:** Interviewees’ perceptions of the workshop are positive. They appreciated the opportunity it offered to share their experiences and knowledge. The successful attainment of the workshop’s objective, that of providing inputs to the CLEP, is witnessed by the attention accorded to the four issues highlighted by the workshop in the Report of the CLEP, ‘Making the Law Work for Everyone’, Volume I and II (2008)⁴⁴, in the preparation of which the Head of the LTT was also involved.

110. **European regional workshops:** FAO has organised a number of regional workshops almost every year since 2002 for European land administration specialists to share their experiences and knowledge. The first series of workshops was financed through a trust fund with the Czech Republic. Since 2007 the workshops have been organised in conjunction with FARLAND⁴⁵, with financial support from the Netherlands. The workshops have primarily focused on issues relevant to the Central and Eastern European context, such as land consolidation, land banking and land administration in general.

111. The most recent workshop was held in Budapest in June 2011⁴⁶. Following feedback from participants at previous workshops, this event focused on land valuation techniques and on land abandonment. Members of the Evaluation Team attended the workshop in order to obtain

³⁹ Professor Patrick McAuslan

⁴⁰ <ftp://ftp.fao.org/docrep/fao/010/k0781e/k0781e00.pdf>

⁴¹ <ftp://ftp.fao.org/docrep/fao/010/k0781e/k0781e00.pdf>

⁴² <http://www.fao.org/nr/tenure/infores/ltpapers/en/>

⁴³ <http://www.fao.org/docrep/010/k1797e/k1797e00.htm>

⁴⁴ <http://www.undp.org/legalempowerment/reports/concept2action.html>

⁴⁵ FARLAND is a network of European land development practitioners that is managed by the Dutch Government Service for Land and Water Management. Recently, FARLAND and FAO’s network on land development in Europe have merged to form ‘LandNet’.

⁴⁶ A list of the workshops is available at <http://www.fao.org/europe/activities/land-tenure/landconscee/en/>.

the views of participants on the broader usefulness of FAO's TRA work in the region, as well as of the series of regional workshops itself⁴⁷.

112. **Assessment:** Overall, participants at the regional workshops rated them highly. They felt that the events provided a valuable opportunity for the exchange of ideas between participants and with FAO and guest experts knowledgeable about land tenure issues in the region. Participants have been able to apply the knowledge gained in the workshops to their own in-country activities, sometimes with financial support from FAO's TCP (e.g. Serbia, Macedonia, Albania, see Table IV-2). They also appreciated the provision of hard copies of FAO publications at the workshops. The workshops are intended to provide a balanced input from both Western and Eastern European stakeholders; while this is appreciated, some Eastern European participants expressed a desire for more examples from countries at a similar stage in their development.

Solutions for Open Land Administration (SOLA)

113. The security of tenure of rural and urban populations is dependent on the capacity of land agencies to keep orderly, accessible and transparent land records. In many countries, paper-based records, which in most cases cover only a small proportion of the country, are in disarray due to poor storage, repeated handling, misplacement or unauthorized removal. Delays in processing result in backlogs of thousands of dispositions that cannot take effect in law until they are registered. Because of these difficulties, transactions of formal rights take place informally, very often through intermediaries (agents or 'fixers') who offer their services to help applicants 'jump the queue'. Their cut greatly adds to the cost of transactions, and for these and related reasons official s often fall into disuse.
114. In recent years, the computerisation of land records using one or other proprietary software systems has been perceived as the answer, but in many cases the process has proved more difficult than foreseen. Problems arise in digitalizing paper-based land records. Apart from inaccuracies in the original survey data, local tenure categories may not easily fit imported software, the licence for which may not permit adaptation. There is invariably a chronic shortage of trained IT personnel to input the data and reconcile inaccuracies. Imported technical assistance is not the answer, unless local personnel are properly trained to take over the system, which may not be possible within the framework of the time-bound contracts of service providers. The problems can be compounded if different software systems are introduced by different donors funding land-related projects in one country. Where rapid urbanisation is underway, registration problems also arise where urban and rural land registration is carried out by separate authorities.
115. If these challenges are not enough, the conventional cadastre is not easily adapted to record the majority of informal and customary transactions. There is need for more flexible, inexpensive software to record and maintain information relating to land rights introduced by received law as well as customary law. Ideally the software system must cater for the recordation of formal, informal and customary rights within a system of "open land administration".
116. After a long gestation period, FAO's Solutions for Open Land Administration (SOLA) project, funded by Finland, started in June 2010 and is due to run for three years. Through the development of open source software, it aims to make computerized cadastre and registration systems more affordable and sustainable. Three Member States (Ghana, Nepal and Samoa) are

⁴⁷ Information on the perceived relevance and utility of the workshop was gathered through the distribution of a short questionnaire and through face-to-face interviews with 11 participants.

engaged in modest ventures to pilot the use of the software. Each of these countries has a high proportion of land held in terms of customary law, but nonetheless each one is very different in nature. It is hoped that the project will promote affordable software systems that enable improvements in the transparency and equity of the cadastre. Unlike proprietary software, developers will have access to software that can be modified and adjusted. Open-source solutions are expected to be more flexible and adaptable to local cadastre and registration practices and languages than proprietary software. Over time it is hoped that a community-of-practice of agencies using SOLA will emerge and at a lower cost, but also will be recognised as international best practice.

117. The piloting of SOLA in three different situations, covering a good range of tenure categories, holds promise, especially the way the project aims to link FAO's normative work to technical cooperation in an interactive way. However, implementation is expected to be particularly challenging. For several years now, UN-HABITAT's Global Land Tool Network (GLTN) has been working with ITC and FIG on the Social Tenure Domain Model (STDM), described as a 'pro-poor land rights recording system to integrate formal, informal, and customary land systems as well as administrative and spatial components'⁴⁸. On several occasions between 2006 and 2009, the LTT participated with international partners in deliberations relating to SDTM, but eventually chose to develop its own system (SOLA) that, like SDTM, is based on the Land Administration Domain Model, but which has 'gone through a few more refining iterations and now.... probably deals with informal rights better than STDM and certainly deals more comprehensively with formal land rights and their recording within land registration and cadastre agencies'.⁴⁹

118. **Assessment:** The project has been in operation for little more than a year. Performance of SOLA will eventually have to be measured not only with regard to the introduction of an open source software solution for the registration of land rights, but also by the extent to which it helps to overcome other generic problems associated with land registration which could mask any potential benefits SOLA might deliver. The relevance of the project should be judged by the extent to which the systems for the recording of rights, formal, informal or customary, are accessible to the poor and increases their tenure security. Any mid-term review should include field visits to at least two of the pilot areas and be conducted in sufficient time to assess the significance of the initiative in overcoming attendant problems, to reset the schedule and, if necessary, adjust the scope of the undertaking.

FAO field programme in land tenure

119. Field missions and desk studies for this part of the evaluation, including the meta-evaluation (see Annex 5) and the review of selected projects (see Annex 6), involved half of all the TRA field projects (21 out of 42) undertaken by FAO during the period under review, 2006-2010. These included seven national TCPs, one regional TCP, nine GCPs, two OSROs, one UNJP and one UTF. The LTT was the lead technical unit (LTU) for nine of these projects; a staff member from NRL⁵⁰ was the LTU for six projects and LEGN was the LTU for four projects. Many of the projects aimed to address land-related problems that had arisen as a result of conflict and/or major political and economic change.

120. The 14 projects led by the LTT (including REU) were implemented in Africa (eight), Asia and Pacific (three), Latin America and the Caribbean (two), and Europe (eight). These included 16

⁴⁸ Lemmen et al. 2010.

⁴⁹ NRC consultant and LTT member.

⁵⁰ This staff member was part of the LTT till January 2010.

TCPs, two OSROs, two UTFs and one GCP. By far the leading technical subject was land consolidation; six projects were on this topic. Other TCP topics included land registration (two projects) and investments (two projects). The LTT also provided technical support for World Bank projects in 35 countries, which largely focused on land administration and registration reform. The bulk of LTT field and investment projects were concentrated in Eastern Europe and Central Asia.

121. The 12 projects led by the NRL staff member were implemented in Africa (three), Asia (three), and Latin America (five) and at global level (one). These included six TCPs, two GCPs and four UNJPs. By far the leading technical subject was agrarian reform; four projects were on this topic. The bulk of NRL project activity took place in southern Africa and to a lesser extent Latin America.

122. The five projects led by LEGN were implemented in Africa (four) and Latin America (one). These included one TCP and four GCPs. LEGN projects focused on supporting the drafting, implementation and dissemination of agricultural legislation (on land, forestry, wildlife, fisheries and water). In addition, LEGN was the LTU for 18 TCP projects which supported the development and/or modernization of agricultural legislation.

Meta-evaluation (ME) of past evaluations in the land sector

123. The Evaluation Team reviewed evaluations conducted by OED that included information about FAO's support to the strengthening of TRA, normative work as well as field operations. Annex 5 contains details of the scope and content of the review and a synthesis of the results. The ME of the land sector involved 31 corporate, country and country project/programme evaluations carried out in the review period by OED (see Table IV-3 below). The ME also included forestry and fisheries projects which are discussed in Section VI of this report.

Table IV-1: Land-related projects with field operations included in the meta-evaluation

FAO Corporate evaluations	<ul style="list-style-type: none"> - Real Time Evaluation of the FAO Emergency and Rehabilitation Operations in Response to the Indian Ocean Earthquake and Tsunami - Evaluation of FAO's role and work related to water - Evaluation of Capacity Development in Africa - FAO's Effectiveness at Country Level: A Synthesis of Country Evaluations: Post Conflict and Transition Countries: DR Congo, Sudan and Tajikistan - FAO's Effectiveness at Country Level : A Synthesis of Evaluations in Large, Rapidly-Developing Countries (India and Brazil) - Evaluation of FAO's role and work related to Gender and Development - Evaluation of FAO's work in Commodities and Trade
FAO Country evaluations	<ul style="list-style-type: none"> - Honduras 2002-2007, Brazil 2002-2010, India 2003-2008, Tajikistan 2004-2009 and Sudan 2004-2009
FAO Project evaluations	<ul style="list-style-type: none"> - GCP/MOZ/096/NET 'Promoting the Use of Land and Natural Resources Laws for Equitable Development' - GCP /MOZ/081/NET 'Decentralized Legal Support and Capacity Building to Promote Sustainable Development and Good Governance at Local Level' - GCP/INT/803/UK 'Evaluation of the FAO/DFID Livelihood Support Programme' - FAO-Norway Programme Cooperation Agreement (PCA) 2005-2007 - FAO-The Netherlands Partnership Programme (FNPP) - GCP /BIH/002/ITA 'Inventory of Post-War Situation of Land Resources in Bosnia and Herzegovina' - GCP /PHI/047/AUL Philippines-Australia Technical Support for Agrarian Reform and Rural Development (PATARRD) - OSRO/PHI/501/JPN 'Emergency Rehabilitation of agri-based livelihood for

	<p>disadvantaged farmers and returning internally displaced people in Mindanao'</p> <ul style="list-style-type: none"> - OSRO/SUD/003/CHF 'Support to restoration and enhancement of sustainable food security and livelihoods of vulnerable populations in Southern Sudan' - OSRO/SUD/902/CHF 'Support to sustainable reintegration and improvement of basic food security for households including; returnees (refugees and IDPs), host communities and other vulnerable resident population in Southern Sudan' - OSRO/SUD/622/MUL 'Sudan Productive Capacity Recovery Programme (SPCRP) - Capacity Building Component (SPCRP) in Northern Sudan' - OSRO/SUD/623/MUL 'Sudan Productive Capacity Recovery Programme (SPCRP) - Capacity Building Component (SPCRP) in Southern Sudan' - UTF/HON/034/HON 'Evaluación del impacto de los procesos de capitalización en el Programa de Acceso a la Tierra (PACTA) en Honduras' - GCP/INT/810/BEL 'DIMITRA' - GCP/RAF/338/NOR 'Gender, Biodiversity and Local Knowledge to Strengthen Agricultural and Rural Development' - GCP /IND/177/NET 'Programme Support to Nationally Executed (NEX) Land and Water Programme in India' - UTF /IVC/027/IVC « Appui institutionnel au secteur du développement rural pour la sortie de crise en Côte d'Ivoire » - UTF /IVC/028/IVC « Appui aux organisations de base en charge de l'appui aux groupes vulnérables »
--	--

124. FAO's field operations in the review period covered the length and breadth of TRA issues in the land sector. They included support to redistributive land reform as well as the strengthening of the rights of those in long-term use and occupation of the land. Assistance was provided for institutional and legal improvements, for post-emergency resettlement and land dispute resolution and for piloting innovations in land administration and land-use planning. This work was complemented by training and capacity development for land reform farmers (women as well as men), for government land survey and administrative cadres, for field personnel and for NGOs. Several projects aimed to reduce gender disparities in land holding, to rectify discriminatory practices among those with powers over land allocation and to work with women's groups to bring about more equitable access to land. Most of the field projects in the land sector were located in sub-Saharan Africa; others were in Asia and the Pacific region, Eastern Europe and Central Asia, and in Latin America.

125. **Relevance:** The ME assessment of TRA field operations in the land sector, detailed in Annex 5, finds that most of the field projects were relevant as interventions were geared to resolving well recognised problems and constraints: e.g. insecure tenure; land fragmentation and abandonment; inadequate policy and legal frameworks and lack of up-to-date legal and technical knowledge on the part of officials, NGO personnel and community leaders. The tenure component of the two major partnership programmes (the FAO-UK Livelihood Support Programme and the FAO-Norway Programme Cooperative Agreement) was found to be relevant for the encouragement of better collaboration among FAO divisions responsible for normative work and those involved in field operations.

126. **Efficiency:** The findings of the ME are a reminder that inefficiency in development organisations is often rooted in organisational dysfunctions. It is not uncommon for tensions to develop between technical advisers in the field, offices in country capitals and the head office. At each level there are likely to be different opinions about what work should receive priority. If unresolved, disagreements can have a significant impact on overall efficiency. FAO seems prone to such difficulties, probably due to its large size and the fact that, in the absence of rotation, HQ personnel often become detached from field operations and are unaware of the pressures under which field personnel operate – and vice-versa. Added to these organisational challenges,

the national land policy arena is often highly charged, politicised, and contested by various stakeholders. FAO's advocacy for responsible land governance can expose technical advisers and country representatives to unwelcome pressure and adverse criticism from government land agencies that are often poorly resourced and less than transparent in their operations. Obstructive manoeuvring by politicians and officials in matters of state land allocation can slow down project activities, especially those activities geared to protecting the land rights of the poor, the disadvantaged and the displaced. FAO country representatives have a tendency to regard projects which challenge the de facto land policy as too sensitive and complex and thus to be avoided. In Rome, disagreements as to how to handle these problems can cut across divisional lines. All this can lead to delay in project approvals and implementation, to loss of talented field staff, and ultimately to lack of attention to the FAO's over-riding goals.

127. The ME suggests some possible causes for this relative inefficiency: lack of consultation and communication between NRC and NRL following the reorganisation of the former NRLA; lack of agreement between the TCE and the former NRLA on how to tackle problems in Sudan following the Comprehensive Peace Agreement between North and South Sudan; differences over how best to deploy personnel in the LTT to engage with the issues involved; not enough technical knowledge and awareness of TRA issues at regional and sub-regional level; insufficient time and personnel at country level to devote to activities in the project framework because of dysfunctional bureaucratic procedures handed down from Rome which have knock-on effects on staff morale, delivery of project outcomes and strained relations with the FAO country office. On the other hand, efficiency is reported to be satisfactory on land administration projects in Eastern Europe and in China, and in other countries where governments are supportive and agencies are relatively well resourced. It is clear that efficiency in TRA field operations is much more difficult to achieve in post-conflict situations in low-income countries in sub-Saharan Africa (e.g. Sudan, Mozambique and Angola) and in parts of Central Asia (e.g. Tajikistan) than in high and middle income countries elsewhere.

128. **Effectiveness:** With regard to effectiveness in achieving outputs and the sustainability of outputs, performance varies across the range of field interventions. The ME concludes, on the basis of project documentation, that overall FAO interventions were effective in achieving the planned outputs. In practice, it is not possible with the majority of field projects to reach firm conclusions about sustainability, if only because FAO is rarely in a position to ensure that ex-post monitoring is carried out. Information on the sustainability of project outputs and impacts of FAO interventions in the land sector is sometimes provided by OED Country Evaluation Reports, e.g. Sudan 2004-2009 and Tajikistan 2004-2009. The Sudan country evaluation report concludes that, 'through its presence in Sudan, albeit limited in terms of human resources and somewhat restricted in the context of emergency relief, FAO began to build a stronger platform for dialogue on land issues with different partners' which 'initially resulted in the inclusion of a number of sporadic land-related activities in emergency projects' (page 70), but these sporadic inputs by FAO were not enough.

Review of selected field projects in the land sector

129. The ET reviewed a number of field projects representing the range of FAO's global support to land tenure: three land administration projects - two in Eastern Europe and one in China; one Africa-wide, land policy-related project; three land projects in southern Africa; and two land-related emergency and rehabilitation projects – one each in Central Asia and South Sudan. Findings are summarised below; more detailed descriptions are to be found in Annex 6.

130. In 2006/2007, FAO's support to land administration in **Serbia** (TCP/YUG/3001) and in **Lithuania** (TCP/LIT/31010) has aimed to strengthen agriculture through reducing land fragmentation, as a

prelude to their joining the European Union. The productivity of Lithuanian agriculture, collectivised during Soviet rule, decreased markedly in the 1990s when state farms were broken up into smallholdings. The country's accession to the European Union in 2004 required the rapid transformation of the agriculture sector, and to this end FAO's support to land consolidation proved very effective. Serbian agriculture had not been collectivised to the same extent as Lithuania's and land fragmentation following decollectivisation was just one of a number of challenges that Serbia faced in restructuring the agricultural sector. Thus, FAO's support to land consolidation in Serbia proved less successful than it was in Lithuania as Serbia was affected by political and institutional constraints, which stood in the way of the land consolidation process (see Annex 6). Serbia is currently renegotiating its accession to the EU and further support for land consolidation from FAO may be requested.

131. FAO's support to land administration in **China** (CP/CPR/3008 & 3107 *"Rural Land Registration and Certification Piloting"* July 2005 to March 2009) aimed to contribute to the development of a framework for land registration and certification of farmland and secure tenure. The project was jointly financed by FAO (through the TCP), the World Bank and CIDA Canada. After some delays, the project successfully achieved its planned outputs, namely: the production of a manual for land registration; the development of a computerised land registration system based on a pilot area; and a draft national strategy for rural land registration for discussion and follow up with the Government, the World Bank and FAO and further trials in a larger pilot area (still underway in 2011).
132. The project, TCP/RAF/3115 *"Support to ICARRD follow-up and to the African Land Policy Initiative including regional stakeholders' dialogue"* (February 2008 to April 2009), made a significant contribution to the AUC's *Framework and Guidelines (F&G) for Land Policy in Africa* (2010). The F&G are the output of a process which involved the tripartite institutions of the AUC, UNECA and AfDB and which, through a joint Land Policy Initiative (LPI), built partnerships and increased political will in support of land policy development and implementation. FAO's support focused on West and Central Africa where it assisted the holding of two workshops in 2008 and a third in Addis Ababa. In 2010, the EU has set aside Euros 10.0 million for implementation and follow-up of the F&G in Africa by the LPI, the successful outcome of which is awaited.
133. The ET sought to review FAO's support to TRA in more detail in a sub-regional context. This involved brief visits to **Namibia**, an in-country Mid-term Review of GCP/MOZ/096/NET in **Mozambique** June-July 2011 and by follow-up of documentation and with interview of FAO personnel involved in **Angola** during the evaluation period. It was concluded that in all three countries FAO supported post-war recovery, playing a significant role in the land sector in all three countries under challenging circumstances. FAO's support is perceived to have been generally efficient, judged by the extent to which the development interventions were achieved and how economically resources were converted to results.
134. With regard to the technical support provided, it is apparent that where FAO has had a long-term engagement with land issues in a country or sub-region, its assistance has proved more relevant and sustainable. FAO's involvement in Mozambique and Angola at the land policy development stage increased the appropriateness of its subsequent support to capacity development. FAO's assistance to Namibia with the levying of a tax on commercial farms for the purpose of raising funds for the Land Acquisition and Development Fund was clearly successful in raising revenue. However, the resettlement programme (in which FAO had no hand), while providing access to land for the poor, has not been a sufficient condition for sustainable food

security and poverty reduction⁵¹ (see Annex 6). In the case of Namibia, lack of familiarity with the policy context placed FAO at a disadvantage in making a strategic intervention.

135. In the absence of any systematic monitoring and evaluation (M&E) of the field programmes (i.e. baseline studies, impact assessment surveys) in Mozambique and Angola, little can be said for certain about impact. Attempts to set up M&E studies on GCP/MOZ/086/NET and GCP/MOZ/096/NET came to nothing. It is not enough to measure outputs (e.g. the number of paralegals and government officials trained) because this reveals little about outcomes (e.g. the tenure security and improved livelihoods of the communities served). In the circumstances, it was necessary to fall back on 'plausible attribution' of project impact. In the case of the Mid-Term Evaluation of GCP/MOZ/096/NET, it was concluded on the basis of qualitative information that over the years the FAO projects had had a noticeable impact on tenure security and livelihoods of the target group. This was in a situation where training courses had been organised for paralegals in 90 districts of a total of 128 since 2007.
136. In the case of Angola attribution of benefits from community land delimitation is less persuasive given the lack of progress with the implementation of the Land Law of 2004. According to a recent review of land reform in Angola, hundreds of applications to legalise community or family lands have not been processed, despite the fact that many of these applications were made years ago. Further, the Land Law and the Constitution of Angola, with regard to the rights of rural communities to their land, are reportedly not being respected by the authorities.⁵²
137. Two OSRO field projects were back-stopped by the LTT during the review period: one in Tajikistan (OSRO/TAJ/602/CAN) *Improved food security and enhanced livelihoods through institutional and gender-sensitive land reform*, and the other in Southern Sudan⁵³ (OSRO/SUD/819/CHF) *Livelihood recovery for returnees, IDPs and vulnerable households through access to land for production and settlement*. The interventions followed political settlements after civil wars with a view to rehabilitation and development. In each country, the assistance provided to the land sector was a component of a larger programme of assistance by FAO, the effectiveness of which is reviewed in a previous evaluation.⁵⁴ While the land project in Tajikistan was found to be relevant and to have achieved its planned outputs, even if little is known about its longer term impact, the particular intervention in southern Sudan in 2008-2009 proved to be a 'missed opportunity' due to the failure of FAO to find the resources (funds and staff) needed for its effective implementation at a critical time (see Annex 6). Nonetheless, FAO's support to South Sudan with the establishment of the Land Commission following the peace Comprehensive Peace Agreement in 2005 does appear to have been very worthwhile.

FAO-World Bank Cooperative Programme (CP) in Land Tenure

138. FAO's Investment Centre (TCI) works with around 27 multilateral and international/ regional financial organizations. The World Bank (WB) and IFAD are TCI's two largest partners and within these the topic of land tenure is recognised to be an important topic, but nonetheless a particularly sensitive one. The collaboration between FAO and the WB is part of a broader endeavour governed by a Memorandum of Understanding (dated 30 March 1964), which provides the basis for the FAO-World Bank Cooperative Programme (CP) administered at FAO Headquarters. TCI acts as an agent/intermediary between the WB and administrative units for

⁵¹ Werner, W. and Odendaal, W. 2010

⁵² Kleinbooi 2010

⁵³ Now the country of 'South Sudan'

⁵⁴ FAO 2010g

the recruitment of consultants, whose organisation is reimbursed the staff costs involved. The CP is funded partly through the charges TCI makes for its services and, partly through the FAO Regular Programme budget; an estimated 75% of the cost of services is covered by the Bank and thus decision-making remains firmly in the Bank's hands. In theory, the WB is a member of the UN system, but it is so powerful in terms of its authority and influence that it can be viewed as totally apart from and ahead of other members of the system. The WB's strength has long been based on the economic power and foreign policy strength of the USA, and to a lesser extent the other major industrialised countries. The USA, as its most powerful member has the privilege of having its own nominee elected as President.⁵⁵

139. Over the past ten years, the Land Tenure Team (LTT) has provided technical inputs through TCI to the WB on 45 projects in 35 countries. The inputs have involved desk work and field missions for analytical and advisory work, project design, appraisal and supervision. This work typically involves one or more staff from FAO (or consultants obtained through FAO) participating in a team under the supervision of a WB team leader/task manager. The TCI Service covering Europe, Central and South Asia (TCIN) has used the services of the LTT to the greatest extent. The East Asia and Latin American Service (TCIO) and the Africa Service (TCIA) have not availed themselves of the services of LTT as much as TCIN; largely because East Asia, Latin America and Africa have not attracted bankable land administration projects on the same scale⁵⁶. There has been collaboration between the TCI and the World Bank on normative work on land sector policy, with the WB providing funding for FAO for studies and joint publications. As noted by one WB staffer, 'FAO supports the WB as well as countries'.

140. The inputs from FAO that are needed by the WB are negotiated on an annual basis. Regional units within the Bank, as part of their regular financial planning process, develop annual estimates of the staff weeks needed from FAO in the coming year. Task managers apply for and receive allocations from the agreed-upon staff weeks and build them into their project financial planning. Each task team leader in the Bank manages his/her allocation of FAO staff time by asking the LTT team for inputs into projects as required during the year. When FAO experts are not available for a task, TCI will often contract with outside consultants recommended by the LTT or World Bank staff in order to fill the gap. This is not an uncommon occurrence as member country requests often come with little notice.

Eastern Europe and Central Asia

141. During the WB's Fiscal Year 2010, LTT work in this region constituted about 28% of the work delivered by TCI to the WB. The work of two technical experts under the technical supervision of the LTT, on fixed-term contracts funded by the WB, has focused on ECA countries largely in support of WB projects in this region. The project and related normative TRA activities involving WB/FAO collaboration in the region during the review period are set out in Table IV-2. It shows all projects that were active after 01 January 2006, and includes several that were initiated some five years previously and have involved inputs by FAO staff over several years. Technical inputs by members of the LTT include advice on land policy, on improving security of tenure by strengthening land registration and cadastral systems, and on rural property valuation and

⁵⁵ The sensitivity of FAO's relationship with the World Bank in relation to land matters is not new. It was given close attention in a critical review by Demetrios Christodoulou (1990), who had a 20-year career with FAO (1960-80) and ended as Agrarian Reform Policy Adviser. See his *Special Note on the World Bank*, pp 187-193.

⁵⁶ The LTT provided its staff (or supervised outside consultants) on investment projects in Central America (5), sub-Saharan Africa (7), Southeast and south Asia (12) and Europe and Central Asia (16). This distribution is largely the result of country demands and historical factors. For example, the large emphasis in ECA and Latin America is the result of the unique circumstances of these regions.

taxation. Within FAO, the LTT has been the primary player in this collaboration by focusing on the delivery of the land administration skills sought by the WB.

Table IV-2: World Bank Europe and Central Asia TRA Projects with FAO Participation, 2006-2011

Country (GNI status)*	Project title	FAO input	Project approval date	Project end date	Project Cost (US\$ m)	Total WB Share (US\$ m)
Albania (UMC)	Land Administration and Management	Supervision	2007-2	2013-6	56.0	20.0
Azerbaijan (UMC)	Real Estate Registration	Preparation	2007-3	2013-2	38.6	30.0
Bosnia & Herzegovina	Land Registration	Supervision/ preparation	2006-4	2012-3	17.0	15.0
Bulgaria (UMC)	Registration & Cadastre Project	Supervision	2001-6	2009-3	37.1	33.5
Croatia (HIC)	Real Property Registration &	Supervision	2002-8	2010-6	37.0	34.1
	Integrated land administration	Preparation	N/A	N/A	26.5	23.8
Kosovo (LMC)	Property Related Briefing Paper for Kosovo Future Status	Technical input	N/A	N/A	NA	NA
	Business Environment Technical Assistance Project component 2 enhancement of real	Supervision/ preparation	2005-6	2011-6	7.0	7.0
Kyrgyzstan (LIC)	Kyrgyz Land and Real Estate Registration Project	Supervision	2000- 6	2008-12	9.4	9.4
	Kyrgyz Second Land and Real Estate	Supervision/ Preparation	2008-7	2013-5	7.5	5.9
Macedonia (UMC)	Real Estate Cadastre and Registration Project and Additional	Supervision	2005-3	2013-12	16.0	14.0
Moldova (LMC)	Rural Investment and service project II (RISP)	Component on land re-parcelling	2009-5	N/A	14.0	10.0
Montenegro (UMC)	Land Administration & Mgt	Design/ Supervision	2008-12	2014-4	32.3	16.2
Romania (UMC)	CESAR	Supervision/ preparation	2007-11	2013-6	70.0	65.0

Country (GNI status)*	Project title	FAO input	Project approval date	Project end date	Project Cost (US\$ m)	Total WB Share (US\$ m)
Russian Federation (UMC)	Cadastre Development Project	Supervision	2005-7	2011-6	129.5	100.0
	Registration project	Preparation	2006-6	2014-5	101.5	50.0
Serbia (UMC)	Real Estate Cadastre and Registration Project	Component design	2004-5	2011-10	39.5	30.0
Tajikistan (LIC)	Land Registration & Cadastre System for Sustainable	Supervision; component design	2005-4	2012-3	10.6	10.0
Turkey (UMC)	Support to General Cadastre and Registry	Component design	2008-5	2013-9	210.1	203.0
Ukraine (LMC)	Rural Land Titling & Cadastre	Supervision	2003-6	2012-6	350.5	195.1
Total					1,210	872

* Gross National Income per capita status: HIC = High Income; UMC = Upper Middle Income; LMC = Lower Middle Income; LIC = Low Income

Source: FAO, FAO-Financing Organizations Collaboration (2011), note provided to the Evaluation Team by TCIN.

Latin America

142. The LTT has also made an important contribution to the land-related work of the WB in Bolivia, Guatemala, Honduras, Mexico, Nicaragua and Panama. The focus had been on capacity building of local authorities, and on the evaluation and assessment of issues relating to communal lands and rights of indigenous peoples. The LTT also made inputs into the Central America Land Policy Note (Guatemala, Honduras and Nicaragua) and a Seminar on Land Reform (Paraguay). In Honduras, FAO advisors contributed to the implementation of the World Bank Project "PACTA"⁵⁷, involving the acquisition of land and the formation of productive enterprises for poor rural families, supporting the rural sector at two different levels (the enterprise level and the community level). Credit was provided for the acquisition of land and then complemented with training.

Africa

143. In the three years for which data are available (2009-2011), LTT has provided TCIA with consultants (mostly from outside FAO) for WB projects in Cote d'Ivoire, Ghana, Malawi and Ethiopia and for minor inputs in Mozambique and South Africa. FAO has helped with two regional reviews of land administration reform.

South and east Asia

144. The LTT has provided technical inputs to projects in East Asia for a number of years (in Laos, China and Indonesia), though not directly in the Pacific Islands which are considered too

⁵⁷ TCP/HON/2901 "Apoyo para el establecimiento y análisis del Programa de Acceso a la Tierra"; UTF /HON/025/HON "Unidad de Gestión de Fondo de Tierras" and UTF /HON/034/HON "Apoyo para el funcionamiento de la Unidad de Gestión y la ejecución del Programa de Acceso a la Tierra (PACTA) Ampliado"

fragmented for large-scale investment. The LTT was also involved in three WB projects in India (2) and Sri Lanka.

Discussion

145. Reports on the LTT's investment work in all regions, but particularly in Eastern Europe and Central Asia, from TCI, the World Bank, country counterparts and the LTT staff members were very positive overall. The relationship between the LTT, the TCI and the WB is reported to be of great mutual benefit. For the LTT, the opportunity has mobilized additional resources to support field operations that would otherwise be seriously constrained by the modest regular programme budget of FAO. The WB has accessed much needed technical skills for assignments to member countries and enabled the LTT to develop experience and skills for its own programme of support to land consolidation activity in ECA countries and elsewhere. The FAO's policy-related experience, obtained through its normative work, is reported to have resulted in positive outcomes for the WB's investment projects. Because the WB lacks sufficient numbers of task managers with land expertise in some regions, it is reported that LTT members sometimes act as *de facto* task team leaders on these projects. The close working relationship developed with the WB's Land Tenure and Administration Thematic Group has also provided the LTT with opportunities to make inputs into high-level land policy consultations within the donor community. Task managers remarked that the involvement of FAO in WB projects gives those projects better access to key stakeholders, for example in the Ministry of Agriculture, in member countries. The assignment of FAO staff is reported to add credibility to the policy advice put forward by the WB in the politically delicate area of land policy. The WB likes to work with the LTT because it sees FAO as an independent, unbiased, purely technical, think tank. Indeed the WB proudly presents FAO as 'independent' mission members.

146. The different types of assignment organised in Latin America by TCIO for the CP are also reported to be mutually satisfactory. FAO experts are said by the WB to bring a 'global vision' covering the length of the project cycle and a neutral perspective devoid of political prejudice. The LTT members are said to have a good understanding of the legal, institutional and socio-economic issues relating to the customary tenure of indigenous people and the need for gender equity. Finally, the LTT brought an understanding of working with CSOs in support of strengthening the land rights for poor people, of importance in the Region.

Concerns⁵⁸

147. Judging by the evidence presented by TCI and WB informants, the programme scores highly in terms of service delivery and the contribution made by FAO. However, the high proportion of WB land projects, that is 40% of the total projects undertaken in the evaluation period by FAO's land tenure group⁵⁹ and the concerns expressed by internal and external informants of an overconcentration by FAO on land administration work in Eastern Europe and Central Asia for the WB and the corresponding lack of work in poorer countries should not be ignored. The ET's attention was drawn to: the lack of alignment of WB and FAO's priorities; the use of FAO staff as consultants to other organisations, and FAO being less strategic in its work and more opportunistic.

⁵⁸ The ET is not in a position to conduct a systematic evaluation of the CP's contribution to land tenure and make judgements on its efficiency, effectiveness and impact. The evaluation's findings are necessarily provisional and offered for consideration. A forthcoming (2012) evaluation of FAO's support to Investment in Agriculture will assess the relevance, efficiency and effectiveness of the CP programme in more detail.

⁵⁹ Compare Table IV-2 'World Bank Europe and Central Asia TRA Projects with FAO Participation, 2006-2011' (total 20 projects) and Annex 2 Inventory of Tenure-related Field Projects 2006-11 (total 30 land tenure projects)

148. There is also concern about the danger of FAO losing its neutrality when so much work on land tenure is channelled through the WB and tied to investment projects. There is evidence that the political sensitivity of land tenure issues leads to reluctance on the part of poor countries to involve the WB on account of the perception that it is not an entirely neutral arbiter. This is in contrast to FAO which is generally seen by external stakeholders to be providing neutral technical advice relating to land reform, even if FAO's changing 'political canvas' has become more closely aligned with that of the WB (Lipton 2009, p 68). Several stakeholders interviewed for the evaluation perceived that the close relationship with the WB was influencing the nature of land tenure work undertaken by FAO, and thereby its neutrality. This seems to have led to a dearth of FAO land tenure advisors with credibility in other regions, which are different to the kind of advisors used by TCIN.
149. The ET was informed that the LTT is anticipating more CP assignments in TCIA, and possibly also in East Asia, and progressively less in ECA. In documentation provided to the ET, TCI state that "the substantive experience acquired by the LTT in ECA is now being used in the rapidly expanding joint work with the WB in other regions". However, the TCI data do not support the belief that there is currently a rapid expansion in Africa. The ET understands that there are few situations in which the ECA experience with parcel-related land administration can be readily applied in sub-Saharan Africa.
150. FAO and WB land experts are well aware that in the majority of African countries the customary domain covers 75% or more of the land. They know from empirical evidence gathered in the 1990s that attempts to introduce land titling and registration in rural areas in Africa often had no significant impact on farm production. Nonetheless, the evidence showed that traditional tenure systems were flexible and responsive to changing economic conditions. Where population pressure and commercialisation have increased, these systems have evolved from communal rights to systems of individual rights or to new configurations of communal and individual rights when rights holders decide that these are more appropriate, particularly in peri-urban areas.
151. At this stage, the scope for bankable investment projects in land administration reform in sub-Saharan Africa is still very limited. Above all, there is need for support for legal and institutional development and for training and capacity building for government and civil society. Much can be learnt from current FAO support to the land and natural resource sector in Mozambique, where an integrated approach is being used to strengthen the knowledge of officials and CSOs about laws regulating tenure rights and access to land and other resources and to the development of community-investor partnerships.
152. The ET was informed by NR, when it was justifying the current regional distribution of LTT field operations, that FAO's technical assistance is driven by demand and not supply and that there is no practice of "seeding projects or approaches according to some preference or another". The ET understands that, in the final analysis, FAO's technical assistance projects must be based on actual requests for assistance from a member country. Nonetheless, FAO staff and consultants together with funding partners do play a legitimate role in influencing the nature and scope of projects. Depending on the type of project, gentle persuasion is achieved through pilot projects in the sub-region, publications, conferences and discussions with member countries, etc. While the process may not be supply-led, it is fair to say that FAO and its funding partners have a considerable influence over the type of support they offer. The evaluation team observes that FAO staff and consultants are certainly not passive in these matters.

153. The evaluation team notes that the mutually beneficial relationship between FAO and the WB under the CP has its dangers. There is unease that the availability of WB funding may have distorted patterns of work on TRA by FAO, *potentially* compromising FAO's reputation as a provider of independent advice and, due to scarce staff resources, limiting FAO's capacity to provide non-paying member countries with services. The evaluation team suggests some points for consideration:

- The funding available through the TCI appears to have favoured a particular type of work in land tenure at the expense of a more balanced programme, regionally and in technical content.
- There is a perception that LTT's role of making consultants available through the TCI for the WB's projects could undermine FAO's independence and the setting of its policy principles and priorities.

154. The final point is particularly worrying in that FAO is simply acting as a consultant to the World Bank compromises an important comparative advantage of FAO, namely its image as a neutral source of policy advice and technical assistance, with the provision of a service to member states related to their overriding goals of sustainable food security and poverty alleviation as FAO's first priority.

V. Key cross-cutting themes and programme areas

Gender and disadvantaged groups

155. **Background:** For the great majority of the rural poor, access to land and natural resources is essential for food production and income generation. It is also an important social and economic asset, essential for cultural identity and participation in decision-making. The customs and habitual practices that a group of people accept and follow often discriminate against their own members or outsiders because of their gender, social class or ethnicity. Besides women, there are other groups that often cannot obtain equitable rights to land. These may include certain occupational classes, minorities such as hunter-gathers, forest-dwellers, pastoralists or migrants who have no customary claims to land. For many of these groups, lack of secure access to land is an important cause of their poverty.

156. Ensuring equitable access to land for men and women increases economic opportunities and encourages investment in land and food production and improves family security. This link is clearly made in the 'State of Food and Agriculture: Women in Agriculture; Closing the Gender Gap for Development' (FAO 2011), according to which women comprise on average 43% of the agricultural labour force in developing countries, ranging from 20% in Latin America to 50% in Eastern Asia and sub-Saharan Africa.

157. FAO recognizes that to reduce hunger and poverty and promote sustainable development, efforts must be made to address these inequalities. 'Gender equity in access to resources, goods, services and decision-making in rural areas' has been one of FAO's eleven Strategic Objectives since 2010. Four units, namely: (i) the LTT in NRC, (ii) NRL, (iii) the Gender, Equity and Rural Employment Division (ESW) and (iv) the Development Law Service, have all played important roles in bringing land and gender issues to the fore. While the four units closely cooperate, they also have discrete products and projects, which are described in turn below.

158. **Land Tenure Team:** The LTT took the lead in the 'Improved Food Security and Enhanced Livelihoods through Institutional and Gender-Sensitive Land Reform in Tajikistan' (OSRO/TAJ/602/CAN), from 2006 to 2008. This project, in collaboration with ESW, was found in

the recent evaluation of FAO's work in Tajikistan to have been successful in supporting women's empowerment and access to resources.

159. The most important mainstreaming effort by the LTT during the review period has been in the context of the development of the Voluntary Guidelines. The consultative process for the VGs has involved a substantial number of women in the various consultations, and gender issues have been a focus of deliberations in the consultations. The LTT recently commissioned a gender analysis of VG issues (Daley and Park 2011). The First Draft of the VGs (2011) specifies the need for non-discriminatory, gender-sensitive and gender-inclusive approaches to dealing with TRA issues. 'The Principles of Implementation' include 'Non-discrimination' (3.2.2) and 'Gender and social equity, and gender and social justice' (3.2.3). The section on 'Rights and Responsibilities' guides States to remove and prohibit all forms of discrimination, including those affecting inheritance, change in marital status, legal capacity, and access to economic resources (4.7) and calls for States to provide gender-sensitive assistance to people who need help in getting access to courts and other processes that could affect their tenure rights (4.8). In the section on safeguards, in connection with legal recognition and allocation of tenure rights and duties, it is provided that States should ensure that the records of newly allocated tenure rights show spouses (7.3). In the section on Markets in land rights, there is the guideline that when tenure rights are traded States should establish safeguards to protect the tenure rights of spouses and others who are not shown as holders of tenure rights in recording systems, such as land registries (11.6). In the section on redistributive reforms, it is provided that States should clearly define the intended beneficiaries of such reforms, including women (15.1). The LTT has also cooperated with ESW in a number of gender-focused activities.⁶⁰
160. From the interviews with LTT and ESW staff, it appears that there has been generally effective cooperation on both the VGs exercise and more generally on mainstreaming gender in the LTT's work. The collaboration has been facilitated by the LTT having a gender focal point in the group with specific responsibility for ensure such collaboration and mainstreaming.
161. FAO concern about the land rights of indigenous minorities goes back to 'The International Decade of the World's Indigenous Peoples' (1995-2004) when the Land Tenure Service in the Rural Development Division provided the Focal Point for these Issues. At the end of the International Decade, the Service devoted an edition of its house journal to papers addressing the main issues that are at the core of recognition of indigenous people's land rights.⁶¹ During the recent consultative process for the Voluntary Guidelines, the LTT received proposals, publications and opinions as inputs for the zero draft of the VGs on the resolution of conflicts over rights to indigenous peoples' land. The First Draft of the VGs (2011), in the context of 'Investments and concessions' (12.3), advocates that States should meet their relevant international obligations and voluntary commitments concerning Indigenous and Tribal Peoples. It is expected that the LTT in collaboration with ESW will develop an implementation guide on indigenous issues.

⁶⁰ Capacity development on the integration of gender analysis in water and land tenure management (Angola, Cape Verde, Mozambique, and Timor-Leste - GCP /INT/052/SPA, 2007-11); Workshop on Gender Equity in Land Tenure, December 2009, Rome; Workshop on the gender implications of large land-based investments, December 2010, Rome.

⁶¹ *Land Reform, Settlement and Cooperatives*, 2004/1 <ftp://ftp.fao.org/docrep/fao/007/y5407t/y5407t00.pdf>.

162. **Land and Water Division:** NRL has played an important role in two collaborative efforts with ESW⁶². Again, ESW indicates that they have had good experience with collaboration with the NRL team. NRL, like the LTT, promotes this collaboration by designating one staff member as gender focal point with particular responsibility for such collaboration.

163. **Gender, Equity and Rural Employment Division:** ESW has responsibility for facilitating the mainstreaming of gender in FAO's work generally, while the relevant departments bear primary responsibility for the mainstreaming process within their work. ESW has been notably active in the TRA area, due in part to the importance of TRA issues for their work and in part to a long-standing interest of ESW staff in these issues. The unit has a nominated person as the 'focal point' for gender and land issues plus at least two other experts with strong international expertise in TRA issues. ESW's role has appropriately been focused on normative outputs to inform activities across a wide range of TRA issues (see Table V-1).

Table V-1: ESW's output of normative products relating to gender aspects of TRA

Details	Year	Partner organisations
The State of Food and Agriculture 2010-2011 Women in agriculture. Closing the gender gap for development	2011	None
Gender and Land Rights database http://www.fao.org/gender/landrights/home	2011	None
Agri Gender Statistics Toolkit	2010	None
Gender and Land Rights. Understanding complexities and adjusting policies (Policy Brief 8)	2010	None
Gender dimensions of agricultural and non agricultural employment. Status, Trends and Gaps.	2010	IFAD and ILO
Land and Property Rights. Junior farmer field and life school (JFSL), facilitator's guide	2010	UNAIDS, Legal Empowerment for the Poor Project, Norway and the Netherlands
Land access in rural Africa. Strategies to fight gender inequality. FAO Dimitra Project Workshop	2008	DIMITRA Belgian Ministry for Development Cooperation & King Baudouin Foundation
Workshop Brochure: Women's access to land in West Africa: problems and suggested solutions in Senegal & Burkina Faso	2008	DIMITRA, IDRC, International Development Research Centre (Canada)
Villarreal, Marcela "Changing customary land rights and gender relations in the context of HIV/AIDS in Africa", Colloque international "Les frontières de la question foncière – At the frontier of land issues", Montpellier, 2006	2008	None
"Gender, property rights and livelihoods in the era of AIDS" FAO technical consultation. Proceedings report	2008	Norwegian Ministry of Foreign Affairs (funding publication)
Vulnerability and Property Rights of Widows and Orphans in the Era of the HIV and AIDS Pandemic: A Case Study of Muleba and Makete Districts, Tanzania	2008	None
Children's Property and Inheritance Rights in the Context of HIV and AIDS	2007	Norwegian Ministry of Foreign Affairs (funding publication)
Children's property and inheritance rights, HIV and Aids, and social protection in Southern and Eastern Africa	2007	Norwegian Ministry of Foreign Affairs (funding publication)

⁶² Preliminary guidelines for Improving Gender Equity in Territorial Issues (IGETI) by P. Groppo and I. Sisto (2010); and the creation and maintenance of FAO's impressive Gender and Land Rights Database, online at <http://www.fao.org/gender/landrights/home>.

Details	Year	Partner organisations
Improving gender equity in the access to land. FAO Land Tenure notes 2.	2006	Produced and funded by LTT
Izumi, K. "The Land and property rights of women and orphans in the context of HIV and AIDS. Case Study from Zimbabwe"	2006	None

164. In addition, ESW has provided technical inputs to a number of NRL and LTT-led interventions. ESW has also led the backstopping of the project 'Capacity development on the integration of gender analysis in water and land tenure management' (GCP /INT/052/SPA), which sought to integrate a gender approach in legislation, policies and programmes on land and water administration and management in Angola, Cape Verde, Mozambique, and Timor-Leste. ESW is currently leading the second phase of the project 'Rural Women and Development Collection, Processing and Dissemination of Information – Dimitra' (GCP/INT/810/BEL), from which documents and communication materials have been published under the Land Tenure Series.
165. ESW and the LTT have made important contributions to the gender-related work of the Global Land Tool Network (GLTN), including the study 'Gendering Land Tools: Secure Land Rights for All' and the 'Training Package on Improving Gender Equality and Grassroots Participation through Good Land Governance'.
166. A recent evaluation of FAO's 'Role and Work related to Gender and Development' (2011) found that the Gender and Land Rights database managed by ESW is widely used, including in the production of the State of Food and Agriculture 2010/11 (which considered gender disparities in access to land) and the International Land Coalition's Land Portal. From interviews with stakeholders and the review of projects and documents, the ET confirms that positive achievements have been attained in integrating a gender perspective into FAO's land tenure initiatives.
167. ESW has a long-standing collaborative relationship with UN Women (formerly UNIFEM), including on the land reform project in Tajikistan. A senior representative of UN Women has suggested that ESW be more of an advocate for women farmers and their rights to land and water⁶³. UN Women has also expressed an interest in working closely with FAO to update the Gender and Land Rights database – the evaluation team feels that such collaboration could be valuable, and should be considered.
168. **The Development Law Service:** LEGN has collaborated with ESW in the development of the Gender and Land Rights Database. During the evaluation period, it has produced one gender-focused TRA publication in its Legislative Studies series 'Gender and Law - Women's Rights in Agriculture'⁶⁴. In addition, the informative Legislative Study No. 105, 'Statutory recognition of customary Rights; An investigation into best practices for lawmaking and implementation'⁶⁵, examines, among other things, the extent to which the land laws of Botswana, Tanzania and Mozambique treat women's land rights and those of disadvantaged groups and suggests how they might be better protected.

⁶³ FAO 2011a.

⁶⁴ Cotula, L. 2007.

⁶⁵ Knight, R. 2010.

169. Currently LEGN is the Lead Technical Unit on two projects in Mozambique: 'Promoting the use of land and natural resources laws for equitable development' (GCP/MOZ/096/NET)⁶⁶ and 'Community level legal education and support to help rural women secure and exercise land and resource rights, and address HIV-AIDS related tenure insecurity' (GCP/MOZ/086/NOR). In the former, NRL also has a backstopping role and in the latter ESW has a backstopping role, all of which fosters fruitful collaboration between the organisational units involved.
170. **Conclusions:** FAO has long had an international leadership role in Gender and Development. Within FAO, the integration of gender insights into the work of the organization on TRA land tenure has been exceptionally strong, based as it is on a dual strategy; namely: maintenance of a strong TRA capacity in the unit responsible for mainstreaming (i.e. ESW) and the inclusion of gender-sensitive expertise within the units working on land tenure. The current organizational arrangements and the interactions between ESW and the TRA units LTT are judged to be effective. There may be lessons to learn about the future mainstreaming of TRA issues across the organisation from the way Gender and Development issues have been successfully mainstreamed in FAO's land tenure-related work.
171. Member countries do not often go to ESW for assistance on gender and TRA issues, but to the TRA units. It is their responsibility to provide appropriate gender-sensitive advice and assistance. ESW does not have as many staff working on TRA issues as in the past and not enough to provide backstopping for all field operations. As recommended by the recent 2010 evaluation of FAO's role and work on gender, and approved by the FAO Conference in July 2011, the ET supports the need to increase gender capacity, particularly at regional level, as it will allow FAO to keep abreast of the expanding needs for guiding the mainstreaming of gender-sensitive TRA for land and other natural resources. Their support is necessary not only for those few TRA projects which specifically focus on women. For gender mainstreaming, their involvement is necessary in the majority of TRA projects because it is difficult to imagine a TRA project in which gender-sensitivity is not needed.

Emergencies

172. **Emergencies arising from conflict:** Disputes over access to land and water resources frequently lie at the heart of conflict-related emergencies. Such conflicts are often deeply rooted, especially in the arid and semi-arid lands of sub-Saharan Africa. Knowledge of the history, nature and scale of conflicts and the options for amelioration and conciliation are vital for long-term risk management. Consideration of TRA issues is also imperative in an emergency response phase and again in managing a recovery process. Land and water tenure issues frequently increase in the aftermath of territorial conflicts, even if they were not the cause in the first place. Failure to take account of the ingrained TRA issues can exacerbate and prolong crises and lead to further loss of life and resources.
173. In 2005, the then-Land Tenure Service produced a good practice guide on 'Access to rural land and land administration after violent conflicts' in the Land Tenure Series. It draws on FAO's experience from Lebanon, Afghanistan, Bosnia and Herzegovina, Kosovo, Guatemala, Sudan, Congo, Sierra Leone and Rwanda, and Timor Leste; the last-mentioned being a country in which 75% of the population were displaced by a war of independence in the late 1980s. Other countries in which FAO has gained valuable experience of post-emergency land tenure services

⁶⁶ The follow-up to Decentralized Legal Support and Capacity Building to Promote Sustainable Development and Good Governance at Local Level (GCP /MOZ/081/NET).

are Mozambique and Angola, for which NRL has been assigned responsibility for TRA work since the reorganisation of FAO's unified Land Tenure Service in 2010.

174. Disappointment has been expressed about the failure of the Natural Resources Department to provide consistent support for field operations in the face of long-running conflict in Sudan in the critical period 2008-2009. Scarcity of personnel and funds and requirements for land tenure services elsewhere contributed to the withdrawal of FAO's land tenure services from TRA work in Sudan. It is reported that, as a result of FAO's withdrawal, UN-HABITAT stepped in to fill the gap, in Sudan as well as in Liberia, where FAO has had no presence.
175. Following the 'Evaluation of FAO's Sudan Cooperation 2004-2009'⁶⁷, which contains a detailed account of the successes and failures of FAO's land-related work in Sudan (see Box V-1), FAO's involvement in the now newly independent Southern Sudan may be resumed, following a scoping study in July 2011 and a report on the options for FAO's return to field operations, in which serious land related conflict is on the increase.

Box V-1: Weaknesses of FAO's TRA assistance to land conflict-ridden Sudan 2008-2009

"Weaknesses. At a corporate level, despite significant engagement in land governance issues in Mozambique and Angola, consistent support could not be established for Sudan. Possible reasons have to do with the very limited staff in the FAO LTT, lack of land tenure experts in sub-regional offices, and an 'atmosphere' of marginalization of the importance of land tenure at HQ.

Still more important, concerns that land tenure is a too political issue, and the fact that most countries do not entrust land tenure to their ministries of agriculture (which are in most cases the 'natural' counterparts of FAO) constituted an obstacle to FAO's effective engagement. The fact that the land tenure work has and is being managed by the emergency division was viewed by some people interviewed during the mission as contributing to a short-term outlook not conducive to tackling long term issues like land governance.

FAO invested little in monitoring the results of their land work in Sudan and many people question the added value and impact of FAO's activities on land governance as in fact resource-based disputes seem to be on the rise and the situation on land tenure security is still the same as in 2005. Despite the fact that FAO's work on land issues was broadly recognized as highly professional up to 2008 (resulting in having a land law in place at the end of 2008), no impact can be shown as people are simply not aware of this law (even in the states, which are the ones which should work on the implementation of laws). At the Government of Southern Sudan level, legislative direction is missing; in fact all FAO implemented land tenure work has ended at pilot stages only.

Inadequate attention was paid to communication about FAO's work in land tenure at country level. In the Ministry of Agriculture and Forestry (MAF) very little is known for example about FAO's activities in relation to land tenure security (although MAF should be a key stakeholder in this; as much as the Southern Sudan Land Commission, Ministry of Housing etc). The turnover of staff within agencies working in Sudan is high and a number of people (including FAO staff) interviewed by the mission showed very limited awareness of FAO's long term engagement in land tenure work."

Source: 'Evaluation of FAO's Sudan Cooperation 2004-2009', page 70 (FAO 2010)

176. TCE has been concerned that the LTT has shown insufficient understanding of the urgency and short-term nature of humanitarian emergencies, while the LTT point out that it is not enough to deal only with the symptoms of a crisis, without reference to the underlying causes. No doubt, part of the problem has been the short-term nature and scarcity of emergency funds, urgently

⁶⁷ FAO 2010e.

needed for relief work. There can be no doubt that if land-related conflicts are to be forestalled, monitoring and follow-up of past land-related conflicts are essential. So is engagement with the government authorities and in-country specialists, in order to advise on policy and legal reforms and to ensure that FAOs country-level and regional personnel are fully briefed and aware of the importance of FAO's TRA work. However, the long running nature of land and water related conflicts in the Sahel and Horn of Africa raises questions about how FAO can best assist given the lack of capacity and commitment to land governance among the member countries involved.

177. **Emergencies arising from natural disasters:** Requests to FAO for post-emergency support for the resolution of land tenure issues also arise in connection with natural disasters – hydrometeorological and geophysical. In complex cases, the impact of a natural disaster may also be exacerbated by the effects of long-running political unrest, as was the case of the floods in Pakistan's North West Frontier Province in 2010, and currently in the drought-related emergency in Somalia, September 2011. However, many natural disasters are not accompanied by conflict and the assistance requested is of a more technical nature involving the reconstruction and development of a land administration system.
178. In cooperation with FAO's TRA units and international partners , TCE has collaborated in the production of the training manual, 'Assessing and Responding to Land Tenure Issues in Disaster Risk Management' (FAO 2011) and a series of six country briefs 'On Solid Ground; Addressing Land Tenure Issues following Natural Disasters'. These cover: floods in Mozambique; cyclones, floods, landslides, and storm surges in the Philippines; geophysical disturbances in Ecuador; hurricanes in Honduras; tsunamis, floods and earthquakes in Indonesia; and flooding, river erosion and cyclones in Bangladesh. As the introduction to the manual explains, it is for people working on emergency response and disaster risk management. It aims to provide an overview of the major land issues that may arise following a natural disaster and that require consideration in the response, recovery and rehabilitation processes.
179. FAO and its partners need to be sure that there is a plan of action to circulate the document to agencies involved in emergency response and disaster risk management in member countries, and that where necessary technical assistance will be provided for follow-up training courses in countries and regions most at risk.
180. While the TRA units in the Natural Resources Department have developed a fruitful interaction with ESW to ensure the integration of gender insights into the work of the LTT, similar close cooperation has yet to be achieved with the Emergency Operations and Rehabilitation Division (TCE) for post-emergency TRA work. In February 2011, the LTT and TCE collaborated on the recruitment of a consultant to work on developing closer links between FAO's land tenure and emergencies work, but a suitable candidate was not found – possibly due to the initial short-term nature of the position. The consultancy was to help develop closer links between the NRC and TCE as they share a joint organizational result for in the PWB for the coming biennium. However, given the evidence of the increasing scale and frequency of emergency work, such an initiative can only be a temporary respite.
181. **Conclusions:** The ET concludes that more resources will be needed at the HQ and field level if FAO is to play a useful role in reducing the impact of conflict-related emergencies and to advise and assist with TRA issues arising from natural disasters. There is also a need to sensitize and build the capacity of FAO staff at HQ, regional, sub-regional and country levels to deal with TRA issues in emergencies and in the recovery phase.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

182. FAO's TRA experts have been distilling the essential policy principles that should guide the governance of land since before ICARRD in 2006. Formal commencement of the Voluntary Guidelines process was delayed until 2009 when the required extra-budgetary resources were made available by Germany and Finland. The process is being led by the 'Voluntary Guidelines Secretariat' in the Climate, Energy and Tenure Division (NRC), Department of Natural Resources. The steps to the drafting of Voluntary Guidelines on Responsible Governance of Tenure are set out below (Table V-2).

Table V-2: Steps in the Voluntary Guidelines Process

2006	International Conference on Agrarian Reform and Agricultural Development (ICAARD), Brazil
2008	Background studies on policy principles: Thematic Studies and Expert Group Meeting
2009	Clear FAO mandate for preparation of the VGs: Germany and Finland provide funding. Multi-stakeholder consultations held for private sector, civil society, and regional groupings.
2010	Preparation, review and finalization of an initial draft of the VGs: Additional funding provided by IFAD and Switzerland. FAO hold expert group meeting and an electronic consultation and continue regional consultations. Publications track the process, including assessments from all the regional consultations, and papers from FAO discussing what the VGs need to address.
2011	Finalization, launch and submission to Commission on World Food Security (CFS) April, for discussion by open-ended working group and then formal consideration by 37 th session of CFS July 25-28, 2011. Presentation of the draft to the open-ended working group.
2012	Implementation: preparation of country and regional action plans.

183. To embrace as wide a range of country circumstances as possible, the guidelines are intended to be general in nature and to cover a wide range of tenure arrangements, not only parcel-related land administration. The latest draft of the VGs deals with tenure rights and responsibilities, including indigenous and other customary rights and informal rights; state ownership and control of land; natural resources and the role of the state in overseeing spatial planning, land markets and the administration of tenure; dispute resolution; climate change and the restoration of tenure rights and access following natural disasters and violent conflicts.

184. For the process of developing the tenure guidelines and because of their cross-cutting nature, the Natural Resources Department developed mechanisms for interacting with other units within FAO. The size of the task and the need for resources required FAO to partner with other international actors, including UNDP, IFAD and UN-HABITAT and donor organizations. The interaction with stakeholders took place through an extensive programme of consultations. Regional meetings were held in Brazil, Burkina Faso, Ethiopia, Jordan, Namibia, Panama, Romania, the Russian Federation, Samoa and Viet Nam. These brought together almost 700 people, from 133 countries, representing the public and private sectors, civil society and academia. There was also one consultation with the private sector in London, which drew over 70 people from 21 countries. There were four regional consultations for civil society in Italy, Malaysia, Mali and Brazil attended by almost 200 people from 70 countries.

185. In the course of the development of the VGs, there was some change in their scope. Originally the guidelines were to deal with 'land and other natural resources'. The initial discussions included not just agricultural land but also urban land, forest land, fisheries, minerals and water. As discussions proceeded, it was concluded that minerals and water could not easily be

accommodated within a land governance framework. A separate technical guideline relating to water governance is being produced separately by FAO. The latest version of the draft VGs is entitled 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security'⁶⁸.

186. Non-Governmental Organizations (NGOs), including members of the International Land Coalition (ILC), felt that the Zero Draft of the VGs (April 2011) was too focused on what States should do and queried whether the VGs were addressed only to governments. The guidelines failed to 'unpack' the definition of State and that of Governance and insufficiently addressed issues of decentralisation, territorial development and citizens' rights. The NGOs argued that these concerns were particularly relevant for the protection of biodiversity, the commons and indigenous and customary rights, which are treated in the VGs as 'permissive' rights, awarded by the State, rather than 'primary territorial' rights recognised and protected by the State. It was argued that there was need for a more balanced view that assigned governance roles to other actors⁶⁹. Efforts were made in the subsequent drafts to respond to these concerns.
187. As stated above, the VGs were intended to broaden discussions about land policy principles and go beyond what was perceived to be an earlier preoccupation among FAO's land tenure experts with parcel-related land administration and registration. However, there are some among those the evaluation team consulted who feel that the VGs still devote too much space to classical land administration. This point was made differently by various respondents, sometimes as a failure to fully address access issues and to recognize clearly intermediate forms of tenure as frequently prevail in informal settlements in urban areas.
188. Some of those interviewed among the NGO community and also those linked to the Framework and Guidelines on Land Policy in Africa expressed concern about the voluntary nature of the guidelines. They felt that if the process was voluntary it would be unlikely to move forward. They argued that nothing would happen in terms of implementation unless governments were pushed and that CSOs must use the VGs as an instrument for advocacy at the national level. Others point out that if consensus is to be obtained, the guidelines cannot be binding on all Members. It is understood that the Voluntary Guidelines approach to policy issues has been used before, for example with the Voluntary Guidelines on the right to adequate food adopted by the FAO Council in 2004⁷⁰.

The Voluntary Guidelines and other natural resources

189. The Voluntary Guidelines, which are focused on land tenure issues, also cover forestry and fisheries, and try to identify the common elements in the TRA challenges and opportunities facing these different resource systems⁷¹. Yet even in this case, interviewees and responses to the evaluation team's questionnaires indicate that fisheries people, for example, have not been involved enough in the process. There is a sense that the fisheries and forestry communities do not have the same level of feeling of ownership as the agricultural land and farming community.
190. Water was at one time meant to be included in the VGs. However, as more thought was given to the joining of land tenure and water rights principles and guidelines, it became apparent that

⁶⁸ The reasons why water was not included in the VGs are discussed in detail in Part VI

⁶⁹ Compendium and synthesis of submissions by Members, partners and individual experts in the ILC network to the e-consultation on the Zero Draft of the FAO, ILC Secretariat, May 2011.

⁷⁰ The 'Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security' were adopted by the 127th Session of the FAO Council in November 2004.

⁷¹ See discussion on the Voluntary Guidelines in Section V.

the differences are greater than the similarities. There also are some fundamental differences in approaches, water TRA focusing on allocation, rights and access issues within the context of management of the resource at the basin or aquifer level, and land tenure focusing more on administration of tenure systems and clarification and security of individual tenure rights in a political system. As a consequence, water was dropped from the VGs. Many stakeholders interviewed for this evaluation were disappointed with this decision. However, many recognized the reasons, and felt that the arguments for not including water in the VGs were for the most part valid. The evaluation team agrees. These arguments in simple terms were that:

- In order to accommodate water, it would be necessary to reconcile the VGs in the context of the hundreds of transboundary treaties and agreements that govern water management, allocation and use. This would have meant bringing in legal expertise and the resulting debates could have resulted in lost momentum and delays. As mentioned in the introduction to this chapter, transboundary water challenges and opportunities are widespread and significant, as are the rights and access issues associated with them.
- The eventual conclusion was that the differences between water rights and land rights and tenure outweighed the similarities: “broad divergence in terms of land tenure rights and water rights is such that while the two types of right contain a number of similarities the differences are both greater and more striking”⁷².

191. If water had been included, it would have been necessary to make the VGs even more general and non-specific and technical than they are at present. In fact, there is a high level of generality in the current draft of the VGs. One interviewee suggested that this is to be expected, “... now that the VGs are out of the hands of technical people and into the hands of political people who are masters at compromise through simplification.” Two donors interviewed felt that the reasons for exclusion of water, while well-communicated and explained within FAO, had not been adequately communicated and discussed with the outside stakeholders.

192. A number of external stakeholders expressed concern over the absence of water governance from the Voluntary Guidelines: “we cannot talk about land without talking about water” (CSO). One donor expressed surprise at the exclusion of water from the Voluntary Guidelines, saying that its inclusion would have been “an asset”. The absence of water rights from the Voluntary Guidelines was described by an independent consultant as “a serious void” – it would have been preferable to either include water, or to limit the Guidelines to agricultural land tenure and have separate Guidelines for the other natural resources. It was felt that this gap cannot be filled with the implementation guideline on water, because “you cannot implement what isn’t considered in the Voluntary Guidelines... the Guidelines are what is needed to be done, and the implementation guidelines are how” (CSO).

193. The arguments for including fisheries and forestry in the VGs are quite sensible⁷³:

- Fisheries and Forestry were interested in joining in on the project; and FAO’s LTT in the early days worked closely with forestry colleagues in the DFID trust fund project “Livelihood Support Programme” (sub-programme on “access to natural resources”). So, a close

⁷² Burke, J. n.d. Draft Issues paper relating to the technical guidelines on water. This insightful paper provides an excellent discussion of the similarities and differences between the TRA challenges and opportunities and governance issues facing water and land.

⁷³ We thank David Palmer for very helpful comments on the background on inclusion of forestry and fisheries.

relationship and mutual understanding had developed by the time the main work on the VGs started.

- During 2006-09, FAO's LTT worked closely with both fisheries and forestry colleagues in the "Legal Empowerment of the Poor" project (funded in 2006-08 by Norway and in 2009 by Norway and the Netherlands). In a sense, the very recent joint work on the VGs by land tenure, fisheries and forestry staff was a logical continuation of this history of collaboration.
- In reality the TRA challenges for land, forests and inland fisheries are closely linked: the livelihoods of many of the poor, and particularly the rural poor, are diversified and are dependent on access to several different natural resources. Households may combine crop agriculture and livestock grazing with fishing and hunting in forests, and sometimes in ways that are completely integrated, for example, crop agriculture in the form of paddy rice in wetland areas or on land that emerges when lake levels retreat seasonally. Floodplains and seasonally inundated areas that are not claimed for crop agriculture are also often used for livestock grazing. Access to forests provides non-timber forest products/minor forest products (e.g. wild game, nuts, berries, fuel wood, oils, fibres, medicinal plants, etc).
- The boundaries between agricultural land, forested land and fisheries capture and aquaculture are dynamic. For example, the clearing of forests for agricultural purposes (including ranching) has been well documented. Thus, it makes sense to consider the governance of tenure for all three together.
- By including forestry and fisheries (with emphasis on inland fisheries and aquaculture), the draft VGs promote the adoption of a coordinated approach for the administration of land and other resources.

194. **Conclusions:** The evaluation team thinks that FAO was correct in taking water out of the VG process for the various reasons put forth. At the same time, it believes that if extra-budgetary funding can be found it should be a priority of FAO to produce a set of VGs for water along with the water implementation guidelines that already are started. As one interviewee indicated, the implementation guidelines are suggestions on "how" to do things, you also need something (VGs) on what those "things" are. Since water is not considered in the current VGs, a separate set is needed for water. An alternative is to combine the "what" and the "how" in one consolidated document.

195. The evaluation team was made aware that several discussions on the options for implementation of the VGs have taken place, but decisions must await their approval by the CFS and requests for assistance from Member Countries. Set piece, land policy development processes that embrace all the relevant guidelines are unlikely to be feasible for most countries, which will no doubt have to tackle their many and complex land issues by adopting a more incremental approach⁷⁴. In this regard, it has been suggested that, if and when requested by member countries, FAO should prepare a menu of actions or implementation guides consisting of detailed checklists for specific countries to use at different levels of government. Countries would choose what priorities they wished to address. It is hoped that those requests will provide FAO an opportunity to build a programme of work in which there is more coherence between the normative activities and field operations than in the past.

196. It is premature to come to a conclusion on whether the investment in the VGs was worthwhile. The investment was very much an outlay in a consultation process, about which the evaluation team received generally positive feedback, and which will no doubt contribute to the credibility of the VGs. The process of developing the VGs has provided an opportunity for FAO to interact on a variety of critical issues with the member countries, civil society groups and private sector

⁷⁴ Adams and Knight 2011.

actors. Much will depend on whether the CFS endorses the VGs and upon the extent to which the policy principles set out in the document are taken on board by member countries. If nothing else, the process has raised the profile of tenure issues, which is important. There is no doubt that it has been expensive. In addition to a large proportion of the regular budget and some USD 4.6 million in extra-budgetary support, it has taken up much of the staff time available for work on land tenure, and to a lesser extent on TRA related issues in water, forestry and fisheries, since 2008.

197. FAO should be selective in implementation of the VGs and pro-active in pursuing issues that are of concern to the Organisation. The guidance documentation prepared should not be constrained by the consensus nature of the VGs, but represent a clear FAO position on these issues, far more specific and focused. That guidance should be sector-specific, as appears to be the plan, dealing not only with land governance but forestry, fisheries and water governance as well, within a corporate strategic plan.

Large-scale Land Acquisitions

198. Since 2007, there has been growing unease about the increasing demand for large blocks of agricultural land in developing countries for commercial production of food crops and biofuels, the bulk being for export. The demand is primarily driven by rapid increases in food and fuel prices and comes from domestic and international investment (often linked). The land under threat – be it savannah, woodland or tropical forest⁷⁵ – is invariably occupied in some way, especially if the extent and nature of customary land use systems are fully taken into account. The formal title of these very large areas is however often vested in the State, presenting evident risks for local rights and livelihoods when states want to put such ‘unused’ land into production. While FAO as an organisation has been actively involved in this issue since 2008, when member countries began to request information and advice on managing the new wave of requests for land, it is important to note that at country programme level, since the mid 1990s, FAO has been supporting the development of land management instruments that can produce an equitable solution to the dilemma posed by the need to attract capital onto unused land without undermining local livelihoods. The Mozambican programme has been especially active in this regard, starting with the development of the community consultation instrument in the 1997 Land Law, right up to the present with its support to a government pilot project to promote community-investor partnerships in projects requiring large areas of land.
199. At the international level, principal actors within FAO are the LTT, the Trade and Markets Division (EST), which has been actively promoting discussions on this issue within FAO for several years and seeking to promote it in other international fora, and the Legal Department, which has participated in discussions and is seeking to update the 1998 manual on a framework for international investment.
200. FAO initiated support for a series of analytical studies by the International Institute for Environment and Development (IIED) in 2008, and published a working paper ‘Bioenergy and Land Tenure, the implications of biofuels for land tenure and land policy’ (Cotula et al 2008) and a policy brief ‘From Land Grab to Win-Win’ (FAO 2009), which argues that the ‘land grab’ if managed properly could in the end benefit the global food production and the world’s poor. In 2009, IIED published an FAO/IFAD-supported report ‘Land Grab or Development Opportunity?’

⁷⁵ As discussed in Part VI, this is closely related to FAO’s concerns with deforestation and loss of woodlands, since many of the large land areas acquired by locals and outsiders are forest land. “Land grabbing” has been a major concern in forestry circles for many decades.

Agricultural investment and international land deals in Africa' (Cotula et al 2009). This study involved in-country research in Ethiopia, Ghana, Mali, Madagascar, Mozambique, Sudan and Tanzania. In 2010, IIED published another FAO/IFAD-sponsored report, 'Making the most of agricultural investment; Agricultural investment and collaborative business models' (Cotula and Leonard 2010), which surveyed experiences with business models of agricultural enterprise that did not require the acquisition of land. A further publication by IIED explores 'Land Deals in Africa: What's in the Contracts?' (Cotula 2011). Cotula has also prepared a Thematic Paper (5B) 'Land tenure issues in agricultural investment' to accompany FAO's 'The State of the World's Land and Water Resources for Food and Agriculture (SOLAW)' (2011)⁷⁶. The thematic paper contains useful guidelines on safeguarding local land rights and on local land rights as a lever to obtaining a stake in large scale agricultural investments.

201. To raise awareness and influence policy and practice, FAO has also taken up the issue of large-scale land acquisition in the context of the "Voluntary Guidelines for Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" (see section above). The current version of the VGs (September 2011), in Section 12 on Investments and Concessions, call for support of investments and concessions in land while safeguarding against dispossession of tenure rights and livelihoods and against negative human rights impacts, food insecurity and environmental damage. Explicit references are made to the avoidance of potential negative impacts on women. The VGs urge new policies and laws which require agreements on certain standards, including periodic review and clear and enforceable sanctions and negotiations with all affected parties. They urge pre-negotiation studies, transparent processes, broad consultation, and effective monitoring of implementation and impacts of agreements.
202. FAO, the World Bank, UNCTAD and IFAD are developing a minimum set of 'Principles for responsible agricultural investment that respects rights, livelihoods and resources', the so-called RAI Principles. These principles aim to provide a framework to which national regulations, international investment agreements, global corporate social responsibility initiatives and individual investment contracts refer.⁷⁷ The Trade and Markets Division (EST) is FAO's lead technical unit in these matters. However, it is equally clear that dialogue and collaboration with the field programmes should be encouraged in this context. For example, the current Mozambican programme is aiming to develop a guidelines document for promoting equitable, income enhancing community-investor partnerships within a wider framework of 'inclusive business'.
203. **Land Rights and REDD:** The evaluation notes that large scale land acquisition is a major factor in deforestation and has been of concern to the FO for some decades. While the focus of the large scale land acquisition work is somewhat different, FAO has an opportunity to take advantage of some of the potential synergies between its work in land rights issues (for example, the methodology of community delimitation)⁷⁸, and the search for ways to ensure that communities benefit from the REDD process and become active beneficiaries and stakeholders in work related to reducing deforestation. For example, FAO now is involved in a major way with UN-REDD work related to reducing deforestation. This work can be informed by FAO and partners' work on land management, participatory territorial planning, Large-scale Land Acquisition, and vice versa.

⁷⁶ http://typo3.fao.org/fileadmin/templates/solaw/files/thematic_reports/TR_05B_web.pdf

⁷⁷ Hallam 2011.

⁷⁸ See Land Tenure Working Paper No 13. Participatory Land Delimitation.
<ftp://ftp.fao.org/docrep/fao/012/ak546e/ak546e00.pdf>

204. The RAI Principles were developed following the attempted large-scale acquisition of forest land for agriculture in Madagascar in June 2009. They set out seven principles: 1) Existing rights to land and associated natural resources are recognized and respected; 2) Investments do not jeopardize food security but rather strengthen it; 3) Processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal and regulatory environment; 4) All those materially affected are consulted, and agreements from consultations are recorded and enforced; 5) Investors ensure that project respect the rule of law, industry best practices, are viable economically and result in durable shared value; 6) Investments generate desirable social and distributional impacts and do not increase vulnerability; and 7) Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.
205. The UN Committee on Food Security have agreed that consultation and finalisation of the RAI principles will occur after finalisation of the VGs. This should provide the opportunity for the points made in the VGs on local land rights to be mobilized in that discussion.⁷⁹
206. In October 2010 the UN Committee on World Food Security (CFS) requested its High Level Panel of Experts on Food Security and Nutrition (HLPE) to conduct a study on land tenure and international investments in agriculture to be presented at its next session in October 2011. The HLPE report⁸⁰ was published in 2011 and contains recommendations which have implications for follow up by the LTT and future directions for FAO's support to TRA.⁸¹
207. **Conclusions:** The role of FAO in this area would be to provide sound counsel to governments and development agencies on how to manage this process, a role in which FAO has considerable credibility; especially compared with major bilateral donor agencies from which countries many of the investors come. The multilateral donors, who can often leverage policies using the funds at their disposal, have a lesser role in this sensitive area.
208. The ET notes that from replies to the staff surveys and interviews with regional staff FAO had been unable to provide adequate advice on LSLA, given the lack of country-specific, up-to-date information on the topic. An exception to this has been Mozambique where FAO has been working with the Government and communities since the mid-1990s devising and testing procedures to promote community-investor partnerships involving land for agriculture, forestry and wildlife development projects, with growing success. However, FAO and other agencies, including IIED and ILC have now produced a series of useful country studies on the subject, potentially useful for FAO field staff and FAORs to share with governments.

⁷⁹ <http://www.fao.org/economic/est/investments/building-international-consensus-on-rai-principles/en/> and <http://www.responsibleagroinvestment.org/rai/>

⁸⁰ <http://www.fao.org/cfs/ru/>

⁸¹ Recommendation 3: "...there is need for legal, financial and technical advice to be available for governments as well as local communities. One option is for this legal advice to be provided by the FAO Land Tenure Service". Recommendation 12: "...the CFS shall seek to establish at the FAO an observatory for land tenure and the implementation of the Voluntary Guidelines, ensuring that investments will result in decreased hunger and poverty in host communities and countries".

VI. Review of FAO support to TRA for other natural resources

209. This section provides background information on key TRA issues related to natural resources. It then reviews the TRA challenges and opportunities for FAO associated with natural resources other than agricultural and grazing lands. Included are forests, wildlife, fisheries, and water. For each of the “other” natural resources, we provide:

- a brief discussion of priority challenges and opportunities; and
- a review of what FAO is doing related to these challenges and opportunities.

The final section provides an evaluation team perspective on the key points related to FAO activities in TRA for the “other” natural resources.

210. **Background:** The TRA challenges related to land and to other natural resources are similar in many ways. But there also are some significant differences in TRA challenges introduced by the complexities related to the different characteristics of these resources^{82,83}. For example, the fact that water, fish, and wildlife are renewable, non-stationary resources has unique TRA implications that are not faced when dealing with land tenure. Thus, while individuals can have tenure or ownership of land, in the case of access to renewable resources, the concern most often focuses on rights to certain amounts at certain times, governed by management of the overall supply over time⁸⁴. Access to water (such as for irrigation) has to be controlled on an overall basis based on the annual flow availability and the seasonality of the flows, or the amount of groundwater drawdown that is allowable when considering recharge rates. The same is true of stocks of fish and wildlife. These TRA issues do not exist in the case of agricultural land, where the focus is more on the clarity and security of individual or group ownership of specific parcels. In the case of renewable natural resources, the useable supplies can be expanded or contracted over time. The TRA implications are significant in some cases.

211. Another difference between land and the “other” natural resources is that forests and wildlife, for example, are consumed by humans, while land is a basic input for production of these other renewable natural resources. Water is both consumed and used as an essential input for producing forest products, wildlife, and fish.

212. In the case of flow and non-stationary resources, such as water, fish and wildlife, there are also a number of very important international TRA issues that do not apply to a stationary and fixed resource such as land, other than in the case of border disputes. The transboundary issues related to water TRA are particularly widespread and important:

“... approximately 40 per cent of the world’s population lives in river and lake basins that comprise two or more countries, and perhaps even more significantly, over 90 per cent lives in countries that share basins. The existing 263 transboundary lake and river basins cover nearly one half of the Earth’s land surface and account for an estimated 60 per cent of global

⁸² It is because of the differences that water was not included in FAO’s current work developing the Voluntary Guidelines as discussed in section V.

⁸³ Burke, J. n.d., Draft Issues paper relating to the technical guidelines on water. This paper provides a good discussion of the similarities and differences between the TRA challenges and opportunities and governance issues for water and land.

⁸⁴ Cf. Adams, Berkoff and Daley 2006.

freshwater flow... In addition, about 2 billion people worldwide depend on groundwater, which includes approximately 300 transboundary aquifer systems⁸⁵”.

213. However, it should be noted that given its mandate as a neutral United Nations organization, FAO does not generally deal directly with transboundary water disputes. Rather, FAO typically plays an “honest broker” role, providing advice and legal counsel to help countries resolve the issues themselves. It also produces significant legal and planning documentation to help countries understand and deal with transboundary challenges. In general, there is good cooperation among countries sharing transboundary waters⁸⁶ – meaning that even national water rights regimes must typically take into consideration impacts on users in other states.
214. The above is not to say that there are no similarities and opportunities for linkages between land TRA and other natural resources TRA activities. In fact there are many such linkages, and FAO takes advantage of a number of them.
215. In what follows, we look in greater detail at the particular characteristics of the various resources other than land, and review how the FAO has dealt with these resources in its TRA related work associated with each. As mentioned, in some cases this involves activity that reaches across land and other resources; but in most cases it has involved normative activities and field work that has focused mainly on the resource systems in question and the departments dealing with them. The notable exception is the work of LEGN, which has reached across all the resources and associated TRA elements covered here.

TRA challenges and opportunities related to water: water rights and alternative means of water allocation

216. Approximately 70 percent of the fresh water used in the world goes to agriculture⁸⁷. Water demand for agricultural production is only set to increase, as the global population grows and incomes rise – leading to a continuous increase in the demand for food. The majority of this increase in demand is occurring in the least developed countries of the world. Yet, availability of water for poor farmers in these regions is declining as rivers and aquifers become over-abstracted – and as increasing climate variability continues to impact on the reliability of rainfall patterns. Access to water of acceptable quality is also becoming an important issue, as surface water bodies become increasingly polluted and unfit for use. These problems of quantity and quality are exacerbated by relatively inefficient use of water for agricultural production: only around half of the water used in agriculture is done so productively to produce agricultural outputs⁸⁸. Under these deteriorating conditions, rights and access to water by the poor for agricultural production increasingly are becoming a challenge for an agency such as FAO, whose mandate is to ensure sustainable food security in the developing world.
217. When considering water rights and access challenges and opportunities in an agricultural context, a key point to keep in mind is that land and water rights are closely interdependent – both resources are used together in agriculture; and “failure to take account of this interdependence can undermine land tenure security, foster land disputes and contribute to

⁸⁵ UN-Water 2008.

⁸⁶ Ibid.

⁸⁷ FAO. n.d.

⁸⁸ IFAD. n.d.

resource degradation”⁸⁹. In arid or semi-arid regions where irrigation is necessary for agricultural productivity, access to land without access to water is meaningless to the farmer. Recognition of the interactions between land and water resources was a major factor behind the emergence of the concepts and principles of “integrated water resources management,” “integrated watershed management” “integrated river-basin management”, etc., which explicitly include consideration of water and land TRA challenges and opportunities at the landscape level⁹⁰.

218. While the two need to be considered together, one also needs to recognize that there are a number of important distinctions between water rights and land “rights” or tenure⁹¹. This is partly because land is a fixed, stock resource, while water is a flow resource. While land rights, or tenure can be vested directly in a ‘legal person’ (an individual, a group, a company, a trust, etc.), a water right in statute law is a legal right to divert and/or impound and use water from a natural source, generally with a limitation on timing and amount⁹². The right given is to use water, not own it. Also, in the case of water, the focus is on assigning rights in the context of the management of the available water resource as a whole, whereas in the case of land, the main focus is on administration of tenure of individual parcels of land.
219. A main concern with water in agriculture relates to irrigation:
*Typically in irrigation schemes the water right is vested in the scheme’s management; the water rights of the individual farmer are subsidiary and derive from ownership of or use of land within the irrigation scheme. The enjoyment of this subsidiary right then depends on the effectiveness of the scheme management; the unpredictable characteristics of water resources require continuing active management if water rights are to be delivered and, even then, water security cannot always be guaranteed (a fact recognised in all irrigation water supply agreements). Moreover, if an individual diverts water directly from a natural source, the individual right is conditional on water of the required quality and quantity being available and thus is also dependent on management of the resource at the basin level*⁹³.

Water and TRA: FAO’s contribution

220. The main work on water-related agricultural issues is undertaken in the Natural Resources Management and Environment Department (NR). The Land and Water Division (NRL) aims at enhancing agricultural productivity and advancing the sustainable use of land and water resources by promoting improved tenure, management, development and conservation of land and water resources.
221. The Water Development and Management Unit (NRLW) is engaged in a programmatic approach to agricultural water management, addressing water use efficiency and productivity, and best practices for water use and conservation, throughout the continuum from water sources to final uses. Specific targets are integrated water resources management, water harvesting, groundwater, use of non-conventional water, modernization of irrigation systems, on-farm water management, water-quality management, agriculture-wetlands interactions, drought impact mitigation, institutional capacities, national water strategies and policies, and

⁸⁹ Cotula, L. (ed.) 2006.

⁹⁰ Cf. Gregersen, H., et al. 2007.

⁹¹ Cf. Burke, J. n.d. Draft Issues paper relating to the technical guidelines on water, for a thorough discussion of the differences and similarities.

⁹² Hodgson, Stephen 2004.

⁹³ Adams, Berkoff and Daley 2006.

river basin and transboundary waters management. NRLW sees three roles for its activity: providing information and knowledge, policy advice, and technical assistance (field work).

222. With its continually updated water information system AQUASTAT, and tools for analysis such as CROPWAT, AQUACROP and MASSCOTE, NRLW is able to contribute to the formulation of national and regional water management strategies and perspective studies. Most of this work touches on TRA issues, but it is not a central theme addressed by NRLW.
223. NRLW collaborates with other technical departments of FAO. The Development Law Service (LEGN) in the Legal and Ethics Office has also made an important contribution to FAO's work on water TRA issues, for example in the publication of legislative studies relating to water rights (mostly before the period of evaluation considered here). LEGN has also assisted member countries in revising water legislation that governs access to the resource.
224. Despite good intentions, the resources directly devoted in the area of water to TRA-related challenges and opportunities are few (as shown in Part III of this report), and their use has not always been very effective as found by the recent evaluation of water activities in FAO.

The 2010 OED evaluation of FAO's role and overall work related to water

225. In 2010, FAO's Office of Evaluation completed an evaluation of FAO's role and overall work related to water⁹⁴. As indicated in the final report, the activities in FAO related to water take place in a great number of different units and cut across the entire agency. However, the evaluation provides little information on FAO's work related to water rights and access to water, or on the units responsible for this topic. None of the recommendations relate directly to TRA, although the first one recommends defining a water mission statement for FAO that includes special consideration of "the inclusion of poor and vulnerable groups." These groups are those likely to have the least secure access rights for water.
226. The basic points made in the Evaluation regarding water TRA related work are as follows:
 - The Evaluation Team had particularly high praise for the TRA related work on water done by LEGN. The evaluation found that LEGN's engagement in this area has been *"...highly effective and widely recognized, and unique in the wider scenario of international organizations working in the water sector"*. The evaluation points out that LEGN has made *"...direct contributions to defusing the potential for legal disputes over transboundary waters, for example in the case of the Iullemeden aquifer"*. At the same time, the Evaluation concluded that most of the contributions *"have understated gender concerns"*. The Evaluation also concluded that most countries are not familiar with LEGN work: *"...the likely explanation is that work by LEGN, by being rather specialized, is not widely known but is well appreciated by those who use it and are acquainted with it"*.
 - With regard to setting up water users associations (WUAs)⁹⁵, the report states that: *"The complexities inherent in setting up and running WUAs are well described in the Participatory Rapid Diagnosis and Action Planning for Irrigated Agricultural Systems"*

⁹⁴ FAO 2010d.

⁹⁵ When WUAs are set up there is a transferral of responsibility for operation of irrigation infrastructure (and therefore of access to irrigation water) from governments to WUAs (see Hodgson 2009, Creating Legal Space for Water User Organisations).

(PRDA), a manual produced within the IPTRID umbrella by FAO, the French Cooperation and IWMI. In general, in NRLW emphasis has been placed on WUAs. However, in a normative product drawing on the African experience, *“Water and the Rural Poor: Interventions for improving livelihoods in Sub-Saharan Africa”*, the Unit adopted a livelihood perspective, and placed emphasis on the need to include poor households in the decision-making processes and the importance of ensuring access to water rights for the poor users, rather than just setting up WUAs”.

- The Evaluation had praise in general for the normative outputs of FAO in the water area. Two examples were explicitly singled out as good work related to water TRA. Both were produced in 2006 within the FAO Livelihood Support Programme framework. These were: *“Access to water, pastoral resource management and pastoralists’ livelihoods: Lessons learned from water development in selected areas of Eastern Africa”* with information on Kenya, Ethiopia and Somalia, as well as *“Land and water rights in the Sahel: Tenure challenges of improving access to water for agriculture”* (the latter undertaken in partnership with IIED).
- The Evaluation also looked at the FAO field programme, which included 76 ‘Water and Food Security’ projects that represented 43% (approximately USD 200 million) of all water-related initiatives; 59 of which were conducted under the umbrella of the Special Programme for Food Security. The Report had the following water access related conclusions: *“Some of these projects showed positive results and impact, but only for restricted numbers of beneficiaries. Overall these projects failed in improving access to water resources for agriculture and food security for many among the rural poor, and did not adequately address sustainable land and water management. Any positive impact may thus be short-lived. Shortcomings have occurred particularly in Africa, and internal management issues and unrealistic time frames appeared to be among the main reasons for failures in implementation, although technical deficiencies also occurred”*.

227. Towards the end of the report, the Evaluation Team states that: *“FAO’s work should actively pursue and promote accelerated access to water for production by the poor, in ways that enhance, not threaten, environmental sustainability. This is a daunting but unavoidable challenge”*. Although the normative work undertaken by FAO with regards to TRA issues was considered by the evaluation to be of good quality, the assessment of field work suggests that FAO projects have not succeeded in rising to this challenge.

Recent normative work related to water rights and access

228. As mentioned by the 2010 Water Evaluation, FAO has undertaken substantial normative work related to water; and the evaluation team judged this work to be good. LEGN has produced a series of normative publications during the last few years related to legal aspects of water rights and interactions between water and land rights and access⁹⁶.

229. With regard to information and knowledge, FAO maintains an extensive multi-scale information base on water for use at global, national and local levels. AQUASTAT, FAO's global information system of water and agriculture, monitors and reports on water resources and agricultural water use in member countries. FAO’s information serves as the basis for decisions in major international natural resources management initiatives (UN-Water, World

⁹⁶ Cf. Hodgson 2006; Hodgson 2007 ; Ramazzotti. 2008; Vapnek et al. (eds) 2009; Hodgson 2009.

Water Forum, etc.) and feeds into international conventions (UNCCD, UNFCCC, CBD) in which FAO is active and provides knowledge and expertise. In most of these activities, water rights and access issues and opportunities enter the picture as part of an integrated approach to water management.

230. In the area of policy advice, FAO has produced a number of guides that help shape agricultural policies in relation to land and water management. In some cases, such work can be considered both as general interest normative work and country specific (although not field projects as such). For example, the “customary water law case studies” for specific countries provide insights both for the individual countries involved and also for other countries contemplating various programs and actions related to reconciling customary and statutory laws related to water.
231. Of specific importance is the linkage between TRA challenges and opportunities for water and agriculture, where there are significant interactions between agricultural land tenure and water rights and access. NRL has specifically focused on irrigation policy and legislation, and has produced over the past five years or so a series of country studies⁹⁷. In addition, as mentioned earlier, the recent OED evaluation of FAO work related to water had high praise for two publications produced within the FAO/DFID Access to Natural Resources Sub-Program within the LSP⁹⁸.
232. FAO, with the contribution of the Italian Government, is developing an integrated package of technical and policy assistance guides to provide countries with a comprehensive methodology for assessing, analysing and reporting on the use of scarce water resources.
233. “*Coping with water scarcity – the role of agriculture*” will provide a detailed assessment of agricultural water use, including its productivity, its value-in-use, and its efficiency during the water use process, giving the countries handles to adapt their water policy and improve their water management in the future through strategic interventions to increase their capacity to cope with water scarcity. This project will also consider water rights and access issues, since the more scarce water becomes, the more likely it is that access will have to be regulated and in some cases curtailed.
234. FAO, UNESCO, IAH and GEF have joined forces to address groundwater governance in a new project: *Groundwater governance - A global framework for country action*⁹⁹. Since it deals with governance, it also deals with TRA issues, which are central elements in any system of governance. The primary focus of the project is the set of human behaviours that determine groundwater use and abuse. The objective is to accelerate the adoption of improved groundwater resource governance from resource management institutions for millions of individual users. Rights and access issues are central to the development of improved groundwater resource governance. This is a global project, but also involves country work.

Recent field projects with water TRA elements

235. Through its Development Law Service, FAO has a fundamental “enabling” mandate: it helps member countries sharing a transboundary river, lake, or aquifer to establish a legal and

⁹⁷ These include individual reports on irrigation policy and legislation for Mozambique, Kenya, Botswana, Tanzania, Ghana, and Swaziland.

⁹⁸ These were: Gomes 2006 and IIED 2006.

⁹⁹ Groundwater Governance: A Global Framework for Country Action (GCP /GLO/277/GFF).

institutional environment conducive to stable and mutually beneficial cooperation¹⁰⁰. This is done with a view to managing, allocating use rights and developing transboundary water resources for the benefit of agriculture, fisheries and other uses, including ecosystem support. Recent examples include the permanent Consultation Arrangement established in 2007 by Algeria, Libya and Tunisia for the management of the Northern Sahara Aquifer System, and the similar arrangement currently being negotiated by Mali, Niger and Nigeria for the management of the Iullemeden Aquifer System. FAO also works to strengthen the ability of the governments of the Nile Basin to take informed decisions with regard to the management and allocation of their water resources¹⁰¹.

236. A number of water projects have TRA elements in them, even though not identified in the titles¹⁰². Some examples are the following:

- *Study on Analysis of Sustainable Water Resources Use* (GCP /RAS/241/JPN), involving China, Malaysia, Thailand and Viet Nam. The project focuses specifically on issues related to policies and practices of water allocation, particularly to agriculture. Appropriate allocation of water is the main means by which sustainable access to water is achieved.
- *Fortalecimiento del marco jurídico en materia de gestión de agua y los recursos hídricos* (GCP /RLA/171/SPA), involving El Salvador, Guatemala, Honduras and Nicaragua. This project aims to analyze the rules and regulations that guide management of and access to water in the countries involved. Once they have been analyzed, recommendations for modernization and revision of the legal instruments will be formulated. Important among the relevant instruments are those related to water rights and access.
- *Groundwater Governance: A Global Framework for Country Action* (GCP /GLO/277/GFF), with a global scope. This was also mentioned in the normative work, since much of the project involves development of methods that apply across countries. The project objective is to develop a Global “Framework for Country Action” (comprising region specific policy, institutional and investment options), to advocate improved governance of groundwater resources at the country/local levels. Since fair allocation of water rights and access is such a central part of good water governance, TRA becomes by necessity an important consideration in this project as well as most other projects that deal with allocation of water rights.

237. As mentioned previously, in the recent evaluation of FAO’s water activity, the team indicated some disappointment with many of the water related field projects in terms of helping poor people get better access to water resources for agriculture. Overall, these projects (the ones the evaluation looked at) failed in improving access to water resources for agriculture and

¹⁰⁰ The fundamental issue in transboundary water management is the allocation of rights to water and any products of value produced in the water (such as fish) within the transboundary water basin or aquifer.

¹⁰¹ UN-Water. 2008. Ibid. The recent 2010 OED evaluation of FAO’s work related to water indicates that: “In the politically sensitive area of policies for transboundary water management, FAO through NRLW and LEGN has been engaged in a number of initiatives....Overall, a number of positive cases have been identified, although different partners expressed clearly diverging opinions on the comparative advantage of FAO in this area and the Organization’s effectiveness as a policy advisor, both in quality and quantity, appeared mixed, with some evidence of uptake in what is in any case a slow process: many factors intervene at national level in relation to the approval and adoption of policies.” (para. 219).

¹⁰² Some examples include: *Study on Analysis of Sustainable Water Resources Use* (GCP /RAS/241/JPN in China, Malaysia, Thailand, and Viet Nam); *Fortalecimiento del marco jurídico en materia de gestión de agua y los recursos hídricos* (GCP /RLA/171/SPA in El Salvador, Guatemala, Honduras and Nicaragua).

food security for many among the rural poor, and did not adequately address sustainable land and water management. Any positive impact may thus be short-lived.

Links with the rest of the world: partnering, collaboration and cooperation

238. FAO's major links with the other agencies and programmes in the UN System dealing with water resource issues is through UN-Water, which FAO chaired in the past for three years. UN-Water is a mechanism that attempts to coordinate the actions of the 26 entities or programmes within the United Nations (UN) system; and it is aimed at implementing the agenda set by the Millennium Declaration and the World Summit on Sustainable Development in all aspects related to freshwater. UN-Water has grown out of many years of extensive collaboration and partnership among the UN Agencies.
239. The large number of UN Agencies dealing with water reflects the multiple roles water plays and the complex interactions involved. This complexity calls for coordinated action within the UN system and with other partners and stakeholders— including organizations from the public and private sectors, and civil society. TRA challenges and opportunities are of importance in many of the water issues dealt with by the various agencies.
240. Within this framework, FAO collaborates on projects and activities with specific programmes and agencies. Of particular note are IFAD, UNEP, and other agencies that deal with agricultural and environmental issues, such as IWMI. Through a major project on Groundwater management, which includes TRA elements¹⁰³, FAO works with IAH, IGRAC, IUCN, IWMI, GEF, GWP, Ramsar Secretariat, UNDP, UNEP, UNESCO, UNICEF, WHO, WMO, WWC, and the World Bank. FAO is very much tied into the international network of entities working on water issues, including those that involve TRA elements. FAO sees TRA as an important aspect of its water scarcity work, so any partnering it does on water scarcity relates to TRA issues¹⁰⁴.

TRA challenges and opportunities relating to forests: FAO and the global priorities related to forest tenure, and rights and access to forests

241. Approximately 30 percent of the global land area is covered by forest. Around 1.6 billion people, or one quarter of the world's population, depend in one way or another on forests and related resources for their livelihoods. Almost all the rest of the global population depends on forests – both natural and planted– for various products, such as paper, wood for furniture, fuelwood, wood for construction materials, and so forth.
242. While planted forests are increasing at a rapid rate, natural forests are disappearing at a more rapid rate; and the poor in developing countries depend to a great extent on the natural forests – of which the vast majority are public domain forests, controlled and owned by governments¹⁰⁵. Part of the reason that rates of deforestation of natural forests are high is poor governance of these massive areas of public forest; and part of the reason that governance is poor is the lack of secure tenure for local people to give them incentive to

¹⁰³ Groundwater Governance: A Global Framework for Country Action (GCP /GLO/277/GFF).

¹⁰⁴ TRA really only becomes of key interest when water is scarce. However, in this sense, water may be quite abundant physically, but institutionally or socially, it becomes scarce for certain groups. Thus, "water scarcity" has to be looked at in relative terms.

¹⁰⁵ The percentages of public forest differ by developing regions. Thus, in Africa it is well above 90 percent, while in South America it is about 75 percent and a little over 50 percent in Central America (cf. GFRA 2010).

manage on a more sustainable basis and participate in programmes that attempt to reduce illegal activity that robs the benefits of the legitimate rights holders¹⁰⁶.

243. Thus, most of the people who depend on the public domain forests have no statutory legal standing in terms of rights to the forests and their outputs. Communities and indigenous groups only own or legally manage and benefit on a sustainable basis from about one quarter of the natural forest in developing countries. In 2002 an estimated 22 percent of developing country forest was either owned or legally managed by communities and individuals within them. This had increased to 27 percent by 2008¹⁰⁷. Thus, since the early to mid-eighties, forest tenure patterns have been changing in many countries as governments have seen the advantages of hands-on community management and protection, or have been pressured to empower local communities and decentralize decision-making in a number of areas¹⁰⁸. In a 2008 study of 25 heavily forested countries, it was found that 15 had experienced an increase in forest land designated for and /or owned by communities since 2002¹⁰⁹. The Collaborative Partnership on Forests (CPF)¹¹⁰, chaired by the FAO, recently issued a statement calling for governments across the globe to increase communities' role in forest management. Doing so could contribute to lifting close to a billion people out of poverty, as well as improve the health and vitality of forests and reduce the serious problem of illegal logging and forest degradation.
244. However, it should be stressed that forest tenure reforms on paper that give control of forests to local communities are not enough. Communities face a number of additional problems in terms of effectively making such new found control contribute to their livelihoods and food security. Thus, giving control and access to forests to forest dwellers through laws on paper does not mean that the local communities actually have full access to them on the ground and know how to manage and take care of them.
245. Fortunately, planted forests are increasing at a rapid rate and take some pressure off the natural forests. Thus, at present, more than half of the world's industrial roundwood comes from planted forests. The TRA challenges and opportunities associated with planted forests are quite similar to those faced for any agricultural crop; and they can be quite different from those associated with natural forests, which mostly still remain in the public domain in developing countries. In contrast, most of the planted forest is private, and most often the property of entities from the developed world or of the rich elites from developing countries. Thus, other than employment in harvesting and managing forests and processing products, such forests themselves provide little benefit to the masses of poor people who live in and around them.
246. Natural forest tenure issues in developing countries deal to a great extent with common property regimes and community based forest management systems and the problems and opportunities associated with such. "As with other common pool resources, the task is governing multiple resources in a shared space while maintaining them as renewable

¹⁰⁶ Cf. Porter-Bolland et al. forthcoming.

¹⁰⁷ Cf. Larson, et al. 2010.

¹⁰⁸ Cf. FAO 2006a.

¹⁰⁹ Sunderlin, Hatcher and Liddle 2008.

¹¹⁰ The Collaborative Partnership on Forests (CPF) is a voluntary arrangement among 14 of the largest international organizations and secretariats with substantial programmes on forests (CIFOR, FAO, ITTO, IUFRO, CBD, GEF, UNCCD, UNFF, UNFCCC, UNDP, UNEP, ICRAF, WB, IUCN).

resources”¹¹¹. The challenges are quite different than in the case of agricultural lands, where most of the focus is on land tenure challenges related to individual farmers. FAO has recently produced a document which looks in detail at the common property management issues in Asia¹¹².

247. Poverty rates tend to be high in forest areas. Research has identified a number of reasons why this is so¹¹³. One of those is that forest fringe and forest communities tend not to own their surrounding forest and that makes them less able to stand up to outside interests who wish to exploit the forests the communities depend on.
248. There is one very important TRA issue that relates to both forestry and agriculture: forests are disappearing at a rapid rate; and the main direct cause of deforestation is agricultural expansion. The enabling factors are government policies, or lack of enforcement of such. This includes perverse laws, poor land management, corruption (which encourages illegal forest clearing), lack of enforcement capacity for existing deforestation laws, etc. About 80 percent of new agricultural land developed over the 1980-2000 period involved deforestation¹¹⁴. There obviously are close links between agricultural land expansion and forest land TRA issues. Thus, deforestation issues should be a major concern of those dealing with the so-called “land grabbing” issues. This is not the case in FAO.
249. Since the main cause of deforestation is agricultural expansion, broadly writ, there is an interesting strong link between the discussion above and the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD) and TRA. The current thinking on REDD envisions massive payments around the world (PES or payments for environmental services) to forest owners who agree to protect their forests and thus the carbon stored in them. But questions are arising as to who owns the forests, how do customary rights fit into the picture, how do payments in common property forest situations work, and more fundamentally who owns the carbon in forests. Unclear tenure stands in the way of implementing strong REDD programs. More work is needed on sorting out carbon ownership, if REDD+ is to succeed. FAO recognizes this.¹¹⁵ In the context of its role in UN-REDD, FAO should give more priority to this topic.
250. More broadly speaking, a major TRA forestry challenge and opportunity relates to climate change and its relation, not only to REDD, but also expansion of afforestation, reforestation, and restoration of degraded lands (ARRDL) in order to sequester more carbon as well as take pressures off biodiversity rich natural forests¹¹⁶. FAO is centrally involved with tenure issues related to both areas. In some cases FAO works effectively with other groups working with both REDD and ARRDL¹¹⁷.

¹¹¹ Larson et al, Op cit.

¹¹² Andersen 2011.

¹¹³ Sundelin 2007.

¹¹⁴ Gibbs et al. 2010.

¹¹⁵ Cf. FAO.2011. State of the World’s Forests, p.63+

¹¹⁶ Cf. Gregersen et al. 2011.

¹¹⁷ Cf. documentation on a recent FAO hosted expert meeting on “land tenure issues and requirements for implementing climate change mitigation policies in the forestry and agriculture sectors.” Rome, 15-17 November, 2010. FAO, Rome. See <http://www.fao.org/climatechange/65623> for background document on this event. This was a joint event with REDD and MICCA. FAO along with UNEP and UNDP are part of UN-REDD.

251. In both cases, REDD and ARRDL, TRA issues also are central and important. In the case of REDD, if poor people are going to get payments for environmental services - in this case not to deforest their land (or the land they legally manage), they need to have legal, secure long-term tenure rights to the trees and the carbon stored in them¹¹⁸. Otherwise, there will be reluctance on the part of carbon offset markets and some governments to make longer term contracts not to deforest with poor forest or forest fringe communities, because such contracts would not be legally binding if no clear ownership of the forests and carbon contained in them exists.
252. In the case of ARRDL, there will be little incentive for people to improve degraded or cutover land with tree planting and restoration of natural forest or other lands if they do not hold secure, long term rights to the products from the land – at least long enough to reap the benefits from their ARRDL investments and activities.
253. Another link between agriculture, food security and forests is agroforestry and forest fringe farming. Such systems also are a direct concern of FAO. A recent study estimates that:
*Agroforestry, if defined by tree cover of greater than 10 percent on agricultural land, is widespread, and found on 46 percent of all agricultural land area globally, and affecting 30 percent of rural populations. Based on our datasets, this represents over 1 billion hectares of land and 558 million people. Agroforestry is particularly prevalent in Southeast Asia, Central America, and South America*¹¹⁹.
254. TRA challenges and opportunities become important in agroforestry for several reasons. First, long-term, secure tenure is required for there to be any incentive to plant trees on farms, since trees produce their main benefits over time. Second, most forest and forest fringe farmers rely heavily on nearby forests as a source of bushmeat (protein), fuelwood, wood for furniture, homes, coffins and a myriad of other essential items. If rights and access to forest areas are taken away from these forest farmers and instead allocated to major commercial projects, or even REDD projects, extreme hardship and expanded poverty can result.
255. With the above context in mind, the main current and emerging forest related TRA challenges and opportunities that relate particularly to FAO's Strategic Objective E are:
- a) Expansion of forest tenure reform – primarily expanded allocation of public domain forests to local communities and poor rural dwellers¹²⁰; including settling of indigenous people's land claims, i.e. reconciling customary and statutory forest rights;
 - b) Introduction of complementary, broader programs of support (technical assistance, market access, etc.) to make it possible for the new tenure arrangements to lead to livelihood diversification and improvement and an integrated approach to problems of poverty, biodiversity protection, deforestation and forest degradation;
 - c) Expansion and improvement of the governance aspects related to enforcement of existing laws, elimination of corruption and illegal activity (major issues in forestry that affect the rights of poorer local forest dwellers), assuring fair distribution of benefits from forest reform, etc¹²¹;

¹¹⁸ Cf. Markelova and Meinzen-Dick 2009.

¹¹⁹ Zomer R et al. 2009.

¹²⁰ Cf. Larson et al, Op cit.

¹²¹ World Bank 2009.

- d) Helping countries improve decentralized governance of forest resources and overcome the TRA related challenges that come along with decentralization¹²²;
- e) Developing a better understanding of options for communal, co-management, and other systems of group establishment of planted forests and management of forests in such ways that the rights and responsibilities established in setting up such arrangements result in a fair distribution of benefits from exercising such rights;
- f) Understanding better how secure tenure rights related to forests held by forest communities and indigenous groups can help to reduce deforestation, e.g., through payment for environmental services schemes, and then apply that understanding in practice in programs such as REDD+; and
- g) Understanding better the legal and other challenges surrounding forest carbon tenure and how it fits in with developments related to REDD+¹²³.

Forests and TRA: FAO's contribution

256. At present, forestry TRA-related activity is carried out mainly in the Forestry Department (FO), but also with some related, productive work done in NR, LEGN and through the FAO/MICCA Programme¹²⁴. Linkages between these various units within FAO are made on an ad hoc, project by project and person to person basis. An example is the “2010 Expert Meeting on land tenure issues and requirements for implementing climate change mitigation policies in the forestry and agriculture sectors” organized by REDD and the FAO climate change and land tenure division (NRC). Another example is the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security”, both discussed earlier. FAO, working with the IIED, already has prepared an advanced draft of implementation guidelines for forestry to accompany these Voluntary Guidelines.
257. The good collaboration between FO and NRC on forest tenure has helped move the work on forest tenure forward. This also includes joint work on the development and testing of a capacity development module on forest tenure reform, which is currently underway in partnership with RECOFTC. The module will be based on Forestry Paper 165 and will also serve to develop capacity of countries to put into practice the implementation guidelines on forestry mentioned above in connection with the VGs.
258. FAO has a long history of doing work related to forest tenure, mainly through the Forestry Department. For many years, and long before the period considered in this evaluation, FAO had a significant TRA related forestry program through its “forestry for local community development,” program, funded primarily by the Swedish International Development Cooperation Agency. TRA challenges and opportunities naturally were central to this work. As resources available for the FAO and its forestry program tightened in more recent years, much of the work dealing with social forestry and TRA issues fell by the wayside, as did FAO's work related to several other areas. However, the forestry program continued to be concerned with TRA issues, although the emphasis was more at the regional level. In the past couple of years, the staff members who worked with TRA either left for field assignments or moved to other departments. There now is insufficient in-house capacity in FO to work on forest tenure issues.

¹²² Cf. Pierce-Colfer and Capistrano 2005.

¹²³ Cf. section in State of the World's Forests 2011 (FAO).

¹²⁴ Cf. Seeberg-Elverfeldt 2010; Varming, M. et al. 2010.

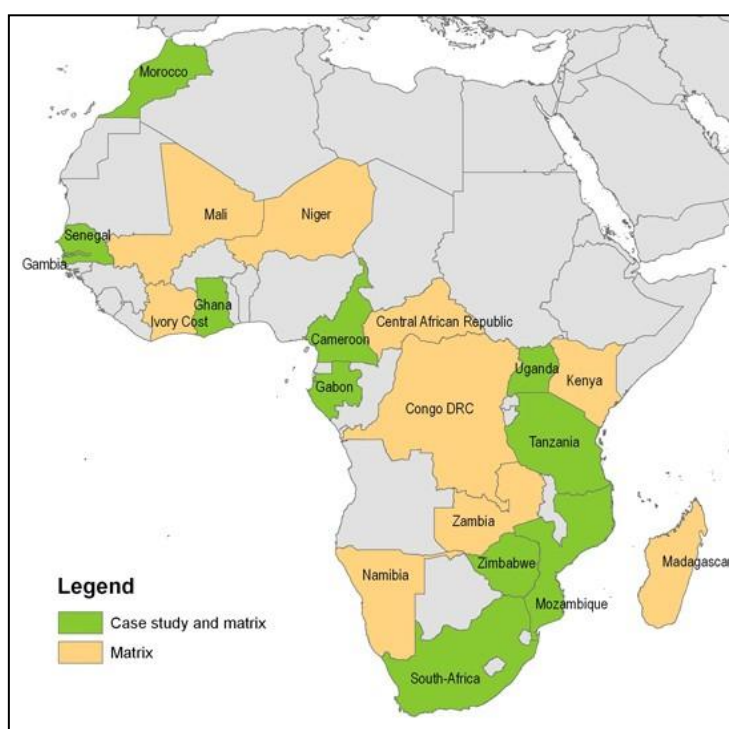
Recent normative work related to forest tenure

259. FAO has been doing some relevant and useful normative work over the past five or so years directly related to forest TRA. Three major items are the work on the forestry input for the Voluntary Guidelines, the implementation guidelines associated with the Voluntary Guidelines¹²⁵, and the 2011 FAO Forestry Paper 165, “Reforming forest tenure: Issues, principles and process”. The later paper, which is comprehensive and inclusive, was produced by two consultants with extensive input from the FO staff and from a peer group of experts convened in 2010 to review a first draft.
260. Some examples of FO’s extensive recent regional work on forest TRA include a series of studies done to understand forest tenure in the developing regions of the world starting with studies for South and Southeast Asia and moving on to Africa, Latin America and Central Asia, the Caucasus and Russian Federation.¹²⁶
261. The Africa study, for example, covers 20 countries. Initiatives to empower local communities, decentralize decision-making to local government and increase private sector involvement in forest management have been taking place in this region. The aim of this study is to shape a clearer understanding of these trends and their impact on sustainable forest management and poverty alleviation. Detailed quantitative information has been collected from 17 countries. The information is complemented by 11 case studies from 11 countries, as illustrated in Figure VI-1 below.

¹²⁵ How to shape governance of tenure for responsible forestry: A practical guide. FIRST DRAFT. Not for circulation, June 2011. Prepared by IIED and FAO.

¹²⁶ FAO 2006. Tenure security for better forestry: Understanding forest tenure in South and Southeast Asia. FAO, Bangkok, 2007; FAO 2006. Understanding forest tenure in South and Southeast Asia. *Forestry Policy and Institutions Working Paper 14*. Rome: FAO; FAO 2008. Understanding forest tenure in Africa: Opportunities and Challenges for forest tenure diversification. *Forestry Policy and Institutions Working Paper 19*. Rome: FAO; FAO 2009. Forest tenure in Latin American Countries. *Forestry Policy and Institutions Working Paper No. 24*. Rome: FAO; FAO 2010. Forest Tenure in West and Central Asia, the Caucasus and the Russian Federation. *Forestry Policy and Institutions Working Paper No. 25*. Rome: FAO.

Figure VI-1: Countries studied in Africa for the forest TRA study



262. As mentioned earlier, FAO also is centrally involved with TRA issues associated with forests and climate change as part of its involvement in the UN-REDD effort. This work is considered relevant to the mission of the FAO related to knowledge creation and dissemination; and it is effective in providing insights on the importance of TRA clarification, particularly in terms of clarifying the status of legal carbon tenure and rights – something which will become necessary if carbon markets are to develop effectively. What remains to be seen is how the work evolves to provide concrete input into clarification of carbon tenure and rights at the country level.
263. FAO's Global Forest Resource Assessment, produced every five years, started reporting more detailed forest tenure data from participating countries in 2005. The 2010 GFRA now includes even more detailed tenure information provided from the countries¹²⁷.

Recent field projects with forest TRA elements

264. The only field project that is specifically labelled as a forest TRA project is in **China**¹²⁸. The project supports the reform of forest tenure in China's collective forests through strengthening policies, laws and institutions responsible for the management of collective forests in six pilot provinces. It is funded by the European Commission (EC) and implemented by the State Forestry Administration of China, with FAO providing technical support. The project promotes the exchange of knowledge and experiences on forest tenure reform both within China and with other countries. A number of capacity building activities have taken place under the auspices of the project.

¹²⁷ Cf. the country reports. <http://www.fao.org/forestry/fra/67090/en>

¹²⁸ GCP /CPR/038/EC: "Supporting policy, legal and institutional frameworks for the reform of forest tenure in China's collective forests and promoting knowledge exchange".

265. The overall objective of the FAO China project is to make forest management more sustainable and to improve rural livelihoods in China, by enhancing the ongoing tenure reform for collective forests. The FAO role is to provide advice related to four main components:
- development of forest farmer cooperatives;
 - the regulation of forest ownership and land use rights and the trading of such;
 - participatory and sustainable forest management; and
 - knowledge and experience sharing, both within China in other countries.
266. This is an important project since the potential benefits are very large in terms of numbers of people and quality of forests in China who eventually can benefit from the results. According to project documentation, collective forests account for 58 percent of China's forest land and can make a significant contribution to rural livelihoods. Recently, the Chinese government has promoted reform of the tenure system for collective forests, which focuses on devolving land-use rights and forest ownership in collective forest areas to individual households. This allows households to use collective forest lands and forests to generate income and improve their livelihoods. The current forest tenure reform will allocate 167 million ha of forest land to households, and about 500 million farmers are expected to benefit. Some 35 percent of total collective forests have already been transferred to individual households.
267. According to a recent EC Monitoring report¹²⁹, the project is very relevant to the needs of China; and it is being implemented as planned. However, the monitoring team also felt that *"There is one important conditionality that needs to be met for the project to have a positive impact, namely, that the guidelines/regulations are reviewed and accepted by the intended ministries for their replication in other areas. The prospects will be enhanced or reduced, in part, according to the proven validity of their development process and timeliness of delivery. The potential impact could be considerable, as at present forest land regulation lacks uniformity and efficiency, that would not only ensure better management of forests but in turn increase the economic opportunities of millions of people who in a drive to improve their livelihoods resort to unsustainable forest exploitation practices. However, the lack of a strategy or guarantee that the guidelines/regulations will be taken into consideration for the reform of forest tenure dilutes this potential benefit"*. That conditionality remains to be met. All in all, the monitoring team gives the project a higher than average rating.
268. With regard to other project work related to forest TRA, it should be noted that while tenure reform and work on TRA does not show up in the title of other forestry field project, it is in fact dealt with in various significant ways in other projects, e.g., ones dealing with community forestry, forest policy and governance, sustainable forest management, forests and climate change. Some examples include:
269. In the case of a major agroforestry project in **Viet Nam**¹³⁰, the TRA related focus is on converting new legal access to land and forests into effective economic access for poor households. Viet Nam has been going through a large scale land reform where public domain forest and degraded forest lands are allocated to poor farmers and villages along with the responsibility to make them productive economic assets managed on a sustainable basis. Ownership of the land (through land use certificates or "Red Books" given to farmers by the government) provides part of the incentive for agroforestry development over the long term.

¹²⁹ European Union. 22/04/2011. Monitoring Report MR-139641.01.

¹³⁰ GCP-VIE-035-ITA: "Market-Oriented Agroforestry to Reduce Poverty in Quang Nam Province (follow-up phase)".

The other necessary, complementary incentives – technical knowledge of production systems and access to credit and markets – are directly addressed in this project. As stressed in several places in this evaluation, these are necessary parts of making mere physical access to land into effective economic access. A main comparative advantage of FAO is that it has the breadth, in terms of knowledge and capability, to help countries put in place the necessary and sufficient conditions to create effective economic access, which is necessary if sustainable poverty alleviation and food security are to be achieved.

270. In the case of a major forestry project in **Mongolia**¹³¹, three of the six envisioned outcomes of the project relate directly to TRA challenges and opportunities:
- *Aspirations and local initiatives of forest user groups will be supported resulting in more formalised long-term agreements/ownership over forest ecosystems for their sustainable management* (transfer of tenure, rights and or guarantee of access to local people).
 - *National legislation and regulations will be adjusted in order to create an enabling national context for local level forest-based resources management* (the necessary legislation will be in place to support local rights and access to and responsibilities for sustainable management of forest resources).
 - *The livelihoods of the rural population will be improved through the creation of income generating activities and the sustainable use of forest products for their daily needs* (part of the conditions to create effective economic access that can contribute to sustainable poverty alleviation and food security).
271. In the case of a **Cambodia** forestry project¹³², a main stated justification for the project is that *"By the end of this project, the tenurial rights of targeted communities in the ecologically vulnerable Northeast will be strengthened and community livelihoods improved including those of indigenous communities"*.
272. In the case of a joint IFAD-FAO Technical Assistance project in **Nepal**¹³³, *"the main objective of the Technical Assistance is to improve the effectiveness of the Leasehold Forestry and Livestock Development Programme and support the Department of Forests and to support the implementation, institutionalization and scaling up of the poverty reducing leasehold forestry programme in the country"*¹³⁴.
273. In the case of **Africa**, there is a regional project that involves TRA elements: *Enhancing the contribution of Non-wood Forest Products (NWFP) to Poverty Alleviation and Food Security in Central African countries* (GCP /RAF/441/GER). The first problem to be addressed is that "Tenure rights and Legislation governing the commercial exploitation of NWFP are inadequate or non-existent". One project target is "Livelihood vulnerability of primary resource users reduced through increase in legally secured access to forests and NWFP".

¹³¹ GCP-MON-002-NET: "Capacity building and institutional development for participatory natural resources management and conservation in forest areas of Mongolia"

¹³² GCP-CMB-034-SPA: "Enhancing community-based forestry management and utilisation for the improvement of rural livelihoods in Cambodia"

¹³³ GCP-NEP-062-FIN: "Technical Assistance Support for Leasehold Forest and Livestock Programme"

¹³⁴ Leasehold forestry provides the poorest of the community with long-term tenure security over forest lands, which encourages them to invest their labour and reap most of the benefits. The LFLDP programme has demonstrated a solution to optimize the degraded forestland, improve livelihoods of the poorest, and improve the environment.

274. There also are projects focused on reduction of illegal activity that directly impacts the effective economic access to forests by legitimate rights holders, i.e., projects that indirectly strengthen rights and effective economic access to resources by legitimate rights holders. For example, the inter-regional project, *Forest Law Enforcement, Governance and Trade Support Programme for ACP Countries (FLEGT-ACP)*¹³⁵ involves and supports activities identified through a targeted call for proposals from member countries in Africa, the Caribbean and the Pacific.
275. Thus, many forestry projects deal with TRA related challenges and opportunities, sometimes quite directly and in other cases in the context of FAO helping countries create “effective economic access” to land and other resources, which is well recognized by the FAO to be a necessary condition to achieve sustainable poverty reduction and food security for poor rural dwellers.

Links with the rest of the world: partnering, collaboration and cooperation

276. FAO FO is involved with most of the international governmental entities and some of the international NGOs that deal with forests. Very few of them, however, focus mainly on TRA challenges and opportunities¹³⁶. Rather, most of them have elements of their programs that touch on forest TRA.
277. FAO chairs the Collaborative Partnership on Forests (CPF), which is a voluntary arrangement among 14 of the largest international organizations and secretariats with substantial programmes on forests (CIFOR, FAO, ITTO, IUFRO, CBD, GEF, UNCCD, UNFF, UNFCCC, UNDP, UNEP, ICRAF, WB, and IUCN). TRA challenges and opportunities are dealt with from time to time in CPF deliberations, e.g., in the context of the development of an international REDD+ architecture.
278. FAO is a partner with UNEP and UNDP in the UN-REDD programme¹³⁷. Internally, the management of UN-REDD is shared between NR and FO. The DDG (Knowledge) chairs the steering committee for UN-REDD within FAO, with ADGs of FO and NR as members. The Director of NRC and the Director of FOM are responsible at the operational level. The split of work is that NR is responsible for delivering FAO’s “global” functions in UN-REDD, and FO for FAO’s support at country level under UN-REDD. FAO’s role has until now been almost exclusively on Measurement, Reporting and Verification activities, with some work on governance. The ADG of the NR Department serves as chair of the policy Board of UN-REDD.
279. TRA is a recognized important element in developing effective and efficient country level UN-REDD programmes. The Programme currently has 29 partner countries spanning Africa, Asia-Pacific and Latin America, of which 13 are receiving support to National Programme activities¹³⁸. To date, the UN-REDD Programme’s Policy Board has approved a total of US\$ 55.4 million for its nine initial pilot countries and four new countries (Cambodia, Ecuador, the

¹³⁵ GCP /INT/064/EC

¹³⁶ An exception is the Rights and Resources Initiative (RRI), a coalition of key NGO’s focused on forest TRA challenges and opportunities. FAO’s relationship with the RRI has been on an informal basis.

¹³⁷ The UN-REDD Programme is the United Nations Collaborative initiative on Reducing Emissions from Deforestation and forest Degradation (REDD) in developing countries. The Programme was launched in September 2008 to assist developing countries prepare and implement national REDD+ strategies, and builds on the convening power and expertise of FAO, UNDP and UNEP.

¹³⁸ These 13 countries are: Bolivia, Cambodia, Democratic Republic of the Congo (DRC), Ecuador, Indonesia, Panama, Papua New Guinea, Paraguay, the Philippines, Solomon Islands, Tanzania, Viet Nam and Zambia.

Philippines and Solomon Islands). These funds help to support the development and implementation of national REDD+ strategies. National Programmes in seven UN-REDD Programme countries are now in their implementation phase (Bolivia, Democratic Republic of Congo, Indonesia, Panama, Tanzania, Viet Nam and Zambia). One of the elements in most of these programmes is forest tenure reform and clarification. Such clarification is essential in order to determine who should be paid what for protecting forests from deforestation. FAO is well aware that a number of serious TRA challenges remain on the road to establishing a viable global REDD+ architecture. And such a global architecture is required if international “leakage” is to be minimized.

280. FAO plays a central technical role in the UN Forum on Forests, which is the body within the United Nations where forestry is discussed. FAO provides technical backup to the Forum, primarily through the CPF.
281. As mentioned, in connection with implementation of the Voluntary Guidelines, IIED is working with FAO to develop a practical guide for various types of stakeholders who aim to improve the way governance affects issues of tenure such that forestry is more sustainable and contributes more to livelihoods¹³⁹. IIED is working with the Forest Governance Learning Group¹⁴⁰ in preparing this guide. The work began in September 2010 and is due to be completed by the end of November 2011.

FAO TRA challenges and opportunities related to wildlife

282. Wildlife (‘bushmeat’) provides an important source of protein for many poor rural communities, particularly in Africa, as well as a source of income through the trade of animals and animal parts. Thus, the arrangement of rights and access to “bushmeat,” is of critical importance in terms of FAO’s objectives of addressing food security and poverty on a sustainable basis. In order to institute sustainable wildlife management in most parts of the developing world, better regulation and control of trade in animals and controls on hunting and development of key wildlife management programmes are required. Because of the importance of bushmeat, any change in the rights to access and harvest and trade wildlife can have major impacts on the poor. FAO and its partners are well aware of these requirements if sustainable and effective economic access to wildlife is to be achieved.
283. In Central Africa, an estimated 579 million forest mammals are consumed annually – up to 5 million tonnes of dressed bushmeat. In East and Southeast Asia, the severity of the problems associated with disappearing animal populations is related to high human population densities, a long tradition of consuming wildlife products for medicinal use and the exceedingly rapid economic growth. Commercial wildlife trade also poses a threat to wildlife populations beyond the tropics, for example in Mongolia’s temperate steppes and woodlands – mainly for the large Chinese market¹⁴¹.
284. The main challenges and opportunities faced in the wildlife TRA area relate to the establishment and management of systems of hunting and capture rights and access to

¹³⁹ IIED 2011.

¹⁴⁰ The Forest Governance Learning Group is an informal alliance of in-country groups and international partners currently active in eight African and three Asian countries. It aims to connect those marginalised from forest governance to those controlling it, and to help both do things better. Since 2003 it has been carrying out focused studies, developing tactics and tools, holding learning events, and working as a group to effect change.

¹⁴¹ <http://www.fao.org/forestry/67287/en>

wildlife that lead to (a) biodiversity conservation, (b) sustainable and stable harvests and management to meet the food needs of local populations over time, (c) off-take of wildlife that is equitable for the forest populations and others involved, (d) minimization of damage from wildlife to villages and crops of local populations¹⁴², and (e) domestication of wildlife.

Wildlife and TRA: FAO's contribution

285. The TRA challenges and opportunities associated with wildlife have similarities but also substantial differences from those faced in the fish and aquaculture sectors. FAO considers wildlife and protected areas issues from a forestry and agricultural, human-centred perspective. Ocean fisheries are considered in the context of a whole set of international treaties and agreements related to oceans, where the challenges and opportunities for TRA related activity are quite different. However, when it comes to inland fisheries, the similarities with wildlife TRA needs are quite similar. And the TRA issues faced in farm aquaculture are very similar to those related to planted forests. In these areas there are opportunities for synergies and mutual learning across divisions and departments. The main work related to wildlife is housed in the Forestry department, with links to livestock and other units within FAO, and with strong programs in the regional offices of the organization, particularly in Africa.
286. The FAO Forestry Department's work on wildlife and protected area management aims to conserve native faunas together with their natural habitats and to improve the livelihoods of rural communities in developing countries through normative work and field programme activities in collaboration with major international partners. Activities include the preparation, publishing and dissemination of concepts, studies, policy recommendations, guidelines, best practices, and other educational resources; support to regional networks; design and implementation of field projects; the organization of and participation in technical workshops, expert meetings and information events; as well as capacity development and training.
287. In past years, since the FAO wildlife program started, TRA related wildlife work in FAO has dealt with:
- bushmeat and wildlife rearing;
 - human-wildlife conflict; and
 - tourism hunting, eco-tourism and benefit sharing.
288. Current activities focus on topics directly related to agriculture, food production and poverty alleviation:
- ecotourism;
 - human-wildlife conflict;
 - wildlife policies and legislation;
 - design and management of protected areas;
 - wildlife conservation and sustainable management;
 - unsustainable/illegal harvesting and trade in wildlife species for food and non-food purposes (bushmeat);
 - impacts of climate change on wildlife and protected areas;

¹⁴² This latter item is critical, since villagers will start ignoring sustainable management systems and assigned rights if damage to their crops and villages are extensive.

- disease dynamics at the human-wildlife-livestock-ecosystem interface; and
- domestication of wildlife.

These work areas, however, are not treated separately as there are complex interactions between them.

289. In the future, an increasingly important area for FAO will be climate change impacts on wildlife, and this area has some distinct TRA elements that will need to be dealt with. According to FAO:

“As global average temperatures continue to rise, it is important to develop strategies, policies and guidelines to conserve ecosystems and species that will not be able to adapt. This may include moving boundaries of protected areas and ensuring better connectivity through wildlife corridors. More radical measures, however, may also be needed such as modifying or newly creating habitats and translocating whole animal and plant communities. In addition, measures which reduce the impacts of other human-induced pressures will help reduce overall vulnerability and strengthen the resilience of landscapes, ecosystems and species to climate change. In this endeavour, FAO, in partnership with relevant organizations, assists member countries in mitigating the impacts of climate change on wildlife and protected areas for the benefit of rural communities through normative work and field project activities”¹⁴³.

Recent normative work related to wildlife rights and access

290. FAO’s normative work that relates directly or indirectly to availability and access to wildlife includes:
- producing publications aimed at facilitating effective management of biological diversity;
 - responding to requests for technical advice and assistance;
 - working with partners to address unsustainable use of forest wildlife (e.g. the bushmeat crisis); and
 - working with partners to formulate and implement strategies to prevent or mitigate the human-wildlife conflicts and to promote best practices.
291. As one example of a normative project that is related to TRA, together with CIRAD, the WWF, CAMPFIRE and other partners, FAO has produced a human-wildlife conflict toolkit. Currently being tested in southern Africa, the toolkit provides measures to help resolve, prevent and mitigate the growing problem of conflict between humans and wild animals. It is designed not only to help protect people, their livestock and crops from animals but, just as important, to safeguard animals from people. It includes policies, strategies and practical tips to make increasingly close cohabitation safer for everyone. As a general strategy, the toolkit emphasizes conflict prevention through advance land-use planning.
292. LEGN has been particularly active in producing papers dealing with the legal issues surrounding wildlife related TRA. Some of its recent work includes: In the period 2008-2010 FAO’s Legal Office published five important papers on wildlife legislation and the empowerment of the poor in Africa, Oceania and Sub-Saharan Africa.¹⁴⁴
293. In addition, a recent issue of FAO’s flagship publication, UNASYLVA, features articles on forests, people and wildlife¹⁴⁵.

¹⁴³ <http://www.fao.org/forestry/67289/en>

¹⁴⁴ <http://www.fao.org/legal/prs-ol/paper-e.htm>

¹⁴⁵ UNASYLVA No. 236, vol. 61, 2010/3

294. Most of the normative work is done in collaboration with other groups. One good example, where FAO collaborated with five other entities (AWF, ILRI, Gov. of Tanzania, GEF and the World Bank) is a recent set of guidelines on participatory land use planning in situations where livestock and wildlife have to coexist¹⁴⁶. The guide is designed to help communities and policy-makers at local and national levels make informed choices regarding land use, business ventures, and public policy in pastoral areas, particularly the Maasai Steppe and other semi-arid parts of East Africa where livestock and wildlife have coexisted for centuries.
295. FAO takes on major responsibilities as convener, facilitator and supporter of meetings related to bushmeat and other TRA related wildlife themes. Table VI-1 provides a listing of international meetings that FAO has convened, facilitated and supported since 2008.

Table VI-1: FAO supported meetings and events related to bushmeat and the domestication of wildlife species (2006-2011)

Meeting/event	Date	Location
16 th Session of the Working Party on the Management of Wildlife and Protected Areas	March 2006	Maputo, Mozambique
Valorisation de la grande faune sauvage au Maroc	December 2006	Rabat, Morocco
17 th Session of the Working Party on the Management of Wildlife and Protected Areas	February 2008	Khartoum, Sudan
Improving policy, institutions, legislation and practices for sustainable use and conservation of wildlife resources	March 2009	Prague, Czech Republic
Regional workshop on wildlife conservation and protected area management in the Near East	May 2009	Damascus, Syria
Liaison Group Meeting on Bushmeat	October 2009	Buenos Aires, Argentina
17 th Session of the African Forestry and Wildlife Commission: Invasive species and their economic relevance for an impact on forests and wildlife in Africa	February 2010	Brazzaville, Republic of Congo
Community involvement in the management of wildlife and wildlife diseases in Central Asia and the Caucasus	September 2010	Almaty, Kazakhstan
Hunting, trade and management of wildlife in tropical forests	October 2010	Rome, Italy
Human-wildlife conflict	October 2010	Rome, Italy
58 th International Council for Game and Wildlife Conservation General Assembly	May 2011	St Petersburg, Russia
Symposium: Relevance of community-based natural resource management to the conservation and sustainable use of CITES-listed species in exporting countries	May 2011	Austria, Vienna
Joint meeting of the CBD Bushmeat Liaison Group and the CITES Central Africa Bushmeat Working Group	June 2011	Nairobi, Kenya

Recent field projects with wildlife TRA elements

296. In response to a critical wildlife situation in the Congo Basin, a GEF funded, FAO-led project aims to introduce community-based wildlife management in 16 pilot sites of Gabon, the Republic of Congo, Democratic Republic of Congo and the Central African Republic. Today, the levels of bushmeat extraction in the Congo region are hugely increased, driven by

¹⁴⁶ FAO, AWF, ILRI, Tanzania, GEF and the World Bank 2009.

enormous demands from big urban centres, and, as a consequence, current levels of hunting are unsustainable. This affects many protected and endangered species such as gorillas, chimpanzees and bonobos, and is the main threat to biodiversity in Central Africa. The project is based on the following three components:

1. Development of legal frameworks for participatory wildlife management in the four countries;
2. Development and implementation of simple and effective tools for participatory wildlife management; and
3. Capacity development for ensuring long-term sustainability of participatory wildlife management.

The project aims to demonstrate in pilot sites that community-based conservation and management of wildlife can be a viable and most effective strategy for conserving the integrity of wildlife, forest ecosystems and biodiversity in the Congo Basin.

297. Other recent and current field project activities with TRA elements include¹⁴⁷:

- the Central African World Heritage Forest Initiative project on protected area management and bushmeat trade, implemented jointly with UNESCO in cooperation with the national governments and international conservation NGOs;
- review and redrafting of wildlife laws and regulations in Serbia;
- a project on sustainable tourism, hunting, wildlife management and planning in Morocco; and
- support in effective management of wildlife and conservation areas in Mozambique.

These projects are primarily focused and organized at the regional or country level, since FO at headquarters only has one professional staff member who deals very much on a part time basis with TRA issues associated with wildlife.

Links with the rest of the world: partnering, collaboration and cooperation

298. FAO has established strong partnerships with governments and national, regional and international organizations and networks, in particular in Central Africa, to address issues related to sustainable management of wildlife resources and to search for viable options that will ensure the conservation and sustainable access to wildlife resources while improving the economic opportunities of the poor rural populations.

299. FAO and the International Council for Game and Wildlife Conservation have established a strategic partnership to assist the countries from the Southern Caucasus and Central Asia in conserving their rich biodiversity, and more particularly, to create an enabling environment for the sustainable use of its rich wildlife resources for the benefit of the national and local economies. This cooperation which started in Prague in 2006 is now known as the “Wildlife Initiative for Central Asia and the Caucasus”. The partnership has produced a number of technical papers, allowing FAO to leverage its resources through the Partnership¹⁴⁸.

300. FAO works with many other groups on wildlife matters, such as TRAFFIC, CIC, CIFOR, UNEP CMS and IUCN. Most of the partnerships involve some TRA elements, since rights and access to wildlife (too little access, or too much access leading to over harvest and non-sustainable

¹⁴⁷ Note that most of these projects involve more than one country; and some of them include normative components, i.e., activities that produce outputs (tools, guides, etc.) with general applicability across countries.

¹⁴⁸ Cf. examples on CIC website: <http://www.cic-wildlife.org/?id=412>

management of wildlife resources) are fundamental elements in most wildlife management focused projects. Other examples of organizations with whom FAO works on these issues include CIRAD, GEF, AWF, ILRI, the World Bank, CITES, CAMPFIRE, the WWF, and CBD.

TRA challenges and opportunities related to fisheries: rights and access to ocean and inland capture fisheries and aquaculture

301. Fish consumption is increasing globally. A study of global change in supply of, and demand for fish through 2020¹⁴⁹, envisions a growth in global consumption and production of food fish of 1.5 per cent per annum. The increase in production to satisfy the growing demand is expected to almost all come from aquaculture, and much of this from developing countries¹⁵⁰. While overall global growth in capture fisheries is expected to remain almost constant, growth in developing countries is expected to increase to counteract the declines for developed countries¹⁵¹.
302. The picture of growing prospects for scarcity of fish in some areas – and over-fishing in traditional capture fisheries, and at the same time rapid growth of aquaculture, particularly in the developing world has implications in terms of TRA challenges and opportunities that take on importance in the overall context of creating sustainable fisheries resources and helping to meet the food security needs and alleviate the poverty of millions of poor in the developing world.
303. In the case of ocean capture fisheries management, a current focus in the TRA area is on national and international capture fisheries agreements on access rights and exclusion and illegal fishing. For inland capture fisheries management, rights-based fishing access (both collective and individual) are important. When looking at both collective and individual rights-based approaches, the dimensions of concern are: exclusivity, security, durability, transferability and divisibility.
304. When the focus turns to aquaculture in the traditional farm or land based systems, tenure issues relate to the ownership and security of tenure of land on which farm fishponds and commercial farm fisheries are established. Basically the issues are those that are faced in agricultural land TRA, with fish just being another crop “grown” on the land. But there also is lake, ocean and sea aquaculture, which is growing much more rapidly:
*“...most experts agree that most future aquaculture expansion will occur in the seas and oceans, certainly further offshore, perhaps even as far as the high seas. However, aquaculture governance is already facing serious limitations in marine waters under national jurisdiction. Should aquaculture operations be undertaken in the high seas, the problem is likely to become a challenge as existing relevant principles of public international law and treaty provisions provide little guidance on the conduct of aquaculture operations in these waters. There seems to be a regulatory vacuum for aquaculture in the high seas”*¹⁵².

¹⁴⁹ Delgado et al. 2003.

¹⁵⁰ At present, some fifty percent of fish consumption comes from aquaculture (State of the World’s Fisheries 2010).

¹⁵¹ The declines in the developed world were at an average annual rate of 2.4 percent during during the seventies and into the mid nineties.

¹⁵² FAO State of the World Fisheries and Aquaculture 2010. FAO/FI pointed out to ET that this growth primarily involves the more advanced middle income countries.

305. Thus, one can see that the two sets of TRA challenges – ocean and inland capture fisheries and aquaculture are coming closer together in terms of TRA challenges. When aquaculture is practiced in either inland or ocean bodies of water rather than in farm and commercial built fish ponds, the TRA issues become a whole lot more complex.
306. In the area of ocean and inland lake and river capture fisheries there is the indirect TRA link related to employment which provides income and livelihoods that make it possible to access fish for family food and protein. FAO points out that:
- “The fish sector is a source of income and livelihood for millions of people around the world. Linked to the strong increase in fish production, employment in capture fisheries and aquaculture has grown substantially in the last three decades, with an average rate of increase of 3.6 percent per year since 1980. According to the most recent estimate, in 2008, 44.9 million people were directly engaged, full time or, more frequently, part time, in capture fisheries or in aquaculture. This number represents a 167 percent increase compared with the 16.7 million people in 1980. Employment in the fisheries sector has grown faster than the world’s population and than employment in traditional agriculture. The 44.9 million in 2008 represented 3.5 percent of the 1.3 billion people economically active in the broad agriculture sector worldwide, compared with 1.8 percent in 1980”¹⁵³.*
307. Obviously, from a food security point of view, the livelihood improvement through such employment is important in terms of access to fish through cash markets or through one’s own fishing business. Thus, it is an important access issue that is of concern to the FAO.
308. One of the most serious capture fisheries TRA related issues is illegal fishing. It directly affects the access to fish by legitimate fishing rights holders in various fishing grounds. The Chatham House illegal fishing program reports that illegal, unreported and unregulated (IUU) fishing is a serious global problem and one of the main impediments to the achievement of sustainable world fisheries. IUU fishing is worth between \$10 and \$23.5 billion a year, thus representing a major loss of revenue, particularly to some of the poorest countries in the world where dependency on fisheries for food, livelihoods and revenues is high¹⁵⁴. It also has a tremendous impact on the legitimate rights and access to fish resources.
309. Finally, there are the TRA related challenges and opportunities related to small scale fisheries. Estimates indicate that small-scale fisheries contribute over half of the world’s marine and inland fish catch, nearly all of which is used for direct human consumption. They employ over 90% of the world’s 28 million capture fishers and support another approximate 84 million people employed in jobs associated with fish processing, distribution and marketing. At least half of the people employed in small-scale fisheries are women. The importance of the small-scale fisheries sector is of global reach and its diversity in culture and traditions are part of humankind’s heritage¹⁵⁵.
310. Some of the main priority TRA related challenges facing fisheries and aquaculture as follows:
- Understanding better the sustainability of the employment in fisheries and aquaculture and the implications in terms of access to fish and food security.
 - Bringing together better the options for individual or collective rights-based approaches to managing fisheries and fisherfolk activity with the broader set of challenges

¹⁵³ Ibid.

¹⁵⁴ A FAO Fisheries Officer pointed out to us that this value represents the loss in terms of fish capture, not value based on dockside and wholesale prices, which likely would be considerably higher.

¹⁵⁵ COFI/2009/7.

surrounding more effective, efficient and sustainable contributions of fisheries and aquaculture to poverty alleviation and food security.

- Understanding how ocean based aquaculture can be regulated fairly and fit with national and international laws of the sea and how it better can help in achieving food security and poverty alleviation.
- IUU fishing has a significant negative impact on rights and access to fish resources by legitimate rights holders, so it is important that additional effort goes into understanding the magnitude and nature of the activity and how better to control IUU activity.
- Developing effective, efficient and sustainable small-scale fisheries with equitable distribution of fishing rights and access for the poor.

Fisheries and TRA: FAO's contribution

311. FAO has a long history of working on the development of access systems for fisheries and on rights issues. However, the most recent priorities document of the Committee on Fisheries (COFI)¹⁵⁶ does not directly mention the words “rights”, “tenure” or “access” to fish resources, (other than in one place where the document merely repeats the eleven overall strategic objectives of FAO). Thus, one infers that, while FAO does some work related to international fisheries law and the “rights based approach” to fisheries management and access to fishing rights, this is not a direct priority topic at this time in the view of COFI. At the same time, it should be pointed out that COFI has advocated a rights-based management approach for a long time – since the 1990s.
312. When one digs deeper, it is evident that below the surface, TRA-related challenges and opportunities are important to meeting the responsibilities and goals of the FI Department and the FAO. As one Fisheries Department (FI) staff member said: *“tenure, rights and access is not a specific priority for the Fisheries Department, but it is included in other priorities. It is a central component of small-scale fisheries”*. In this sense FAO fisheries activity is similar to its water activity: TRA is viewed not a discrete priority and end in itself but is rather encompassed in other priorities leading to end products and outputs (e.g. in the cases of small-scale fisheries and addressing water scarcity, respectively). FI is involved with work related fisheries management systems where rights based approaches are central elements.
313. Fishing and fish are major factors in food security and poverty reduction. Thus any illegal activity that takes away opportunities and benefits from legitimate fisherfolk is of interest to FI. It thus has involvement with activities related to control of IUU fishing which directly affects the benefits derived by legitimate rights holders. The loss to countries has been estimated to be in the range of ten to over twenty billion dollars a year. FAO's role is to work on technology and operations related to IUU – they provide advice to governments on how to enforce licences, e.g. through satellite monitoring. Fisheries are a low priority in government budgets; countries need low cost solutions. FAO also engages in development of standards; and currently FI is working on a Global Record of Fishing Vessels, since basic information on the identification of fishing vessels needs to become more readily available and used in the fight against IUU fishing.

¹⁵⁶ Committee on Fisheries 2011. Draft 1: priorities and results under the medium-term plan and programme of work and budget. Twenty-ninth Session. Rome, Italy, 31 January – 4 February 2011. COFI/2011/9.

Recent normative work related to fisheries tenure, rights and access

314. The FI Department has recently been quite active in working on normative products related to fisheries TRA. As discussed below FI has for some years been working on governance of small scale fisheries, as requested by COFI. This work is centrally concerned with access to fisheries and controls on access that can help create situations of sustainable fisheries management. It is discussed in more detail later in this section. A second, more recent major effort involves, among other things, a July 4-6, 2011, Workshop on Governance of Tenure for Responsible Capture Fisheries. The workshop, held in Rome¹⁵⁷, was associated with FI's involvement in the VGs. It was organized as a joint initiative of the FAO Fisheries and Aquaculture Department and Natural Resources and Environment Department. As part of the preparation for the workshop, several case studies were commissioned concerning tenure and rights issues in small-scale fisheries from around the world covering marine, riverine and lacustrine ecosystems. An initiative was also taken to conduct video interviews with members from fishing communities around the world about their perceptions on issues relating to tenure and right over fisheries and riparian lands on which they live.
315. The objectives of the workshop were:
- To exchange notes on the case studies in order to highlight the important commonalities and differences and listen to the voice of fishers from around the world and adapt the insights from their perspectives into the discussions;
 - To arrive at a consensus on the good practices on governance of tenure illustrated in the case studies and the voices of the fishers;
 - To briefly review the first draft of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests; and
 - To advise on the scope and contribute to the drafting of some of the core implementation guidelines which can be applied to governance of tenure for responsible capture fisheries and map the way forward for the initiative to feed into the development process of the Voluntary Guidelines on Securing Sustainable Small-Scale Fisheries.
316. Some of the normative work done by FAO related to fisheries TRA challenges and opportunities is done outside the formal confines of the Fisheries Department. The promotion of sustainable livelihoods is a key strategy for FAO in its Strategic Framework for 2000-2015. The UK Department for International Development (DFID) provided \$7 million over 5 years for an inter-departmental Livelihood Support Programme (LSP). The goal was to improve the impact of FAO interventions at country level through the effective application of Sustainable Livelihood approaches. The Sustainable Livelihoods methods and lessons arising through the LSP aimed at helping FAO to deliver field programmes, policies, and institutions that better support the livelihoods of the rural poor. Thus, the programme included fisheries and aquaculture related TRA activities. A number of significant normative outputs have resulted, often produced in partnership with other entities.
317. As mentioned above, the FAO started in 2008 work requested by COFI on "responsible small scale fisheries by bringing together small-scale fisheries stakeholders from around the world." A global conference on small-scale fisheries was held in 2008, entitled "securing sustainable small-scale fisheries: bringing together responsible fisheries and social development." A

¹⁵⁷ FAO/FI 2011. Report on the Workshop on Governance of Tenure for Responsible Capture Fisheries. July 4-6, 2011. Rome: FAO.

special focus of the Conference was on securing access and user rights by small-scale fishers and fishing communities and indigenous peoples to coastal and inland fishery resources that sustain their livelihoods.

318. FAO continued this work with an inception phase workshop in October, 2009, during which stakeholders outlined the key issues to be addressed and how to go about addressing them. Currently, FAO is continuing work on this with a series of informal working groups to determine the way in which regional priorities and needs can be woven into the program. TRA implications emerge throughout this work:

“...this, in a sense, it is a return to the two major aspects of fisheries management as posed by Christy in 1982: namely “...efficient production of net benefits and... equitable distribution of benefits.” In looking forward, it is possible to see an emerging convergence of work. Not only is there work now on collective property and individualized systems approaches, there is (also) recognition that the management of fishing capacity (and the spin-offs of addressing overcapacity and overexploitation) will involve tenure security and rights. In some sense, we now have a spread of information on the different policy, legal, social, and economic aspects that need to be addressed in fisheries management – and we also have information about the fundamental elements and principles of rights-based fisheries management systems that need to be addressed as part of designing appropriate, successful rights-based programs”¹⁵⁸.

319. A major discussion item considered in the 2008 Conference was the implementation of the 1995 Code of Conduct for Responsible Fisheries¹⁵⁹. In light of the fact that IUU is a major threat to legitimate rights holders in fisheries, a particularly interesting 2009 FAO paper looks at the impacts of the 1995 FAO Code of Conduct for Responsible Fisheries. With regard to TRA elements, the author concludes that:

“This analysis shows that in many domains, implementation of the Code has been slow on the ground, but that in some domains, such as the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA–IUU), countries have been fast to embrace the Code and implement its instrument in the ways prescribed. The study also shows that a very vast and diverse range of sector stakeholders across the entire spectrum have endorsed the Code and do pursue its stated objectives”¹⁶⁰.

320. As discussed elsewhere, for TRA challenges and opportunities related to other resources, such as forest carbon rights in the context of REDD+ development, there also is a clear recognition in FI that TRA elements are only one necessary, but not sufficient input in a broader system of changes that are needed to make fisheries contribute more to sustainable poverty alleviation and food security in an equitable manner.
321. A good example of a normative output that brings all these considerations together, including rights and access challenges and opportunities is a regional publication entitled, “Best practices to support and improve livelihoods of small-scale fisheries and aquaculture households”¹⁶¹.
322. In fact, there are few FAO fisheries publications that have “rights” or “access to fish” in their titles, but many, both from headquarters and the regions, deal with the concerns of rights

¹⁵⁸ Metzner 2010.

¹⁵⁹ Hosch 2009.

¹⁶⁰ Ibid.

¹⁶¹ APFIC (2010).

and access (in many cases, they deal with “open access” systems which are the most common in developing countries).

323. Some fifteen years after the Code was released, FI is participating in preparing and discussing the formulation of the VGs; and “fish” now appear in the title of the document. The extent to which COFI will endorse the VGs is still a question. A number of people interviewed expressed disappointment that more fisheries experts were not involved in the formulation and development of the VGs.

Recent field projects with fisheries TRA elements

324. There are no field projects that focus primarily on TRA challenges and opportunities. However, a number of projects do deal with TRA elements, either in terms of eliminating constraints or as positive objectives of the projects. For example, the *Coastal Communities Development Programme* in **Brazil**¹⁶² states that one of its outputs is "a study to evaluate existing co-management systems and strategies as well as traditional management and the rights of use in the area of the projects in order to identify the most important limitations that represent a threat to the sustainable development of fisheries."
325. Another project, *Gestión pesquera en Uruguay*¹⁶³, recognises that because artisanal coastal fisheries are overwhelmingly open access, the risk of overexploitation is very high. The project activities include improving fisheries resource management, and developing a new Law on Fisheries and Aquaculture, one that also deals with access issues. A project for **Myanmar**¹⁶⁴ has as part of its first listed output “communities and supporting institutions facilitated to jointly develop approved mangrove fisheries and aquaculture co-management plans.” Central to such plans are the sensitive issues surrounding allocation of access to the benefits from such management as well as allocation of the management and access rights. Another project in **Kyrgyz Republic**¹⁶⁵ has as its first output: “People have daily access to safe and high quality fish...”. A project in **South and Southeast Asia**¹⁶⁶ has TRA elements and implications throughout the project. Its first output is: “Co-management mechanisms for sustainable utilization fishery resources constitute one set of outputs.” The set includes: Improved information bases, national policies and legislation (local regulations) amended, and registration of fishing boats introduced. Central to effective co-management mechanisms are allocation of access rules and control of illegal activity that affects the legitimate holders of the rights to access.
326. A major global project, funded by Norway is focused on “*Strengthening the Knowledge Base for and Implementing an Ecosystem Approach to Marine Fisheries in Developing Countries*”¹⁶⁷. The long term objective of this project is to strengthen regional and country specific efforts to reduce poverty and create conditions to assist in the achievement of food security through development of sustainable fisheries management regimes and specifically through the application of the ecosystem approach to fisheries in developing countries, with an early emphasis on Sub-Saharan Africa. In any fishery where there is overfishing or decline in fish stocks, and where the objective is to develop sustainable fisheries management regimes, TRA

¹⁶² UTF /BRA/066/BRA

¹⁶³ UTF /URU/025/URU

¹⁶⁴ GCP/MYA/010/ITA: “Sustainable small-scale fisheries and aquaculture livelihoods in coastal mangrove ecosystems”

¹⁶⁵ GCP/KYR/003/FIN: “Support to fishery and aquaculture management in the Kyrgyz Republic”

¹⁶⁶ GCP/RAS/237/SPA: “Regional fisheries livelihoods programme for South and Southeast Asia”

¹⁶⁷ GCP /INT/003/NOR

elements enter as a major consideration and allocation of rights to access becomes a necessity to control the offtake.

327. There are other fisheries projects with similar TRA elements (objectives and outputs) embedded in them. So it is evident that TRA activity fits centrally in the work of FAO related to fisheries.

Links with the rest of the world: partnering, collaboration and cooperation

328. FAO's Fisheries Department has a longstanding collaboration with the International Collective in Support of Fishworkers (ICSF), which engages in rights-related advocacy work for small-scale fishing communities. The ICSF has been an active participant in the negotiations for the Code of Conduct for Responsible Fisheries, and through its formal liaison status with FAO has participated in numerous FAO consultations and workshops. With respect to TRA issues in particular, the ICSF has facilitated participation by fishworkers organisations in global and regional small-scale fisheries workshops, and has contributed to the 2011 Governance of Tenure in Fisheries workshop. FAO staff have also participated in ICSF-led workshops on issues related to use rights in fisheries.
329. FAO plans to cooperate with the ICSF and other civil society organisations in the future development of voluntary guidelines for securing small-scale fisheries.
330. FAO is also closely associated with the Regional Fisheries Bodies (Commissions) around the world, which deal in part with TRA issues – mainly those associated with ocean fisheries.
331. Other partners include the International Maritime Organisation, the UN Office on Drugs and Crime, UNEP, the Convention on Biodiversity, the World Trade Organisation, Greenpeace, the WWF, and the International Sustainable Seafood Organisation.

An Evaluation Team perspective on TRA activities in FAO related to the "other" natural resources – water, forests, wildlife and fisheries

332. In what follows, we provide some comments on the work that FAO has been doing over the past five years or so related to TRA for the "other" natural resources of water, forests, wildlife and fisheries. We preface these comments with one overriding conclusion: Given the small amount of resources that has gone into TRA work related to these other natural resources, FAO has been doing an outstanding job in terms of what it has accomplished in the TRA arena. That is particularly so in the areas of forestry and wildlife, but also in fisheries and water. However, a quick glance at what FAO is doing does not do justice to the work that actually is going on related to TRA for the natural resources other than agricultural and livestock land.
333. More specifically, only around \$300,000 of extra budgetary funding raised for the VGs was devoted specifically to normative TRA activities related to water, forests, and fisheries. Prior to that, around US\$ 840,000 was allocated to FO, FI, LEGN, NRLA and ESW from the Norwegian-funded Legal Empowerment of the Poor (LEP) Initiative for TRA related work. Only about \$200,000 of that went to FO and FI. That makes only around \$500,000 devoted to FO and FI TRA work over the evaluation period. In general almost all of the human resources (paid by regular program budget) devoted to TRA from within FAO were contributed on an ad hoc basis as time permitted. FO had a consultant in this area for a while during the period; and the person supporting the VG process in NRC has also devoted some time to forestry and fisheries. It bears re-emphasizing that, given the very low level of official funding and lack of

formal assignment of professional regular programme staff to TRA activity related to the natural resources other than land, it is remarkable how much good work has been accomplished in the TRA area.

334. At the same time, given the fundamental importance of effective economic access to resources for poor people, particularly in terms of sustainable food security and poverty reduction, the evaluation team is left with a question: Why was FAO not pursuing more aggressively efforts to obtain more extra-budgetary funding for more normative as well as field project activity in this area?

TRA elements in non-TRA projects

335. Part of the problem in terms of identifying resources with FAO TRA work is related to the fact that a lot of TRA elements were found to be embedded in various activities and field projects, as discussed in earlier sections of this chapter. This indicates that FAO has correctly considered TRA as a means to an end rather than an end in and of itself. TRA elements are not identified in project titles and abstracts since they are considered means. Over the period being evaluated, in the case of water, forestry and fisheries there has only been one field project (forest tenure in China) that focused directly on TRA issues and opportunities. Yet, a number of other projects deal indirectly or by necessity with TRA, even though they are not part of the main objectives of the projects.
336. The evaluation team conducted a survey of TRA elements in FAO non-emergency field projects during the evaluation timeframe with budgets of \$2 million or more. The results are shown in Table VI-2. They indicate some 19 percent of the projects included TRA elements either as project activities or as constraints that need to be addressed. Details have been provided in the discussions of individual resource systems. The conflict related projects represent lost opportunities to improve projects by including specific TRA related activities to overcome the constraints.

Table VI-2: Non-TRA projects with TRA elements (considering all projects with a budget > \$2 million)

Budget bracket	Total projects found	Total budget all projects	TRA-related projects				Budget of all TRA-related projects	TRA-related projects	
			No. with identified direct TRA activities*	No. with unidentified direct TRA activities**	No. that identify TRA as a constraint***	Total no. TRA-related projects		As % of total projects found	As % of total budget
\$2-4m	144	\$325.6m	10	14	4	28	\$82.8m	19.4%	25.4%
>\$4m	121	\$1,078.8m	2	12	9	23	\$225.8m	19.0%	20.9%
Total: >\$2m	265	\$1,404.4m	12	26	13	51	\$308.5m	19.2%	22.0%

* Includes projects such as funding for the Voluntary Guidelines, the China Forest Tenure project, etc., that were identified as TRA-related projects by FAO staff; ** Includes projects that were not identified as TRA-related by FAO staff, but which nonetheless had direct TRA activities as part of the project design; *** Includes projects without direct TRA activities that were not identified as TRA-related by FAO staff, but which nonetheless recognized that TRA issues were a constraint to achieving project objectives

337. Questions that FAO eventually needs to address include: How are these TRA elements currently handled in the projects identified, and how well are they handled? Is there opportunity to increase the effectiveness and efficiency of their handling through greater

input of TRA expertise? If so, how should such expertise be organized and funded within project budgets? What are the opportunities for inter-project synergies that could be taken advantage of through better communication and collaboration?

In-house collaboration

338. The normative TRA work that has been done and is being done outside the agricultural land TRA activity is spread across the organization in many different units. In the past few years there has been some collaboration across units in terms of this work, including for example:
- LEGN collaborates well with other technical units and is producing some key outputs related to water, forests, wildlife and fisheries TRA;
 - work on the VGs, which has brought forestry, fisheries and land together in producing the draft VGs; and
 - the work related to UN-REDD, which has brought FO and NR closer together and has led to some productive activities, such as the Expert meeting on land tenure issues and requirements for implementing climate change mitigation policies in the forestry and agriculture sectors, which also brought MICCA into the picture.
339. However, there are opportunities to take advantage of more potential synergies, e.g., between TRA challenges related to aquaculture and water, inland fisheries and wildlife, water and TRA watershed management issues, and forestry TRA and FAO work related to large scale land conversion (involving deforestation). This observation needs to be taken in context: given the meagre Regular Programme budgets allocated to TRA activity in the various units, there is little if any incentive to spend time and effort on developing collaborative efforts. Transactions costs can be significant. At the same time, with use of some extra-budgetary funding, there have been examples of good collaboration.
340. Stakeholders interviewed for this evaluation perceived great potential for improving inter-departmental work on TRA. This collaboration could draw on the experience of the LEP initiative, which highlighted the advantages of having a staff member dedicated to the coordination of the work within different divisions. Inter-departmental collaboration could benefit from an overarching strategic vision or “framework of action” on the relationship between land tenure, land management, food security and rural development, and the “articulation of linkages with FAO’s strategic objectives”.
341. External stakeholders also noted that the absence of a “comprehensive way of looking at the land tenure issue” at FAO was frustrating. If FAO is to focus its tenure work on securing tenure rights for the poor and marginalised in the broader context of improving food security and alleviating poverty, one CSO felt “this means working in a much more integrated fashion across units within FAO”. One donor cautioned however that there is a cost to greater coordination.

LEGN has made valuable input on TRA challenges related to other natural resources

342. The LEGN activity related to TRA topics for different resource systems is substantial and notable. The group has dealt extensively with land tenure issues, but also with land and water linkages, water by itself, forests, wildlife and fisheries. Based on the evaluation team’s interviews, those who know of the publications of LEGN consistently have high regards for the work. Furthermore, the recent OED evaluation of FAO’s work on water gives high marks to the work of LEGN. The evaluation team concurs with these assessments of the work done by

LEGN related to the “other” natural resources. Most of this work is done on project funds or other extra-budgetary funding, often in close collaboration with other units in FAO.

VII. Future Directions of FAO Support to TRA

343. The first two parts of this evaluation report assessed FAO’s recent past work related to tenure, rights and access to land and other natural resources. This final section puts forth some suggestions and recommendations for the future, based on the results of the evaluation and the evaluation team’s perspective on how TRA activity should evolve in the FAO. The evaluation team believes that in the future there needs to be a more explicit focus on linking FAO’s TRA work to other work done by the FAO, since (a) changes in TRA alone do not lead to increased sustainable food security and poverty reduction, and (b) a main comparative advantage of the FAO is its breadth of coverage of the other components that need to complement TRA improvements in order to contribute to the basic goals of the FAO and its Members¹⁶⁸.
344. In making recommendations, the evaluation team has tried to recognize and keep in mind that FAO faces a great many constraints that limit it in terms of how things can change. Perhaps most importantly, it faces what seems by now to be a chronic, never-ending shortage of Regular Programme resources. Yet as innovative, timely programs emerge, such as the VGs programme, new extra-budgetary resources have been found; and FAO’s relatively new central involvement in UN-REDD encourages one to think that new resources are on the horizon, if REDD+ grows to the magnitude envisioned.¹⁶⁹ The challenge is to get the right ideas on the table at the right time. Success in terms of mobilizing additional resources and leveraging existing resources depends on FAO clearly articulating the broader framework that defines how important FAO’s TRA work is and could be in contributing to the achievement of the basic global goals of the FAO and its Members.
345. So a basic underlying question asked in this forward looking part of the evaluation is: how can FAO make its TRA activity contribute more to its global goals and those of its Members, which are in concert with the broader MDGs? The evaluation team, through its questionnaires and interviews, asked stakeholders what they thought FAO should be doing more of in the future. The responses ranged across the board and are worth summarizing here.

What others think: FAO’s TRA activity in the future

346. Respondents to the FAO staff survey were asked to assess the priorities for FAO’s tenure, rights and access work in the future. Of the 84 respondents who answered this section of the survey, approximately 45 per cent felt that FAO should increase the resources devoted to this area of work. Specific areas where it was felt by more than three quarters of respondents that more resources are needed are:
- secure access to customary land for communities;

¹⁶⁸ In fact, the FAO strategic plan articulates three underlying global goals. The third is: “sustainable management and utilisation of natural resources, including land, water, air, climate and genetic resources, for the benefit of present and future generations.” In what follows, we have combined this goal with the first two by adding the term “sustainable” to food security and poverty reduction.

¹⁶⁹ REDD+ goes far beyond tenure, but carbon tenure issues and issues related to tenure of degraded lands for planting new trees are a central part of what needs to be dealt with to make REDD+ a success.

- secure access to land and other natural resources for women and other disadvantaged groups;
 - secure access to land in climate change mitigation;
 - governance of tenure (e.g. through the VGs); and
 - security of access to privately held land (through titling and registration).
347. There are four areas in which at least one third of the respondents stated that the resources should be diminished or kept without change. These areas are:
- property taxation;
 - land consolidation;
 - access to land in emergencies; and
 - land grabbing.
348. Staff members were also asked to consider the prioritisation of FAO products and services relating to tenure, rights and access. Of the 84 (out of 123) respondents who answered this section of the survey, more than three quarters felt that additional resources were needed for:
- capacity development/training;
 - direct technical assistance (through long-term field projects);
 - policy advice;
 - direct technical assistance (through short-term missions); and
 - statistics, databases and other ICT products.
349. There are five types of products or services for which at least one third of the respondents stated that the resources should be diminished or kept without change. These are:
- FAO Website;
 - Publications;
 - Guidelines & Manuals;
 - Expert consultations, workshops, e-conferences and proceedings; and
 - International processes, codes and standard setting agreements.
350. The opinions of the internal and external stakeholders interviewed for the Stakeholder Perception Study are outlined in Annex 3. In formulating the evaluation team's perspective on where FAO should be in the future with regard to TRA activity, the opinions of external and internal stakeholders were taken into account.

The evaluation team's perspective on how TRA elements relate to the rest of what FAO does that contributes to sustainable food security and poverty reduction

351. The evaluation team's short answer to the question of how FAO should change its approach to TRA in the future is: *By taking greater advantage of its main comparative advantage – the breadth and depth of its portfolio of expertise and knowledge related to food security and agricultural development for poverty alleviation.*

352. FAO covers agriculture, forestry and fisheries across the board from policy to technical work to training. FAO has a comprehensive portfolio of built-up knowledge, information and skills and expertise that no other international entity has¹⁷⁰. Significant progress towards achievement of FAO's goals depends on recognizing and taking advantage of many of the potential synergies that exist both within FAO and with work of key outside partners. Similar to other technical and cross-cutting areas of FAO work (such as Forestry and Nutrition), TRA's role needs to be looked at in this broader framework.
353. The subject matter of this evaluation is extremely broad, as is the nature and subject of the actual activities being undertaken by the FAO in the TRA area. TRA activity ranges from working with the highly technical aspects of land administration, cadastre, land consolidation and registration, to the more political aspects of forest tenure reform, fishing and water rights, land use conflicts and control of illegal forest and fishing activities that directly impact the access to resources by legitimate rights holders. Progress in all of these areas is a necessary, but not sufficient condition for strengthening food security and reducing poverty. Thus, a practical and effective strategy for addressing the global goals of FAO and its Members needs to consider how the diverse TRA activities in FAO link with other FAO activities to create the necessary *and sufficient* conditions for moving towards the global goals of FAO and its Members. It is only in this broader context that the critical importance of FAO's work on TRA can be seen in relation to the underlying goals of FAO and its Members.
354. In this broader evaluation framework focused on achievement of FAO goals, it is evident that "access" needs to refer to a concept beyond mere physical access or the secure "right" to physically access land and other resources. As FAO recognizes, it is necessary to focus on *secure effective economic access* to resources and their outputs. Thus, as one example, in low rainfall, water scarce areas, secure physical access to land, and the right to such access has no significance in terms of achieving FAO's goals if those land use rights holders don't also have secure economic access to water and other required factors of production that make the land a productive, effective economic asset.
355. Furthermore, the holders of secure land and water rights need access to input and output markets, technology, and many other factors, all in a stable, effective and fair governance environment. Significant impacts on food security and poverty reduction occur only if "access" is interpreted in this broader context. Thus, as also indicated in FAO's strategic development outputs, a number of dimensions beyond simple, direct physical access to land and other resources need to be considered as FAO moves towards achievement of the global goals of FAO and its Members. Some of the main dimensions are:
- **"Good enough" governance** is in place.¹⁷¹ This holds whether one is dealing with private or collective access to resources. And, in fact, it holds across the board for means to improve food security, and poverty alleviation and, if necessary, means to reinstate the situation in the event of conflict or a natural disaster. Evidence is

¹⁷⁰ It is often mentioned that one of FAO's main comparative advantages is its neutrality. However, there also is the opposite perspective as expressed by some interviewees. For example, some donors felt that it could be "a double-edged sword". Some feel that FAO's intergovernmental nature means that it cannot be as frank about problems as perhaps others could be: there was some concern that FAO can ignore serious differences between government and CSO views simply to please its member governments, rather than taking a position of neutrality and helping to resolve differences. This is where the VGs will be useful, if widely accepted.

¹⁷¹ Cf. Grindle 2004 and Grindle 2007. The basic argument is that perfect governance will not be attained, but governance with a reasonable level of technical capacity, public participation, respect for, and enforcement of the law, and accountability to the citizenry is possible and must be achieved.

building from around the world that if quality of governance falls below a certain threshold, then assured, effective economic access of poor people to land and other resources is unlikely; and if they do gain such access, they face many obstacles in terms of security of tenure and having the land contribute to improving their livelihoods.¹⁷²

- **The enforcement and administrative dimension.** While it is important who has the statutory and/or customary rights to access resources, merely having laws on the books and tenure assigned does not guarantee effective economic access, if the rights and tenure implied by the laws are not enforced and governed properly. The right to enforcement of legal and administrative provisions to protect the lawful rights of the holder is the most fundamental component of a bundle of tenure rights. Thus, this dimension includes administration and effective enforcement of laws and regulations, to ensure security and equality in access. As mentioned previously, illegal forest, fishing, and hunting activities are major factors that significantly affect the effective economic access to resources by legitimate rights holders. Thus, dealing with illegal activity is essential in moving toward effective economic access. FAO works with a variety of groups focused on the reduction of these illegal activities¹⁷³.
- **The output market, employment and consumption dimension.** Secure access to land and other resources is an intermediate objective along the path to improved food security and poverty alleviation. The critical link beyond access to the resources is access to the markets where producers of products from those resources can gain income, and access of the landless and urban poor and food insecure to those markets where they buy the food and other natural resource based products (e.g. firewood and charcoal) they need. Effective economic access to those markets depends on the ability to pay for the goods being sold, which in turn depends on availability of employment and income. FAO has activities that relate directly to all of these important areas – market development and growth, trade, pricing, employment and incomes of the poor.
- **The complementary input market/availability dimension.** Closely related to the previous dimension is the need for access to inputs – credit, appropriate seed and plant genetic materials, fertilizers, machinery, irrigation and other technology, etc., that are required to produce useful and economically viable outputs from the land and other natural resources of concern here. As indicated earlier, such inputs are part of what defines “effective economic access”. FAO also has active programs related to this dimension.
- **The efficiency/technology dimension** of production, extraction and use of the resources and their outputs. For example, in developing countries, on average more than 80 per cent of mobilized water resources go to agriculture. But more than half the water diverted for agriculture does not contribute directly to food security and

¹⁷² At the same time, and just so we don’t get complacent, it is important to remind ourselves that regardless of the adequacy of governance, one cannot ignore the quality of projects designed and carried out by groups such as the FAO. Recent evidence from the World Bank reminds us of this. Cf. Denizer, Kaufmann and Kraay 2011. The authors find, for example, that “, a striking feature of the data is that the success of individual development projects varies much more *within* countries than it does between countries.” In other words, project quality and management do matter.

¹⁷³ See Part VI.

livelihood improvements because of misuse and inefficiency in transfer and conversion.¹⁷⁴ Thus, efficiency in transfer, storage and use becomes a major issue in effective economic access to water in countries facing increasing scarcity of water; and, as indicated above, effective economic access is what is needed in terms of moving towards poverty alleviation and food security goals. Similar efficiency issues that affect access to water also exist for the other resources considered in this evaluation. FAO deals extensively with these challenges and the opportunities associated with them, quite often in partnership with research groups such as the CGIAR centres, which increasingly have moved more towards the “research for development” end of the research continuum.

356. FAO already has major programmes related to all these other dimensions or conditions that should complement, and in some cases do complement the contribution of FAO’s TRA activity in moving toward greater and more sustainable food security and poverty reduction. These relationships need to be better understood, explained and brought to the forefront in discussions of future TRA activity in the FAO and its importance in the overall development paradigm being pursued by the FAO as it moves toward achievement of its goals.
357. In sum, a complex set of factors and conditions affect how the seemingly simple concept of improved “tenure, rights and access” to land and other natural resources eventually gets translated into secure and “effective economic access” to such resources, which in turn can have an impact in on sustainable food security and poverty alleviation.¹⁷⁵ The complementary requirements for impact are nothing new to the FAO, which considers and does work related to all of these dimensions. However, a question addressed in the evaluation is whether FAO has widely enough and sufficiently considered the potential synergies between its basic work on TRA and these other dimensions that define “effective economic access.” Has FAO thought through the alternative impact pathways from TRA activity to achievement of results in terms of its Global Goals? Does FAO have a relevant strategy for how its TRA activity can be best translated into improved food security and poverty reduction? And equally important, does FAO have in place the incentives to encourage busy staff to look at their work more broadly in such a “results based” framework, where the results - contributions to the Members’ global goals - are estimated and measured qualitatively or quantitatively along alternative impact pathways? Based on discussions with FAO personnel and review of documentation, the answer for both questions is “yes” and “no.”
358. On the “yes” side, at the strategic, “big picture” level in FAO, secure tenure and effective economic access to land and other natural resources are well understood and recognized as a necessary condition for moving towards increased sustainable food security and sustainable rural poverty alleviation. For example, the new paradigm in “Save and Grow” states¹⁷⁶:

The shift to SCPI (sustainable crop production intensification) requires improvements in soil fertility, erosion control and water management. Farmers will undertake them only if they are

¹⁷⁴ IFAD. n.d.

¹⁷⁵ FAO’s forthcoming voluntary guidelines on governance of tenure recognize this point. (Draft, May 2011, “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests”) as do a number of FAO papers.

¹⁷⁶ Cf. “Save and Grow: A policymaker’s guide to the sustainable intensification of smallholder crop production.” FAO, 2011. The FAO DG states in the foreword: “Sustainable intensification of smallholder crop production is one of FAO’s strategic objectives. Our aim over the next 15 years is to assist developing countries in adopting “save and grow” policies and approaches.”

entitled to benefit, for a sufficiently long period, from the increase in the value of natural capital. Often, however, their rights are poorly defined, overlapping or not formalized. Improving the land and water rights of farmers – especially those of women, who are increasingly the ones making production decisions – is a key incentive to adoption of sustainable intensification.

Land tenure programmes in many developing countries have focused on formalizing and privatizing rights to land, with little regard for customary and collective systems of tenure. Governments should give greater recognition to such systems, as growing evidence indicates that, where they provide a degree of security, they can also provide effective incentives for investments¹⁷⁷. However, customary systems that are built on traditional social hierarchies may be inequitable and fail to provide the access needed for sustainable intensification. While there is no single “best practice” model for recognizing customary land tenure, recent research has outlined a typology for selecting alternative policy responses based on the capacity of the customary tenure system (emphasis added)¹⁷⁸.

359. Similarly, this FAO paradigm for the future of agriculture and food security recognizes the critical nature of secure access to water, plant genetic material and the other conditions discussed above in order to make the access to land economically effective and productive.
360. The “no” answer emerges when one looks at the FAO work on TRA specifically and at the project level. The evaluation team found little evidence of an explicit strategic view of how the TRA activity being done fits in the broader picture of increasing sustainable food security and reducing poverty. There are indications of TRA activities crossing administrative units in FAO (e.g., UN-REDD work, the VGs and FAO’s field operations in Mozambique¹⁷⁹). However, much of the work still appears to have been done in isolation and with the outputs of the projects being considered the end results being sought. From a practical point of view, this probably is a logical approach in a “results based” model or management mode where the outputs really are the “results” sought. In a situation where extra-budgetary funding drives much of the activity, the deliverables tend to be looked at as the end product, in the same way that they are viewed by a consulting firm. However, this should not be the case in an intergovernmental entity focused on sustainable food security and poverty alleviation. FAO needs a strategic view of how the various TRA activities and outputs could fit better with other pieces of the puzzle that FAO is trying to solve in moving further toward achieving its two goals of sustainable food security and poverty reduction.
361. This need was amply supported by the views expressed in the responses to the evaluation team’s questionnaires, personal and phone interviews as laid out in the Stakeholder Perception Study. For example, it was felt by some civil society organizations that if FAO’s tenure work is to move towards the goals of alleviating poverty, improving food security, and environmental sustainability, it could be “*more forward-looking in setting priorities*”. An FAO staff member emphasised strongly that in order to define future priorities, “*FAO must clarify the focus of its work on tenure, rights and access*” – whether the focus should be on land administration to improve rights security, or land reform to increase access for marginalised groups. As suggested by another stakeholder, FAO needs to consider which land tenure-related skills are in short supply elsewhere, and then “*focus on developing their unique capabilities*”. Donors felt that work on land tenure should be part of FAO’s core budget.

¹⁷⁷ Donnelly 2010.

¹⁷⁸ Fitzpatrick 2005.

¹⁷⁹ Promoting the Use of Land and Natural Resources Laws for Equitable Development, April 2009 - March 2012 (GCP/MOZ/096/NET) and preceding projects (see Figure IV-2)

362. In one staff member's opinion, the failure to address the long-term policy issues associated with tenure, rights and access is the result of an "*absence of strategic thinking*" on these policies – issues such as climate change, rural development and natural resources management need to be addressed within a broader strategic vision. As noted by one donor, there is no clear connection made in either FAO's projects or publications between its work on land tenure and its goal of food security. Another stakeholder felt that a strategy that links FAO's tenure, rights and access activity with its broader goals is "*badly needed*."
363. A strategic FAO view is needed, one that lays out the optimum impact pathways for FAO TRA activities, explores their links to each other, and defines their links to FAO activities outside the TRA arena, and particularly looks at ways in which TRA activity can contribute with the rest of FAO's work in moving toward greater food security and poverty reduction. That is a first step in indicating the critical importance of FAO's TRA work and hopefully moving towards greater visibility for the subject and increased funding, including more through the regular programme budget.

Proposed strategic visioning exercise to determine the best way forward for FAO's TRA activity

364. Such a visioning exercise should be carried out in a collaborative, participatory fashion and widely circulated and discussed in order to get in-house ownership. While outsiders can help in such an exercise, only the FAO itself can carry it out and develop ownership, which is critical in terms of implementation of an agreed strategic view. A strategic visioning exercise could help in taking further advantage of potential synergies across units within FAO and avoiding unnecessary overlaps, duplications and conflicts. And, of critical importance to FAO, it could help the Organization mobilize additional resources for TRA activity by indicating and documenting the important role that TRA plays in the overall interactive process of successive approximations as the FAO moves towards its goals. For example, the evaluation team has illustrated that many FAO projects include significant TRA elements, even though the projects are not at all considered as TRA projects by FAO staff. Carrying out such a strategic visioning exercise requires that additional resources be forthcoming. Thus, the recommendation is made to upper administration as well as those in FAO actually involved in the organization's TRA work.
365. If FAO truly is dedicated to, and focused on, the end goals of its Members (sustainable food security and poverty reduction), then it must also be concerned more with how its work on TRA relates to the rest of its work and if there are better ways to harness the "win-win" situations or synergies that create the "necessary and sufficient" conditions to move more effectively towards the global goals of its Members. It also needs to apply guidance from the Governing bodies that "in line with FAO's strategic focus on reaching the World Food Summit (WFS) target and the Millennium Development Goals (MDGs)... that special attention in the allocation of technical cooperation programme resources be given to the neediest countries¹⁸⁰", FAO does deal to a greater or lesser extent with all the other necessary elements. As mentioned, this breadth of scope is what creates its main comparative advantage in the global agricultural development arena, where sustainable food security and poverty reduction are the main goals. While these other factors are not the subject of this evaluation, we emphasize that the TRA elements, which are the subject of this evaluation,

¹⁸⁰ See FAO Programme Committee report (Oct 2011) "Access to the Technical Cooperation Programme on a grant basis: eligibility criterion" at http://typo3.fao.org/fileadmin/user_upload/bodies/Progr_Comm/PC_108-documents/MB749E_PC108-9AccessTCP_.pdf

need to be assessed within the context of this broader framework, given that the focus in FAO should be on end results and impacts in terms of achieving FAO member global goals.

366. In other words, the evaluation team is recommending that FAO consider not only ways in which diverse TRA elements of its programme can be more effectively linked to each other¹⁸¹, but also that it searches for ways in which its TRA elements can be linked more effectively to the rest of its activity. The evaluation team fully recognizes that the constraints to doing so faced in FAO are many and in some cases severe, e.g., extra-budgetary funding drives much of the activity and often is obtained in an entrepreneurial way by individual units, and there are few in-house incentives at present encouraging serious cross-unit collaboration and cooperation. Yet, as mentioned, such collaboration does exist to some extent, as in the case of the VGs and the UN-REDD programme, both primarily funded with extra-budgetary resources.
367. The evaluation team is not recommending an unreachable ideal end state, but rather a direction of change in thinking about and implementing TRA activity in the context of the rest of the activity undertaken by the FAO. This evaluation indicates that in fact some in the Organization are already thinking along these lines. We envision a more informal strategic visioning exercise that gets more people thinking along the same lines in terms of basic needs and opportunities related to TRA activity that could contribute more to meeting the basic goals of FAO and its Members¹⁸². It goes without saying that such an exercise also has to look at the incentives for change and greater collaboration and interaction; and these incentives have to be translated for administrators and donors into resource needs.
368. Such a strategic visioning exercise also would identify the true extent of TRA activity being carried out by FAO and its partners. As mentioned earlier, the evaluation team found in its interviews and review of project documentation that a lot of projects deal with aspects of TRA, although no reference to TRA elements appear in the project titles and summary descriptions¹⁸³. TRA is such a fundamental factor in the development, management and governance of agriculture, broadly writ (i.e., including the other resource systems covered by FAO). The proposed strategic visioning exercise would systematically identify and link such (hidden) involvement with TRA to the main visible lines of TRA activity in FAO, searching for ways to take advantage of potential synergies and avoid duplications in the overall FAO program focused on food security and poverty reduction.
369. Some will undoubtedly argue that attempting to develop an overall strategic view of TRA in FAO is futile, given the poor state of information on the impacts of changes in TRA, the fundamental disagreements in FAO that exist among individuals concerning priority activities, the small amount of resources currently dedicated to TRA activities, and the uncertainties involved in terms of linkages between TRA activities and achievement of the basic global goals

¹⁸¹ The TRA issues for the different resource systems interact in various ways. We already have discussed how inter locked land and water TRA issues and opportunities are. TRA issues in forestry interact with agricultural land TRA issues (e.g., large scale agricultural “land grabbing”) through deforestation. As pointed out earlier, more than eighty percent of new agricultural land during the 1980 to 2000 period came at the expense of forests and the people who depend on them, often for survival.

¹⁸² A modified SWOT analysis might be a useful start in getting the various actors involved thinking along the same lines.

¹⁸³ Based on the ET’s assessment of 265 relevant FAO water, forestry and fisheries projects over \$2 million in size, 51, or roughly one fifth had explicit TRA elements in them. Based on this result it would seem worthwhile for the FAO to consider more explicitly how such TRA elements are handled in practice in the projects and assess ways that such handling might be improved. Is there an unmet need for TRA expertise in these projects? Are the projects adequately addressing the TRA related needs?

of FAO and its Members. All of these constraints have been verified by the evaluation team through the stakeholder perception study, the results of the questionnaire surveys, and other sources of documentation used by the evaluation team.

370. Despite these known constraints, the evaluation team suggests that a strategic visioning exercise still is worthwhile in and of itself, even in the unlikely event that no consensus on a strategic view emerges. There will be opportunity for a lot of mutual learning and adapting among those who disagree on priorities and opportunities; and it will help those involved to understand better the role and comparative advantages of the FAO within the larger context of the whole network of international and regional entities dealing with TRA and with poverty reduction and food security as basic goals. It could be useful in terms of identifying new ways to leverage scarce resources devoted to TRA activity.
371. Of equal importance is the fact that communicating such a strategic view and linking TRA activities more closely to the achievement of the basic goals may have a positive influence in terms of raising understanding of the key role of TRA in achieving better and more sustainable food security and poverty reduction¹⁸⁴. This, in turn, could lead to increased donor awareness of the importance of TRA activity and thus create potentially promising funding opportunities for high-payoff activities in the FAO.

Additional Suggestions in terms of the future of TRA work in the FAO

372. The strategic visioning exercise suggested above will identify the desired future direction for FAO TRA work. However, the evaluation team has some additional suggestions for considerations that might be taken into account in charting the future of FAO's TRA work. It also has identified some areas that might seem ripe for change, but where changes are not recommended by the evaluation team at this time. Both are considered below under the following headings:

- Normative and field work;
- Extra-budgetary resource driven vs. strategy-driven work;
- Similarities and differences between TRA challenges and opportunities for different natural resource systems;

In what follows, we briefly sketch out the key elements for each of these as viewed by the evaluation team.

Normative and Field Activity

373. The question here is not normative versus field activity, but rather, as indicated in Part IV and V the extent to which the two feed on and inform each other, the normative work informing the design of field work, and the field work results feeding back into the development of normative products. As FAO moves into the future, the two should be treated as complements not competitors in terms of FAO's programme. In fact, it is seldom that the two draw on the same funding pool, although they can compete in terms of time commitments of professional staff, so there are opportunity costs to consider. The evaluation team concludes that related to TRA, FAO has some productive interaction between normative and field activity, but many more unexplored potential complementarities exist, particularly in terms of field activity

¹⁸⁴ Documenting this link is important; and FAO should set as a priority producing a study that surveys and assesses the evidence from around the world regarding the economic, social and environmental benefits associated with increased tenure, rights and access security.

informing normative work.¹⁸⁵ They need to be considered in designing a strategy for the future.

374. FAO can approach the future with a more integrated view across resources in terms of its TRA field work and its normative activities. The fact is that in the field there are linkages that do not always have to be considered in focused normative work. Yet there is need to have the realities in the field introduced in the normative work, just as there are broad technical, legal and institutional principles and options explored in the normative work that can inform and improve the design and operation of the field work. A good example of this is the strong relationship between the “land grabbing” issue in agriculture and the deforestation TRA related issues faced in forestry. The two are separated for the most part in terms of FAO normative work. Yet, in the field in many countries they are intimately interwoven, since much of the land grabbing involves forest and woodlands, where population densities are lower and large areas of land are available. This should be of central concern to FAO in terms, for example, of its work within the UN-REDD.
375. In the case of forests, wildlife and fisheries the level of field project activity directly related to TRA is limited to a few projects, although TRA elements crop up in a significant proportion of forestry and wildlife field projects by necessity – TRA elements are critical ones in a variety of situations encountered in the field and relate to many of the key challenges in forestry development, e.g., in relation to REDD+ and in relation to community based forest management and enterprise development. Yet, there is no professional with a sole focus on forestry TRA in headquarters to turn to for advice. Supposedly, a position in FO focused on TRA is opening up in a couple of years.
376. One staff member in headquarters focuses on all aspects of wildlife and protected areas, so the time available for wildlife TRA issues in the field is very limited, despite the great importance of sustainable bushmeat access (harvesting) rights to most forest and forest fringe dwellers. At the same time, there are some significant wildlife field projects underway that deal to some extent with critical rights and access issues in the context of sustainable bushmeat harvesting. In the case of wildlife, there also are staff members in the regions who deal with wildlife TRA matters.
377. In the last five or more years, FAO’s land-related TRA publications have a more practical orientation and a stronger link with field operations. As a consequence, they are more useful for national policy makers, technical staff, CSOs and training institutions. There is still more scope to link field operations and normative activity on the land tenure website and the implementation of the VGs in the coming years should be a good opportunity to develop this complementarity. However, the compartmentalisation of TRA information (i.e. into land, fisheries, forest, gender and development, post emergency, development law), while understandable from an organisational standpoint, reduces the scope for a more integrated view of FAO’s normative activities and field work across resources. We believe that more attention should be given to TRA field activities which cross FAO’s administrative units, for example by highlighting more than a decade of work in Mozambique, promoting the decentralised implementation of land and natural resource laws and the use of land and natural resources for equitable development (see the Figure in Annex 6, page 222). We should like to see FAO involved in similar TRA initiatives in other Sub-Saharan countries in Africa, in

¹⁸⁵ Note that feedback is not always positive. Thus, failures or ineffectiveness in the field provides just as valuable insights for normative work as do great successes in the field.

which the total customary domain is the dominant category accounting for more than 70 percent of the land area¹⁸⁶, as well as in Asia and the Pacific.

Resource driven vs. strategy driven work

378. Many of FAO's programmes survive on extra-budgetary (EB) funding. Regular budget funding barely covers salaries and benefits in some units. EB funding is important for the operation of a number of TRA activities and most field projects. The positive side of EB funding is that it permits programmes to operate, or at least operate more effectively than would be the case without such funding. And EB funding is positive if it supports proposals that are in keeping with needs and priorities as identified by FAO, rather than being donors looking for "consultants" to carry out their priorities. The latter is the negative side of EB funding, since it tends to drive the programme rather than the programme being driven by the goals, strategies and objectives of the FAO. FAO does have plenty of examples of where it has set an agenda and programme strategy and donors have come along to fund the activity. Similarly, there are plenty of examples of where joint planning between donors and FAO has resulted in productive projects that have included TRA elements. However, it also faces some situations where availability of funding has tended to drive FAO activities in directions that would not have been FAO priorities without the funding being available.
379. A number of interviewees raised a question about the heavy reliance of the LTT on funding from the World Bank projects through the TCI, with a focus on land administration and Eastern Europe (see discussion in Part IV on The Cooperative Programme in Europe and Central Asia). The ET raised the same question in its assessment of past activity related to TRA. This resource driven activity (which some see as high level "consulting") has an opportunity cost attached to it, a cost that often is not thought about, except when one steps back and looks at FAO's strategy, e.g., with regard to giving priority to activity aimed at food security and poverty reduction for the poor (for example, in the Southern Sudan in a critical period 2008-2009, see Box V-1).
380. Looked at in terms of the basic goals of FAO, one could argue that fewer people focused entirely on providing maximum support to achieving FAO's basic goals for the poorest in the developing world might be a better choice than having more people (some on donor funding), many of whom are focused almost exclusively on supporting World Bank and other donor projects and objectives for mid income and advanced developing countries. But, as indicated earlier, the ET also knows that the choice is much more complex than merely comparing opportunity costs. This is particularly so when internal resources are limited and a unit is attempting to maintain its critical mass of technical and intellectual capacity.
381. FAO should consider more explicitly regional priorities in addition to priorities for different types of TRA work, when looking to the future at how such activity best can help to increase food security and reduce poverty for the poor. Even when the focus is on working with the poor, there is a choice between working with the poorest of the poor (found in Africa) and the largest number of very poor people (Asia). The proposed FAO strategic visioning exercise for its TRA work should sort out where it can do the greatest good over time with the resources available in terms of contributing to its global goals related to poverty reduction and food security. To do this properly, it will have to develop, no matter how subjectively, a set of criteria that sort out FAO's relative priorities for different regions of the world based on indicators of food insecurity, poverty, potential for gain, quality of governance, etc. Of course,

¹⁸⁶ Alden Wily 2011.

a primary criterion is demand from countries for FAO support. Such demand can be stimulated to some limited extent. But when dealing with a politically sensitive subject like tenure reform or public land redistribution, outside stimulated demand often can backfire when projects are implemented.

382. Even though to many outsiders, including some of the ET members, there is an over-emphasis on field work related to middle income and more advanced developing countries, or countries in transition, the actual relative trade-offs can only be adequately judged by those responsible for the TRA activity in FAO.

Links between TRA considerations for different natural resources

383. The VGs is one example of where there is an attempt in FAO to reach across natural resource systems to identify common challenges, principles and opportunities related to the governance of TRA. One lesson that appears to be emerging is that while there are complementarities between resources, there also are significant differences that go beyond the nature of the resources themselves to the institutional environments in which they are dealt with in a majority of countries. The most obvious example is the differences between water and land, which accounts for the main reason why water was not included in the VGs.¹⁸⁷ The priority focus in the case of water is allocation and water management issues associated with a scarce flow resource in a given basin or region.¹⁸⁸ The focus is at the source level, i.e., river basin and aquifer level. In the case of land – basically a fixed resource, the focus has been on security of private tenure and land administration and the technical aspects of defining boundaries legally and in the field.
384. Many of the people (including some in the FAO) interviewed by the ET believe that it is unfortunate that some way was not found to include water in the VGs, given the close and inseparable linkages between land and water that exist in the field in most countries. As the FAO moves ahead with the VGs to focus on implementation issues, a major challenge will be to bring out the ways that the differences between the legal, technical and institutional approaches to the complementary resources of water and land can be brought together in a more integrated fashion that reflects the realities that exist in the field. But FAO needs to meet that challenge.
385. As another example of close linkages across natural resource domains, while the “land grabbing” issue has tended to be isolated from forestry issues in FAO, the fact of the matter is that over the past thirty years or so, “land grabbing” has mainly involved the taking over of forest lands and savannah woodlands and the deforestation of such lands - often at the expense of poor forest dwellers or indigenous peoples. Deforestation in the tropics has averaged more than 13 million ha/year over the past 30 years or so. The land has been converted to crops, palm oil production, ranching, etc., often also at the expense of biodiversity and the livelihoods of the poorest of the poor. As mentioned earlier, more than 80 percent of new agricultural expansion during the 1980 to 2000 period was at the expense of forests.¹⁸⁹

¹⁸⁷ Cf. Part VI, and Burke, J. N.d. draft/Issues paper relating to the Technical Guidelines on water. Rome: FAO.

¹⁸⁸ When there is no water scarcity issue there also is little priority given to TRA issues since there are fewer and less contentious allocation issues to be dealt with.

¹⁸⁹ Gibbs et al. 2010.

386. FAO deals both with the drivers of deforestation and “land grabbing.” There would appear to be opportunities to explore options for bringing these two sets of issues closer together, both in FAO’s normative and field project activity. The emergence of REDD as a major theme in FAO adds additional emphasis to the need for further integration of work across natural resource domains. Understanding and dealing with both land TRA and forest carbon tenure are intertwined elements of great importance in moving ahead with REDD+.
387. Another kind of “land grabbing” also is taking place – the setting aside of large areas of land for conservation purposes. While one might admire such set-asides from an environmental point of view, if such preserves are established on lands that previously were the homes for indigenous peoples or forest dwellers, there can be serious problems in terms of the livelihoods of the displaced people. These people often had customary rights to the land or to outputs from the land that are totally ignored when lands are set aside. For example, there is a close link between forests and wildlife hunting rights and bushmeat that provides the main source of protein for many of the poorest of the poor. If such people are excluded from the forest, the result can involve a major impact on their livelihoods, creating both food security and poverty issues.
388. Within the context of a strategic view of TRA in the FAO, these and other linkages need to be considered and factored into the work of the FAO. They provide arguments for more integrated activity related to TRA. They also provide an argument for more work by FAO related to reconciling customary and statutory land and other resource laws. As a last point, they also call for more activity related to the effectiveness of forest conservation under different land use designations. A recent paper reviewing the evidence on deforestation on community based forest lands and in protected areas concludes that community forest management can have at least as good results as protected areas and in some cases better results (lower deforestation).¹⁹⁰
389. To sum up, in the proposed strategic visioning exercise, close attention should be paid to areas where there is potential for synergies in TRA work related to different resources. At the same time, the exercise also should include a realistic assessment of the difference in TRA challenges and opportunities for different natural resource domains. In other words work together where it makes sense to do so; but don’t force everything into one mould. There are plenty of differences and they need to be handled in different ways.

VIII. Recommendations

390. Under this heading, the evaluation team has confined itself to what it considers to be recommendations of strategic importance.
391. **Recommendation 1: *FAO should carry out an assessment of its strategic options for strengthening its TRA work in relation to achieving the basic goals of FAO and its members.*** Significant progress towards achievement of FAO’s Global Goals depends on recognising and capitalizing on many of the potential synergies that exist for TRA activity. This would require that FAO upgrade its approach to TRA and make greater use of its main comparative advantage, namely the breadth and depth of its portfolio of expertise and knowledge related to food security and agricultural development, for poverty alleviation. Similar to strategic planning exercises conducted by others within FAO and aligned with the new programming system, the evaluation recommends that FAO develop a corporate strategic plan for TRA

¹⁹⁰ Porter-Bolland et al. Forthcoming.

work, perhaps through an inter divisional working group chaired by NR. The task of this group would be to:

- (a) Carry out a thorough diagnosis of the relative importance of tenure, rights and effective economic access to land and other natural resources in achieving increased, sustainable food security and poverty reduction;
- (b) Carry out a “gap analysis” (the gap between what is being done and what needs to be done to improve TRA contributions to achievement of its members’ goals);
- (c) Decide what FAO should focus on more in the TRA arena, making sure that choices consider members priorities and FAO's comparative advantages and that they complement the on-going work related to the VGs and other on-going TRA activity;
- (d) Decide how it should then organize its work institutionally, if more funding is forthcoming, with a stronger focus on the FAO goals; and
- (e) Prepare proposal(s) that would appeal to member countries and resource partners and would use FAO's comparative advantage in strategic partnerships with other entities involved in TRA work.

Improved internal communication and greater interaction among FAO TRA personnel at HQ, regional and country level will be essential for the success of this process.

392. **Recommendation 2: *Publicize more widely the outputs of its normative work.*** The evaluation team finds FAO’s land tenure publications to be a valuable resource. They have the potential to deliver useful information to officials (administrative and technical), civil society activists, researchers and academics. More attention should be given to tailoring the pages of the global land tenure website to the needs of particular actors, sub-regions and language groups. It should be publicised more widely, together with the Gender and Land Rights Database and the very useful tenure-related publications of the FAO Development Law Service. Access via the FAO website to the various TRA-related pages could be more closely integrated and made more user-friendly.
393. **Recommendation 3: *Undertake more systematic monitoring and evaluation of project performance.*** In the great majority of field projects reviewed, the evaluation was unable to reach conclusions about project impact due to the absence of quantitative approaches involving the use of baseline and follow-up surveys. Without attribution, measured outcomes cannot prove anything about project impact or allow deductions about improved food security and poverty alleviation. In at least a representative sample of field projects, time frames and budgets should allow for more rigorous assessment of outcomes and impact pathways. It is important that resources for this activity be separate from the project budget and that the commitment comes during project preparation.
394. **Recommendation 4: *Devise ways to develop a more balanced programme of support to member countries in the area of land tenure.*** During the period under review FAO has been increasingly focused on providing technical services to land tenure initiatives of IFIs through the CP. The funding available to the LTT through the TCI appears to have favoured a particular type of work at the expense of a more holistic programme, regionally and in technical content, that would, for example, focus more on countries having the poorest rural populations. Also, the LTT’s role of making consultants available through the TCI for IFI projects potentially undermines FAO’s independence and its ability to focus on its underlying goals and priorities. The evaluation team believes that if the LTT were to have a strategic plan, which would give higher priority to the overriding Global Goals of FAO and its Members, the focus of its field work would likely shift to poorer countries in Africa, Asia and Latin America. It is recommended that FAO, in coordination with funding partners and anchored on its own strategic plan, devise ways to develop a more balanced and proactive programme in land

tenure that gives higher priority to the needs of poorer countries¹⁹¹. Recognizing that FAO is demand driven, this will require a more proactive approach to discussing with countries and generating requests from them for FAO involvement. Due consideration should also be given to assessing and managing perceived reputation risks emerging from heavy involvement in the backstopping of other agencies' land tenure programmes.

395. **Recommendation 5: Provide HQ, regional, sub-regional and country level staff with training and learning resources on tenure, rights and access issues.** The evaluation team notes widespread interest from staff across the regions on TRA issues. It also notes that within FAO a variety of views and understandings about FAO's role in TRA exists. As part of the development of an FAO TRA strategic plan, the evaluation team recommends to organize workshops/seminars and develop learning materials for FAO staff including in regional, sub-regional and country offices to train them on the policy principles behind the TRA strategy and relevant regional/country elements (such as TRA issues in disaster risk management, large scale land acquisitions, etc.).
396. **Recommendation 6: Provide dedicated cover for TRA support for emergencies.** Over the evaluation period, there has been an ongoing and as yet unresolved discussion between TCE and the LTT on how best to provide staff cover for advice and assistance on TRA issues that arise in the course of emergencies. The ET recommends that at least one full time post should be set aside in the LTT for this purpose.
397. **Recommendation 7: FAO should be pro-active in pursuing TRA issues that are of concern to the Organisation in the context of moving towards its Members' fundamental goals.** In this regard, the guidance documentation being prepared to support the implementation of the Voluntary Guidelines should not be constrained by the consensus nature of the VGs, but represent a clear FAO position on these issues, far more specific and focused. Guidance should be sector-specific, as appears to be the plan, dealing not only with land governance but forestry, fisheries and water governance as well, within a corporate strategic plan.
398. **Recommendation 8: Strengthen FAO's role in providing advice and guidance on large scale land acquisitions by foreign investors.** The evaluation concurs with the recommendation of the High Level Panel of Experts on Food Security in their July 2011 report relating to large-scale land acquisitions by foreign investors that the role of 'FAO's Land Tenure Service' in this area should be to provide sound counsel to governments and development agencies on how to manage this process, a role in which FAO has considerable credibility, and for FAO to use its experience in the gathering, analyses and publication of international statistical data to monitor the situation closely. At the same time, given that LSLAs involving forest and woodlands end up becoming a major cause of deforestation, and given that FAO has a major interest in programs aimed at reducing deforestation, the ET recommends that FAO explore the opportunities to take advantage of potential synergies between its work on LSLAs and deforestation.

¹⁹¹ "FAO's vision is of a world free of hunger and malnutrition where food and agriculture contributes to improving the living standards of all, **especially the poorest**, in an economically, socially and environmentally sustainable manner" (emphasis added). From FAO's Strategic Framework and Medium Term Plan of 2009.