
an update

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The overall framework for FAO’s Tenure Work

The first global soft law instrument on tenure

Consensus on “internationally accepted practices” that already exist.

NEGOTIATIONS 2011 – 2012

Negotiated by governments; participation of civil society and private sector

A reference for improving the governance of land, fisheries and forest tenure

ENDORCED by CFS - May 11, 2012
AN UNPRECEDENTED INTERNATIONAL AGREEMENT ON
GOVERNANCE OF TENURE – AND UNPRECEDENTED RECOGNITION

- Endorsed by CFS May 2012
- Implementation encouraged by G8, G20, Rio+20,
  Francophone Parliamentary Assembly, UN General
  Assemblies and Berlin Agriculture Ministers’ Summits
- Major civil society activities on governance of tenure:
  Oxfam ‘Behind the Brands’
- High profile private sector endorsements: CocaCola Corp; PepsiCo
- Endorsed by World Bank
- FAO priority and mainstreaming

Part 7: Promotion, implementation, monitoring and evaluation

Part 4: Transfers and other changes to tenure rights and duties
... 13. Land Consolidation and other readjustment approaches
...
Overview:

Section 13.1: General matters
Section 13.2: Land banks
Section 13.3: Environmental protection and infrastructure projects
Section 13.4: Fragmentation
Section 13.5: Strategies in a local context
Section 13.6: Safeguards

A taste of the language of the VG

Fragmentation:

13.4 “Where fragmentation of smallholder family farms and forests into many parcels increases production costs, States may consider land consolidation and land banks to improve the structure of those farms and forests. States should refrain from using land consolidation where fragmentation provides benefits, such as risk reduction or crop diversification. Land consolidation projects to restructure farms should be integrated with support programmes for farmers, such as the rehabilitation of irrigation systems and local roads. Measures should be developed to protect the investment of land consolidation by restricting the future subdivision of consolidated parcels.”
A taste of the language of the VG
Land Consolidation

Strategies in a local context:
13.5 “States should establish strategies for readjustment approaches that fit particular local requirements. Such strategies should be socially, economically and environmentally sustainable, and gender sensitive. Strategies should identify the principles and objectives of the readjustment approaches; the beneficiaries; and the development of capacity and knowledge in the public sector, the private sector, organizations of farmers and small-scale producers, of fishers, and of forest users, and academia. Laws should establish clear and cost-effective procedures for the reorganization of parcels or holdings and their uses.”

Safeguards:
13.6 “States should establish appropriate safeguards in projects using readjustment approaches. Any individuals, communities or peoples likely to be affected by a project should be contacted and provided with sufficient information in applicable languages. Technical and legal support should be provided. Participatory and gender-sensitive approaches should be used taking into account rights of indigenous peoples. Environmental safeguards should be established to prevent or minimize degradation and loss of biodiversity and reward changes that foster good land management, best practices and reclamation.”
IN SUMMARY

In case of “comprehensive” land consolidation projects (where a majority votes for the project and the minority who voted against are required to participate), the following VG principles are particularly relevant:

General principles:
- Recognize and respect all legitimate tenure rights...
- Safeguard legitimate tenure rights against threats and infringements...
- Promote and facilitate the enjoyment of legitimate tenure rights...
- Provide access to justice to deal with infringements...
- Prevent tenure disputes...

Principles of implementation
- Non-discrimination...
- Equity and justice...
- Consultation and participation...
- Rule of law...
- Transparency...
- Accountability...

Section 26 calls on States for the implementation and encourages them to:

set up multi-stakeholder platforms and frameworks at local, national and regional levels

or

use such existing platforms and frameworks.

This process should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable.
• Building on the consensus
FROM PRINCIPLES TO ACTIONS

The real value of the Guidelines will be determined by their contribution to changes in the lives and livelihoods of men and women around the globe, particularly the vulnerable and marginalized.

COLLECTIVELY DESIGNING THE ROAD AHEAD
Key Elements:
• Country level focus
• Partnerships, cooperation and coordination
• Long-term commitment and resources
• FAO perceived as a neutral coordinator and broker

Implementation
Strategy

Awareness raising
Capacity building
Country level focus
Partnerships, cooperation and coordination
Monitoring and evaluation

From principles
To actions

FAO SUPPORT PROGRAMME Target USD 20-30 mn over 4 years
FAO’s Programme for the Guidelines

- Awareness raising
- Capacity development
- Support to countries
- Partnerships
- Monitoring

1. Awareness raising: regional workshops

[Map showing locations of regional workshops around the world]
1. Awareness raising: national workshops

<table>
<thead>
<tr>
<th>Africa</th>
<th>Asia</th>
<th>Latin America</th>
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<tbody>
<tr>
<td>• Ethiopia</td>
<td>• China</td>
<td>• Guatemala</td>
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<tr>
<td>• Liberia</td>
<td>• Burma/Myanmar</td>
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<td>• Malawi</td>
<td>• Mongolia</td>
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<td>• Niger</td>
<td>• Nepal</td>
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<td>• Senegal</td>
<td>• Vietnam</td>
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<td>• Sierra Leone</td>
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<td>• Tanzania</td>
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<td>• Niger</td>
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<td>• Nigeria</td>
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<td>• South Africa</td>
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<td>• Uganda</td>
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2. Capacity development: technical guides

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<thead>
<tr>
<th>Available</th>
<th>Forthcoming</th>
<th>Planned</th>
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<tbody>
<tr>
<td>• Gender (e/s/f)</td>
<td>• Governance of small scale fisheries tenure</td>
<td>• Legal implications</td>
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<tr>
<td>• Governance of forest tenure</td>
<td>• Agricultural Investments</td>
<td>• Pastoralism</td>
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<td>• FPIC</td>
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<td>• Tenure of the commons</td>
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<td></td>
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<td>• Enabling technologies for LA</td>
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<td></td>
<td></td>
<td>• Private sector</td>
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<td></td>
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<td>• Public resources</td>
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<td></td>
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<td>• Aquaculture and mariculture</td>
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<td></td>
<td></td>
<td>• Registration</td>
</tr>
</tbody>
</table>
• 2. Capacity development: other tools

• E-learning (first module, introduction to VG, available)
• Face to face training on different technical guides
• Manual for Civil Society Organizations
• Webinars

• 3. Support to countries

<table>
<thead>
<tr>
<th>Region/Country</th>
<th>Support activities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Africa Region</strong></td>
<td>Support to AU/UNeca/AfDB Land Policy Initiative – EU transversal support</td>
</tr>
<tr>
<td><strong>Sierra Leone</strong></td>
<td>Multi-sector: Legal Framework Assessment; Land Administration; Fisheries &amp; Aquaculture; Forestry; Right to food.</td>
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<td><strong>Nigeria &amp; Uganda</strong></td>
<td>Governance of Tenure.</td>
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<tr>
<td><strong>China</strong></td>
<td>Awareness &amp; extraterritorial investment.</td>
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<tr>
<td><strong>Ethiopia</strong></td>
<td>Strengthening Capacities and Procedures in State Land Lease Management.</td>
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<tr>
<td><strong>Lake Tanganyika Basin</strong></td>
<td>Integrated trans-boundary resource issues</td>
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4. Partnerships
5. Monitoring

The approach tested in Moldova, Georgia, Ukraine and the Philippines

A. Five General principles
   Each point within each principle would be considered individually

B. Ten implementation principles
   Each point within each principle would be considered, but as a group, not individually

C. Headings for each VGGT Sections (par. 4 – 26)
   To be covered very briefly, as in each of the paragraphs 4 to 26 there are between 100 and 200 headings.
### LGAF - composition of panel members

<table>
<thead>
<tr>
<th>Country</th>
<th>Total</th>
<th>Public</th>
<th>Private</th>
<th>Academia</th>
<th>NGO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ukraine</td>
<td>37</td>
<td>7</td>
<td>15</td>
<td>6</td>
<td>9</td>
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<tr>
<td>Georgia</td>
<td>37</td>
<td>10</td>
<td>18</td>
<td>7</td>
<td>2</td>
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<tr>
<td>Philippines</td>
<td>40</td>
<td>27</td>
<td>6</td>
<td>2</td>
<td>5</td>
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<tr>
<td>Moldova</td>
<td>37</td>
<td>17</td>
<td>9</td>
<td>7</td>
<td>4</td>
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### Examples - Ukraine, Georgia, Moldova, Philippines

<table>
<thead>
<tr>
<th>C. GUIDELINES CHAPTERS 4 - 26</th>
<th>UKRAINE</th>
<th>GEORGIA</th>
<th>MOLDOVA</th>
<th>PHILIPPINES</th>
</tr>
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<tbody>
<tr>
<td>5. Policy, legal and organizational framework related to tenure</td>
<td>Covered</td>
<td>Covered by various LGIs</td>
<td>Covered by various LGIs</td>
<td>Covered by various LGIs</td>
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<tr>
<td>14. Restitution</td>
<td>Not covered</td>
<td>Not covered</td>
<td>Not covered</td>
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<td>15. Redistributive reforms</td>
<td>Not covered</td>
<td>Not covered</td>
<td>Not covered</td>
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<tr>
<td>16. Expropriation and compensation</td>
<td>Covered LGI 13, 14</td>
<td>Covered LGI 13, 14</td>
<td>Covered LGI 13, 14</td>
<td>Covered LGI 13, 14</td>
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<tr>
<td>17. Records of tenure rights</td>
<td>Covered LGI 1, 2 and 3</td>
<td>Covered by LGI 1, 2, 3, 16, 17</td>
<td>Covered by LGI 1, 2, 3, 16, 17</td>
<td>Covered by LGI 1, 2, 3, 16, 17</td>
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<tr>
<td>18. Valuation</td>
<td>Covered LGI 10</td>
<td>Covered by LGI 10</td>
<td>Covered by LGI 10</td>
<td>Covered by LGI 10</td>
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<tr>
<td>23. Climate change</td>
<td>Partly covered</td>
<td>Partially covered by Forestry</td>
<td>Partially covered by Forestry</td>
<td>Partly covered by Forestry</td>
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<tr>
<td>Policy Recommendations</td>
<td>VG Principles</td>
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<td>Lifting the moratorium on the sale-purchase of agricultural land in a phased manner, so as to allow for the development of implementing regulations, institutions, and the conduct of public education campaigns</td>
<td>General Principle 1, implementation principle 1 and 2</td>
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<td>Further consideration of the creation of a single registry for land and property in order to avoid duplication of registration, increase public trust in registration services, facilitate savings of state funds, and increase the efficiency of respective state institutions</td>
<td>Section 6 - Delivery of services and 17 Records of tenure rights</td>
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<td>Consideration of the introduction of land taxation based on market valuation</td>
<td>18 Valuation and 19 Taxation</td>
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<tr>
<td>Provision of the follow up support to accelerate the process of demarcation of state and communal land</td>
<td>8. Public land, fisheries and forests and 20 Regulated spatial planning</td>
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<tr>
<td>Support for the adoption of legislation on land auctions, with transparent and streamlined procedures, and the inclusion of town planning terms and restrictions in the package of documents required during land auctions</td>
<td>General principle 3 and Implementation principle 7. Rule of law and 8. Transparency</td>
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Can LGAF results be used to support the Guidelines implementation?

LGAF covers majority of VGGT principles and sections

What’s missing?

A. General principle:
   - General principle 4: provide affordable and prompt enforcement of outcomes

B. Implementation principle:
   - Implementation principle number 5: Holistic and sustainable approach

C. Sections:
   - 8. Public land, fisheries and forests (Fishery is missing)
   - 14. Restitution
   - 15. Redistributive reforms
   - 22. Trans boundary matters
   - 24. Natural disasters
How to facilitate the Guidelines implementation

**Recommended steps to facilitate the Guidelines implementation - country level**

**Step 1:**
- Review LGAF Report or initiate similar assessment to collect a baseline information;
- Identify missing parts;
- Review policy recommendations and assess their compliance with the Guidelines;

**Step 2:**
- Gather the information on missing parts and complete the assessment;

**Step 3:**
- Based on the results discuss policy recommendations with the Government;

**Step 4:**
- Establish a regular monitoring system, using an existing monitoring tool, such as LGAF

**RECOMMENDED NEXT STEPS**

**Option 1:** USE LGAF AS IT IS, BUT EXTEND EXPERTISE

**Option 1:**

Follow existing LGAF processes and expand the number of experts to cover all perspectives of the Guidelines.

*For example: tenure safeguards with special focus on women and the vulnerable, climate change, natural disasters, restitution, redistributive Reforms and fisheries*
Option 2:

1. Modify existing LGIs or expand their number to cover additional dimensions:

For example: tenure safeguards with special focus on women, climate change, natural disasters, restitution, redistributive reforms, trans boundary matters;

2. Expand LGAF thematic areas to cover fisheries

Supplement LGAF two optional modules on large scale land acquisition and forestry by the third one on Fisheries, applicable only to those countries that are involved in the fishery business
Thank you for your attention

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