SUPPORT TO AND CAPITALIZATION ON THE EU LAND GOVERNANCE PROGRAMME (PHASES I & II)

6th Capitalization Meeting
08–10 November 2017
United Nations Conference Centre
UNECA
Addis Ababa, Ethiopia

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Minutes of 6th Capitalization Meeting
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Food and Agriculture Organization of the United Nations
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Contents

Figures

Boxes

Experiences from project implementation

List of Acronyms

APD	Academy of Peace and Development (Somaliland)
AU	African Union
CLEEH	Candlelight for Environment, Education and Health (Somaliland)
CLMB	County Land Management Board (Kenya)
CLPA	Conference on Land Policy in Africa
CoDA	Coalition for Dialogue on Africa
DW	Development Workshop of Angola
F&G	Framework and Guidelines on Land Policy in Africa
FAO	Food and Agriculture Organization of the United Nations
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GLTN	Global Land Tool Network
IFAL	Instituto de Formação da Administração Local (Angola)
IFPRI	International Food Policy Research Institute
IGETI	Improving Gender Equality in Territorial Issues (FAO tool)
IGCA	Instituto Geográfico e Cadastral de Angola
IUU	Illegal, Unreported and Unregulated fishing
KM	Knowledge Management
LC	Lands Commission
LIS	Land Information System
LPI	Land Policy Initiative
LPRC	Land Policy Review Committee (Somaliland)
LSLBI	Large Scale Land Based Investments
LULSM	Lower Usuthu Sustainable Land Management Project, Swaziland
MCA	Members of County Assembly (Kenya)
MEEATU	Ministère de l'Eau, de l'Environnement, de l'Aménagement du Territoire et de l'Urbanisme (Burundi)
MELA	Monitoring Land Governance in Africa
MLHPP	Ministry of Lands, Housing and Physical Planning (South Sudan)
MLHUD	Ministry of Lands, Housing and Urban Development (Malawi)
MoA	Ministry of Agriculture (Somaliland)
MoERD	Ministry of Environment and Rural Development (Somaliland)
MoL	Ministry of Livestock (Somaliland)
MSP	Multi-Stakeholder Processes
NGO	Non-governmental Organization
NLC	National Lands Commission (Kenya)
PAGGF	Projet d'Amélioration de la Gestion et la Gouvernance Foncière au Burundi
PENHA	Pastoral Environmental Network for Horn of Africa (Somaliland)
PNTD	Participatory and Negotiated Territorial Development (FAO tool)
PS	Permanent Secretary
PSSFP/RGF	Projet de Sécurisation des Systèmes Fonciers Pastoraux au Niger par le Renforcement de la Gouvernance Foncière (Niger)
RITD	Regional Integration and Trade Division, UNECA
RVI	Rift Valley Institute (Somalia)
S2RAI-ETH	Support to Responsible Agricultural Investment in Ethiopia
SDF	Somaliland Development Fund
SNL	Swazi Nation Land
SOLA	Solutions for Open Land Administration (FAO tool)
SSF Guidelines	Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the context of Food Security and Poverty Eradication
STDM	Social Tenure Domain Model
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WARFP	West Africa Regional Fisheries Project (World Bank project)
WVI	World Vision International

INTRODUCTION

This is the report of the *Sixth Capitalization Meeting of the European Union Land Governance Programme*, held from 08 -10 November 2017 in the United Nations Conference Centre, UNECA in Addis Ababa, Ethiopia. A total of 48 participants (40 men and 8 women) comprising resource persons, project implementation teams and government counterparts and European Union country delegations from eight of the Phase I countries participated: Angola, Burundi, Côte D'Ivoire, Ethiopia, Kenya, Malawi, Niger, and Swaziland and from four of the Phase II countries: Ghana, Sudan, Pakistan and Uganda. The meeting was organized by the Food and Agriculture Organization of the United Nations (FAO) in collaboration with the Land Policy Initiative (LPI) of the African Union (AU), African Development Bank (AfDB), and United Nations Economic Commission for Africa (UNECA). The meeting benefited from resource persons from the European Union (EU).

The European Union Land Governance Programme supports efforts to improve governance of tenure in 18 country-level projects in Africa, Asia and Latin America, with a total amount of 60 million Euros (17 have active projects of which 2 are completed). All projects address country-specific tenure issues and are implemented by various implementing partners, including government agencies, civil society organizations, bilateral and multilateral organizations and private sector companies.
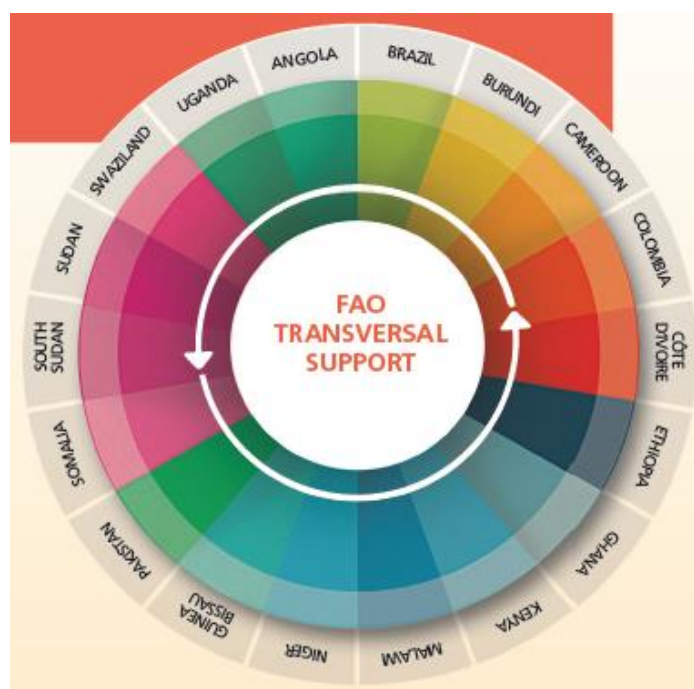
Figure 1 FAO Transversal Support to the European Union Land Governance Programme

The Transversal Project provides a platform for project implementers and partners of the 17 country-level projects to increase project compliance with international standards and to benefit from technical guidance, capacity development, lesson learning, experience sharing and possibilities for exchange among implementers. The Transversal Project also ensures that project implementation is regularly monitored and that the wealth of lessons learned are documented and disseminated: "What has worked? What has not? And why?"

As part of the Transversal Project, Capitalization meetings are held, aimed at enhancing coherence and alignment of the country-level projects of the EU Land Governance Programme in improving governance of tenure in the framework of the VGGT and F&G. They provide a platform to capitalize on experiences in improving governance of tenure, develop capacities and exchange lessons learned.

Capitalization meetings are not isolated interventions. They are linked to and mutually supportive of other transversal project activities, such as targeted capacity development interventions; the use of the knowledge management platform (KMP); joint monitoring and evaluation (M&E); efforts to collect and disseminate lessons learned; and joint communication activities.

The specific objectives of the Sixth Capitalization meeting were to:
1. Increase technical and soft skills relevant to improving governance of tenure in the following specific areas: using the law to improve governance of tenure, tenure of fisheries, designing capacity development interventions and improving Monitoring and Evaluation (M&E) Frameworks.
2. Discuss the outcomes of the Mid-term Review of the European Union Land Governance Programme.
3. Collect experiences of country-level projects to inform higher level processes and information products.

The Sixth Capitalization meeting included a set of interactive sessions, which were directly linked to each other. As such, this report does not provide a summary of discussions in strictly sequential order, but, where appropriate, provides an overview of outcomes by key themes addressed during the meeting, background documentation and potential tools, to support the efforts of country-level projects in improving governance of tenure within their context. In addition, a brief methodological note is provided for selected sessions, to facilitate replication at the country level.

Themes addressed in the capitalization meeting are chosen based on demand voiced by country-level projects in previous meetings and through consultation via e-mail, prior to each meeting.

The results of the workshop evaluation were compiled into a survey report (please see annex IV, survey results, p. 59) and will help guide the next meeting.

Box 1 **Further information on the European Union Land Governance Programme**

For more information on the European Union Land Governance Programme and FAO Transversal Support visit:
- Knowledge Management Platform of the European Union Land Governance Programme:
  www.africalandpolicy.org/eu-programme
- Flyer of the European Union Land Governance Programme:
  http://www.africalandpolicy.org/eu-programme/sites/default/files/BrochureTS_EU_A3_Final.pdf

OPENING

The meeting started at 9.30 am on 08 November 2017 with a brief welcome remark by Dr Odame Larbi, FAO Transversal Project Coordinator. Following a self-introduction by the participants the meeting was opened by Mr Adam Ekberg Coulibaly, Chief, Food Security, Agriculture and Land Section, UNECA, on behalf of, Director of the Regional Integration and Trade Division (RITD) and the Capacity Development Division of the United Nations Economic Commission for Africa (UNECA) and welcomed participants on behalf of the UNECA, the African Union Commission and the African Development Bank (AfdB). Mr Coulibaly pointed out that improving land governance is still a major challenge in Africa and Asia. He

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Dr Odame Larbi, FAO Transversal Project Coordinator and Mr Adama Ekberg Coulibaly, Chief, Food Security, Agriculture and Land Section, UNECA open the 6th Capitalization meeting of the European Union Land Governance Programme

emphasized that it is the role of all those addressing these issues to share lessons learned with a view to mainstreaming them in other countries.

He also illustrated the role the African Land Policy Centre (ALPC) will play in Africa, i.e.:
- Maintain the pan-African leadership on matters regarding the land sector on the continent, including setting the agenda on land issues; acting as a repository of knowledge; and representing the continent with regards to land matters within global platforms.
- Be the driver of continental policy and advocacy with regards to land to ensure that land remains a priority in the policy agenda.
- Create linkages and partnerships to bridge the gap in technical assistance and funding to improve land tenure.
- Create continental and regional land platforms that enhance coordination in the land sector.

Furthermore, he emphasized the importance of raising financial, human and institutional capacities and the need to improve communication from the grassroots to the international level.

He commended the work of the European Union Land Governance Programme in collaboration with FAO and the Monitoring and Evaluation of Land in Africa (MELA) project, which is implemented by the ALPC and the International Food Policy Research Institute (IFPRI) and aims to track progress in the implementation of the AU Declaration on Land. The MELA project is being piloted in twelve African countries, six of which are part of the EU Land Governance Programme.

Finally, he announced the second Conference on Land Policy in Africa, to be held from 14 – 17 November and hosted by ALPC. The conference is a policy and learning event whose goal is to deepen capacity for land policy in Africa through improved access to knowledge and information on land policy development and implementation.

Dr Larbi presented the agenda for the meeting, which was adopted without any modifications.

1   TRANSVERSAL SUPPORT TO THE EU LAND GOVERNANCE PROGRAMME

In 2014, following the endorsement of the VGGT in 2012 and the F&G in 2009 the European Union embarked on an ambitious plan to support ten African countries, (the Republic of Angola, the Republic of Burundi, the Republic of Côte d'Ivoire, the Republic of Niger, the Federal Democratic Republic of Ethiopia, the Republic of Kenya, the Republic of Malawi, the Federal Republic of Somalia, the Republic of South Sudan, and the Kingdom of Swaziland) in turning the principles of these two soft law instruments into action under the "Support to Land Governance in sub-Saharan Africa in the scope of the VGGT Programme" (European Union Land Governance Programme).

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Dr Odame Larbi, FAO Transversal Project Coordinator illustrates the lessons learned so far from the EU Land Governance Programme

In recognition of FAO's expertise in the field of tenure governance, the European Union, under the "Support to and Capitalization on the European Union Land Governance Programme in Africa" Project (Transversal Support Phase I), funded FAO to provide Transversal Support to the ten country-level projects in collaboration with LPI. In addition, in collaboration with the Swiss Development Cooperation (SDC), this project also supported the integrated implementation of the F&G and VGGT on the African continent – the Pan-African Component.

Transversal Support Phase I started in May 2014 and will continue to provide support to ten countries until September 2019. The objective is to:
- strengthen the individual in-country implementation projects including facilitating mainstreaming of the VGGT,
- sharing of lessons learned across the multiple countries involved,
- presenting available capacity development materials,
- providing tools to improve the governance of tenure,
- providing guidance and support in targeted areas of expertise,
- joint monitoring and evaluation,
- achieving important leverage effects through the development of a web-based knowledge management platform.

In 2015, the European Union extended its support under this programme to eight additional countries, including three from outside of the African continent (the Federative Republic of Brazil, the Republic of Cameroon, the Republic of Colombia, the Republic of Ghana, the Republic of Guinea-Bissau, the Islamic Republic of Pakistan, the Republic of Sudan and the Republic of Uganda). Building on the success of the Transversal Support Phase I, the European Union requested that FAO accordingly expand its transversal support to these additional countries and provide additional capacity development needs identified in Phase I.

Transversal Support for a Phase II started in January 2017 and will be running until December 2020. The project aims to facilitate the integration of the eight new in-Country projects into the existing mechanisms for Transversal Support Phase I and enhance support by building on lessons learned and additional needs particularly in the area of capacity development, identified in Phase I.

1.1 WHAT COUNTRY-LEVEL PROJECTS CAN EXPECT FROM TRANSVERSAL SUPPORT

Apart from core project support mentioned above, the Transversal Project offers a range of opportunities for project implementers and their partners to benefit technically from experts and peers and in communicating results and lessons learned.

i) Technical helpdesk

Project implementers and their partners under the EU Land Governance Programme can benefit from ad hoc technical guidance and links to experts in a vast area of technical expertise from FAO and ALPC.

The FAO house-wide Task Force for the implementation of the VGGT includes different areas of internationally recognized expertise in tenure, including land tenure, forest tenure, fishery rights, the Right to Food, water rights, legal aspects of tenure, land administration, land management, land use planning, agriculture investments, emergencies, capacity development as well as Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+) Programme. Members of the Task Force operate not only in their individual sectors of specialisation, but also in close cooperation with other units to realise synergies arising from common challenges and areas of interest.

Technical helpdesk
✓ Provision of technical guidance on relevant technical areas (administration, legal, gender, etc.)   ✓ Links to experts   ✓ Contact EU-transversal-support@fao.org

The LPI/ALPC was established to assist Member States of the African Union to improve their land policy formulation, implementation and monitoring and evaluation through the implementation of the AU Declaration on Land in accordance with the F&G and VGGT. LPI/ALPC is an:

- Inclusive platform which provides opportunity for lesson learning, dialogue, consultation and consensus to improve land governance within and across country borders on the continent;
- An institution which enhances partnerships, synergies, coherence and political commitment to develop, implement and monitor improved land policies;
- An institution which is well-suited to facilitate evidence-based decision-making and provides a framework for land policy development, implementation and monitoring;
- An institution which supports member states to sustain interventions by resource partners.

ii) Support during the start-up phase

Lessons learned during Phase 1 of the EU Land Governance Programme strongly emphasize the need to support key project implementers and relevant partners during the project start-up phase (design, inception, early implementation period). Transversal Support offers to review project documents, facilitates links to experts, provides guidance on existing tools and mechanisms and facilitates a start-up meeting.

Start-up support
✓ Review project documents   ✓ Start-up workshops   ✓ Guidance on tools   ✓ Contacts to specialists

Expected outcome of start-up meetings are defined based on the project needs and within the framework of national priorities. In general, it is envisaged for country-level start-up workshops to:

- raise awareness on the VGGT in terms of process, content and existing tools and provisions of transversal support;
- strengthen partnerships between stakeholders working on governance of tenure;
- mainstream the VGGT in country-level project implementation, monitoring and evaluation;
- conduct capacity assessment to determine capacity risks and opportunities in project implementation, enabling project activities to be done without hindrance.

Box 2 **Why is it important to provide enhanced support during the start-up phase?**

- The VGGT provide a framework that in-country projects can use when developing their own policies, strategies, programmes and activities. They allow governments, civil society, the private sector and citizens to assess whether proposed strategies, programmes and activities meet best practice standards.
- The participatory process associated with VGGT implementation is instrumental in ensuring buy-in from stakeholders and strengthening links to complementary initiatives of other organizations thereby laying the ground for sustainable impact. FAO is well- positioned to provide a neutral platform for tabling issues for debate.
- The provisions of VGGT may provoke a new way of addressing tenure issues, e.g. by acknowledging the wealth of tenure rights and their potential to overlap, different forms of tenure, addressing the question around legitimacy of tenure rights and the cross-sectoral aspects of tenure.
- Getting project design right during the inception phase is key to achieving successful implementation.
- Knowledge about existing global tools in support of VGGT implementation and experiences gained around the world, particularly with a view to participatory processes, may substantially enhance project design.

iii)   Capitalization meetings

Capitalization meetings take place twice per year and provide a platform to capitalize on experiences in improving governance of tenure, develop capacities and exchange lessons learned. Capitalization meetings are not isolated interventions. They are linked to and mutually supportive of other activities, such as targeted capacity development interventions; the use of the knowledge management platform (KMP); joint monitoring and evaluation (M&E); efforts to collect and disseminate lessons learned; and joint communication activities.

Box 3 **Topics discussed up to 5th capitalization meeting**

- Overview of VGGT
- AU declaration on land and F&G
- Land policy development cycle and land policy processes
- FAO capacity development tools on VGGT
- Improving women participation in land governance
- Land governance reforms
- Establishing community land registration systems
- Gender equitable governance of tenure
- Facilitating multi-stakeholder processes
- Linking project activities to national processes
- Documenting and communicating lessons learned
- Experience capitalization
- Capacity assessment
- Responsible agricultural investments
- Engaging CSOs in land governance processes
- Using geospatial data to improve governance of tenure
- Communication strategy
- KMP

iv)   Knowledge Management

The European Union Land Governance Programme offers the opportunity to collect a wealth of knowledge, tools and lessons learned that can benefit other project implementers and partners and the Land Governance community as a whole.

The Knowledge Management system (KMP) is an online web based system which aims to facilitate knowledge sharing between the country-level projects, provide readily available tools and information for the country-level projects and provide information on land governance to the public.

In addition, the platform contributes to the overall communication strategy of the EU Land Governance Programme and increases the visibility of projects. It offers a comprehensive platform for knowledge repository, minimizes relearning and thereby increases productivity.

Knowledge management

✓ Knowledge repository
✓ Project visibility
✓ Toolbox facilitates project implementation e.g. the M&E tools
✓ Discussions
✓ FAQ
✓ Links to relevant resources
✓ Central repository for relevant documents generated in the course of the projects.
✓ www.africalandpolicy.org/eu-programme

The platform has both a public and a restricted space. The public can access information that will be available in the public section. The restricted information will only be available to the country-level projects of the EU Land Governance Programme and staff in support of the Transversal Programme. In order to access the restricted space registration and approval of the Web Manager will be required.

Figure 2 Knowledge Management in the European Union Land Governance Programme

v) *Communication*

Communication is a key aspect of the European Union Land Governance Programme. This includes communication at the country and international levels with a view to enhancing project objectives and increasing visibility of outcomes.

At country level communication is essential to increase awareness on given best practices, sensitize the population and to increase capacities. Transversal Support offers advice on enhancing communication at the country level.

Communication

✓ Videos
✓ Briefs
✓ Publicity material
✓ KMP

At the global level communication aims to facilitate stakeholders within and outside the European Land Governance Programme to benefit from the wealth of lessons learned. Transversal Support offers increased visibility of the country-level projects and offers the opportunity to share lessons learned during Capitalization meetings for documentation.

The full communication strategy is available on the Knowledge Management Platform of the European Union Land Governance Programme: www.africalandpolicy.org/eu-programme.

vi)   *Monitoring & Evaluation (M&E) system*

The Transversal level Monitoring and Evaluation (M&E) system is designed to provide for continuous and systematic assessment of the outcomes of the EU Land Governance Programme. It measures progress towards the achievement of the integrated implementation of the VGGT and F&G through the projects and the Transversal project to provide informed support to the projects. Lessons learned are shared and fed into the processes of the EU, FAO, ALPC and the country-level projects.

The M&E system has diverse linkages with country level, regional and global initiatives. For instance, the system takes into account the LGAF indicators and is linked with the LPI

M&E system
✓ Key to all projects in terms of tracking, documentation and reporting
✓ M&E framework prepared
✓ Data to be provided by in-country projects
✓ Indicators agreed and validated by cm
✓ Move from output reporting to results reporting

Monitoring and Evaluation Framework (MEF) for the implementation of the African Union Declaration on Land Issues and Challenges and takes into consideration the CAADP result framework and the Agenda 2063.

With regards to the linkage to the countries' M&E systems, the M&E system is consolidated for the 10 country-level projects with 80 percent convergence on the indicators including agreed data collection formats. The 20% of indicators should reflect country specificities.

The M&E system has six indicators for the Transversal level aimed to assess the impact on its six thematic pillars:

1. Capacity development;
2. Awareness raising;
3. Support to countries;
4. Strengthening partnerships and exchanges in the 10 country-level projects;
5. Effectiveness of the M&E system at the Transversal level;
6. Communication Strategy development.

These indicators form 80% of the convergence indicators at country level. 20% of the performance 0indicators will be on tenure security and or land rights registered, and data base developed on land issues which are specific to the country. The system will monitor progress in the implementation of activities and outputs realized by the ten country-level projects and the Transversal project with respect to the above indicators.

1.2 NEW PROJECTS

Three new projects have recently taken up activities under the EU Land Governance Programme.

The 6th Capitalization meeting provided the opportunity to introduce the projects and for the newcomers to interact with country-level projects that are more advanced in implementation. Boxes 3, 4 and 5, below provide an overview of the:

- Far Ban Bo project implemented by Care International in Ghana and its partners;
- Far Dwuma Nkɔdo implemented by the Environmental Justice Foundation and its partners;
- Improved Land Tenancy in Sindh Province project, implemented by FAO in Pakistan.

Box 4 **The 'Far Ban Bo' project**

Project title	Far Ban Bo
Country	Ghana
Implementer	Care in collaboration with Friends of Nation and Oxfam
Budget	▪ EU: 1 650 000,00 EUR ▪ CARE and Oxfam: 412 000,00 EUR
Duration	2017–2020
Location	30 districts in Western, Central, Greater Accra and Volta regions
Objective	Overall Objective: ▪ Contribute to sustainable fisheries resources management to improve food security, nutrition and livelihoods of smallholder fishers and other users of fishery resources. Specific Objective: ▪ Smallholder fishers and processers benefit from equitable and sustainable rights-based fisheries resources management.
Outputs	Output 1 Empowered smallholder fishery associations and CSO alliances take active part in fisheries governance Output 2 Effective IUU monitoring and grievance mechanisms piloted Output 3 Social and economic safeguards contribute to improving livelihoods and nutritional status of smallholder fishers and other users of fishery resources

Challenges	Anticipated challenges include:
	▪ The security of the usage rights of the marginalized groups
	   o Fishermen collectively acquires the land
	   o Local Authority acquires the land for the fisher folks
	   o Government uses compulsory acquisition
	   o Private Public Partnership (Owner and Fisher folks enter into Agreement)
	▪ Lack of Spatial Development plan
	   o No spatial development plan for Central Regional and Volta Regions

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Box 5 **'Far Dwuma Nkɔdo' project**

Project title	Ensure greater environmental sustainability and social equity in Ghana's fishing sector by reducing illegal fishing, building local capacity to secure legal, sustainable fisheries and promoting the implementation of the Voluntary Guidelines on the responsible Governance of Tenure in the context of National Food Security (VGGT). ©FAO/SFE
Country	Ghana
Implementer	Environmental Justice Foundation (EJF)
Budget	▪ EU: 1 520 000,00 EUR ▪ EJF: 384 944,00 EUR
Duration	2017–2020
Location	Along the 9 coastal districts of the Central region, specifically in: Awutu Senya; Gomoa East; Gomoa West; Effutu Municipal; Ekumfi District; Mfantseman Municipal; Abura Asebu Kwamankese; Cape Coast Municipal; Komenda-Edina Eguafo-Abrem. The intervention will also be implemented in the Volta river estuary comprised by the Ada East District in Greater Accra Region and the Keta District in Volta Region.
Objective	Overall Objective: ▪ Contribute to greater environmental sustainability and social equity through a reduction of illegal fishing and strengthened capacity to support legal, sustainable and co-managed fisheries. Specific Objective: ▪ Promote food security and improved livelihoods of fishers by reducing IUU fishing activities in Ghana's Inshore Exclusion Zone (IEZ) and promoting participatory co-management of fisheries.
Outputs	**Output 1** Demonstrably improved sustainable fishing practices adopted while IUU fishing prevention efforts are effectively monitored and reported **Output 2** Small-scale fishers, vulnerable and marginalized groups are better empowered to articulate their interests in fisheries tenure rights reforms, and to secure and effectively implement fisheries co-management **Output 3** Alternative livelihood options are increasingly open to small-scale fishing communities.
Background	The fisheries sector plays an essential role in the Government's national development objectives in relation to employment, livelihood support, poverty reduction and food security, accounting for 4.5% of GDP and provides livelihoods for an estimated 2.4 million people, with many women involved in post-harvest activities such as fish processing and marketing. After years of overexploitation and poor management, Ghana's fisheries sector is on the verge of collapsing. Poor management of the fisheries sector has led to high levels of illegal, unreported and

	unregulated (IUU) fishing which, in November 2013, resulted in the pre-identification of Ghana as a non-cooperating third country ("yellow card") by the European Commission under the European Council's Regulation (EC) 1005/2008. The ensuing dialogue with the European Commission and the ongoing WARFP project will have a significant impact on tenure rights in the small-scale fishing sector, impacting canoe registration to control access; capacity reduction; legal reforms to address IUU; co-management policy development. Following the legislative reforms triggered by the dialogue with the European Commission the "yellow card" was lifted. However full implementation of these reforms needs to be ensured, with the participation and involvement of fishing communities and marginalized groups, if the goal of protecting their livelihood and food security is to be attained. While some of the principles in the VGGT are key to the rights-based or co-management approaches currently being discussed, most stakeholders in the fisheries sector have very little knowledge of the VGGT themselves. As Ghana moves away from "open access" fisheries, it is crucial to ensure the VGGT principles are better understood and applied to guarantee fair and transparent roll-out of the current tenure rights reforms. This action will therefore promote the inclusion of the VGGT in fisheries governance and management, and support the Government's capacity reduction efforts with the promotion of alternative livelihoods. By working directly with the beneficiaries, the project will develop a cohesive, comprehensive approach to ensure that fisheries tenure rights are decentralized and protected by those most dependent upon them for their livelihoods.
Challenges	▪

Box 6 'Improved Land Tenancy in Sindh' project

Project title	Improved Land Tenancy in Sindh (ILTS)	
Country	Pakistan	
Budget	4 million EUR	
Beneficiaries	12,600 households	
Duration	2017–2020	
Location	8 districts: Dadu, Jamshoro, Larkana, Matiari, Mirpur Khas, Tando Allah Yar, Tando Muhammad Khan, Sujawal	©FAO/SFE
Objective	Overall Objective: ▪ Contribute to improved livelihoods and poverty alleviation in Pakistan, as well as sound management of natural resources, in particular for female and male smallholder farmers and other users of natural resources. Specific Objective: ▪ Land and water governance improved in eight districts of Sindh in line with VGGT and with a particular focus on female and male smallholder farmers and other disadvantaged population.	
Outputs	Output 1 Legal, institutional & administrative framework for responsible land & water governance, including environmental aspects, is implemented by considering local requirements. Output 2 Enhanced capacity of stakeholders in land management from Sindh province and targeted districts in order to promote VGGT and improve landholding security of men and women peasant farmers Output 3 Enhanced capacity of district authorities, local institutions, FOs, and CSOs to promote and contribute to transparent and rights-based land governance (VGGT and community-based disaster risk reduction - DRR).	
Background	In Sindh Province, farm size distribution is highly skewed – with 85 percent of the land owned by less than two percent of the population. The vast majority of the rural population are peasants who are tenant farmers and sharecroppers (*Haris)*. Most farm families lack clear and legally enforceable tenure over their farmland upon which their livelihoods depend, leaving them vulnerable to poverty and exploitation. Most landlords and haris are generally not aware of their mutual obligations, and the legal rights each one has according to the Sindh Tenancy Act of 1950 and its amendments in 2009.	
Opportunities	▪ Market forces are compelling and favourable for the change ▪ Sharecroppers focus have changed –quitting agriculture and prefer labour to meet their daily needs of the life ▪ Election 2018 are just around the corner ▪ Extreme events exposed both tenants/ sharecroppers and landlords to new arena ▪ General realization by Government on digitization of land records	
Challenges	Challenges faced include: ▪ The haris do not have any say in decision making with respect to crop mixes	

	▪ Given the absence of access to quality agricultural inputs, income generating opportunities for women, formal rural financial institutions and market outlets, haris have to depend on in-kind and cash advances from their landlords, creating an environment of a "master-slave" relationship and a sense of serfdom and bondage ▪ Haris do not have any access to the justice system and legal recourse in case of conflict with their landlords ▪ Agreements between landlords and haris are normally verbal and open to misinterpretation, the rights and responsibilities of the two parties are not always clear, and mechanisms to address unforeseen circumstances (e.g. floods, droughts and low production caused by force majeure) are also not clear and often overlooked. Haris therefore tend to be disproportionately affected and constrained by the risk of bonded labour to compensate for lost production – a risk that is not always shared among parties; ▪ The relationship of land tenure and debt bondage in Sindh Province and any further is a politically sensitive issue requiring a bottom-up and productivity-driven approach to land and water governance (e.g. application of VGGT).

1.3 LESSONS LEARNED AT THE TRANSVERSAL LEVEL

A range of technical and programmatic lessons have been learned so far, of which the following constitutes the most prominent ones:

- ▪ Projects must feed into national processes and influence policies.
- ▪ Projects must endeavour to identify and report on VGGT and F&G processes used.
- ▪ Lessons learned and best practices are best documented in the course of implementation.
- ▪ Knowledge gained at capitalization meetings should be included in progress reporting.
- ▪ Women participation is still a challenge at country level and at the Capitalization meetings.
- ▪ Project M&E systems must link up with transversal M&E system to show overall impact of the programme.
- ▪ Progress report must be on results rather than outputs.
- ▪ Using the KMP can be highly beneficial to project implementation.

1.4 MID-TERM EVALUATION OF THE EU LAND GOVERNANCE PROGRAMME

Mr Joachim Knoth of the European Commission's Directorate-General for International Cooperation and Development presented a summary of the main findings of the Mid-Term evaluation report as follows:

- • Some of the projects were too optimistic in what could be done within the project period;
- • Project management in some countries was a challenge;
- • Delayed submission of progress reports;
- • Delays in implementation of projects affected efficiency;
- • Projects working in isolation and are not sufficiently integrated into public land administration systems;
- • Projects have different logframes some of which do not follow the EU (DEVCO) logframe format;
- • There are no baselines for some of the projects, making it difficult to track progress;
- • The Transversal project is core and very beneficial to the EU Land Governance Programme;
- • FAO is lagging behind in setting up a functional M&E system;

- The project KMP is predominantly populated with FAO materials. Materials from country level programmes and tools and resources from other institutions engaged in the sector e.g. UN HABITAT, GLTN, GIZ, WB, etc. should be added to open up the KMP to the public;
- There is limited uptake of VGGT at country level to improve governance of tenure.

The main recommendations were:

- Projects should be realistic with what can be achieved with the available budget and timeframe.
- Projects should undertake work planning and review workshops every year and use them to prepare annual work plans.
- Project should search for more collaboration with other projects.
- Discussions for follow up actions should be started in good time, including discussions with other donors and partners.
- Reporting should be improved and reports should be submitted on time. Avoid delays.
- Reflect on indicators at 2 levels: FAO should come out with indicators to show that countries are making progress. The focus should be more on results and less on activities.
- Other projects should be invited to participate in Capitalization Meetings to share their experiences e.g. Projects in Ethiopia.
- Capitalization meetings should be organized in other countries, e.g. Malawi, Ghana.

2   USING THE LAW TO IMPROVE GOVERNANCE OF TENURE

Box 7 ***The law in the VGGT: Examples***

"States should provide and maintain policy, legal and organizational frameworks that promote responsible governance of tenure of land, fisheries and forests." VGGT, par. 5.1

"States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset. Policies, laws and procedures should take into account the capacity to implement." VGGT, par. 5.5

"States and other parties should consider additional measures to support vulnerable or marginalized groups who could not otherwise access administrative and judicial services. These measures should include legal support, such as affordable legal aid, and may also include the provision of services of paralegals or parasurveyors, and mobile services for remote communities and mobile indigenous peoples." VGGT, par. 6.6

VOLUNTARY GUIDELINES ON THE

Responsible Governance of Tenure

OF LAND, FISHERIES AND FORESTS IN THE CONTEXT OF NATIONAL FOOD SECURITY

CFS

FAO
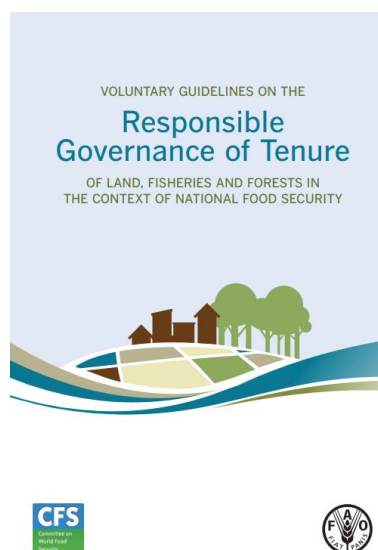
The role of law in the governance of tenure tends to spark lively debates. Some people are optimistic about the usefulness of the law in promoting social change; others dismiss law as largely irrelevant, marred by problems of implementation and enforcement. In some contexts and situations, the law provides avenues for the pursuit of justice; in others, it protects the interests of the rich and powerful.

There are complex interactions between law and society, and these contrasting perceptions all have a place in assessing strategies involving use of the law to improve the governance of tenure. Throughout history, the law has been a vehicle for the rich and powerful to legitimize their tenure claims, but it has also assisted marginalized groups to claim rights and seek redress.

Irrespective of the positions taken, it is clear that more is needed than just "good" law; that is, law that is consistent with the VGGT. The adoption of a new tenure law can send a strong political signal, and it can be an important step in recognizing previously marginalized tenure claims. However, the way in which a law is interpreted, applied and enforced is ultimately what shapes practical outcomes. Corruption, dysfunctional judiciaries and ineffective administrations can all get in the way of a law achieving its desired objectives. As a result, many good laws remain dead letter. The adoption of a new piece of legislation is only a part of the process of using law to improve the governance of tenure.

Overall, there is widespread recognition that the law is an essential, albeit not sufficient, part of implementing the VGGT. The importance of law is recognized in the VGGT, which devote several provisions to legal frameworks, legal capacity support and dispute settlement, and which include the rule of law among the key "principles of implementation" of the VGGT (par. 3B.7).

A realistic understanding of the limits of "good law" calls for guidance on the range of actors and processes necessary to enable the law to operate and make a difference in practice – including courts and administrative machineries, state and non-state agencies providing capacity support, advisory services or representation, through to the role of citizens and companies as norm users. And while good law alone does not necessarily achieve its stated goals, there is little doubt that bad law constrains the implementation of the principles reflected in the Guidelines all over the world.

This situation calls for guidance on how to assess and reform legal frameworks to promote responsible governance of tenure of land, fisheries and forests. National law is crucial for the responsible governance of tenure for all, with particular focus on more vulnerable segments of society. The VGGT are voluntary. Yet, they provide important elements for shaping a well-functioning legal framework to facilitate improved governance of tenure. Box 8 provides an overview of the legal implications of the VGGT.

"These Guidelines are voluntary." VGGT, par. 2.1

"These Guidelines should be interpreted and applied consistent with existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. They are complementary to, and support, national, regional and international initiatives […]. Nothing in these Guidelines should be read as limiting or undermining any legal obligations to which a State may be subject under international law." VGGT, par. 2.2

"These Guidelines can be used by States; implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned to assess tenure governance and identify improvements and apply them." VGGT, par. 2.3

"These Guidelines should be interpreted and applied in accordance with national legal systems and their institutions." VGGT, par. 2.5

The VGGT are voluntary. They are not legally binding. They do not replace existing national or international laws, commitments, treaties or agreements. At the same time, they do not limit or undermine any legal obligations which States may have under international law. "Soft laws" have an advantage over binding international agreements in that they are usually easier for countries to reach agreement on. Also, soft laws can be more comprehensive and provide more details, and they are often better suited for technical matters and best practices, such as governance of tenure.

Nonetheless, the VGGT have legal significance.
- FAO's experience with its soft law instruments is that they have a positive impact in guiding national policies and legislation in many countries. The decision to bring national law in line with the VGGT is a matter of choice for States. Yet, when a country enacts all or part of an international soft law instrument, that soft law becomes "hard law" within that country."
- There are substantive overlaps between the professional duties, responsibility of lawyers and the provisions of the VGGT. Lawyers have the professional responsibility duty to uphold the rule of law.
- The VGGT reflect many provisions found in international law. As such, their implementation can constitute an important step toward the realization of human rights.
- The VGGT have received widespread expression of support.
- The VGGT could be used for legal interpretation.

2.1 FAO GOVERNANCE OF TENURE TECHNICAL GUIDE 5: RESPONSIBLE GOVERNANCE OF TENURE AND THE LAW

[FAO Governance of Tenure Technical Guide 5: Responsible governance of tenure and the law. A guide for lawyers and other legal service providers](#) reviews the legal dimensions of the VGGT and their linkages with binding international law. It provides guidance to legal professionals working with state institutions, civil society or the private sector on assessing national legislation, supporting legal reform and improving implementation as well as on the settlement of disputes. It is also a useful resource for law societies, notaries, judges, development agencies and all those who are interested in understanding the role of law in giving effect to the provisions of the VGGT and supporting the legal protection of legitimate tenure rights.
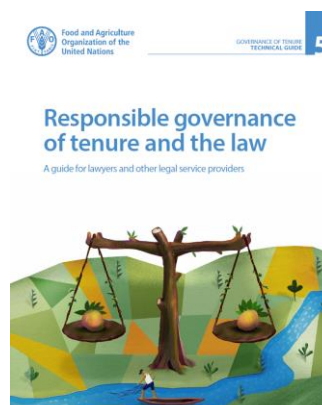
The technical guide aims to assist implementation of the VGGT. It provides guidance on how to use the law to promote responsible governance of tenure of land, fisheries and forests. There is recognition in the VGGT that the law is an important vehicle for translating international standards into real change. For example, the Guidelines provide guidance on features of legal frameworks, on law-making processes and on legal assistance for vulnerable groups.

The technical guide reviews the legal implications of the VGGT and provides guidance on:
  i)   how to appraise legal frameworks to assess the extent to which they are in line with the VGGT;
  ii)   how to prepare or revise legislation where needed;
  iii) how to ensure that legislation is duly implemented;
  iv)   how to use the VGGT in the context of dispute settlement.

The guide is complemented by other technical guides. FAO Governance of Tenure Technical Guides translate the provisions of the VGGT into practical approaches and examples for specific themes.

Readers interested in the specific aspects of implementation of the VGGT, such as gender, free, prior and informed consent (FPIC), investments, registration, the commons, pastoralism, forestry or fisheries, should also refer to these guides. See:
www.fao.org/tenure/resources/collections/governance-of-tenure-technical-guides/en.

i)   Assessments of national laws

The VGGT provide an internationally-agreed benchmark for assessing national law. As such, they can help appraise and draft or revise laws to promote the responsible governance of tenure both in terms of content and process. The assessments can provide useful basis for law reform, identifying reform needs and possible ways forward. They help identify laws that are obsolete, ambiguous, complicated or inconsistent. They also help to identify aspects of the legal framework that are not being properly implemented and provide an opportunity for understanding impediments to implementation and pave the way to administrative as well as legislative reform.

Assessments can differ in scope depending on the objective and the capacity. For example, existing laws can be compared to the general principles of the VGGT or with each of the specific provisions of the VGGT. They can be used for general assessments of the overall legal framework or specific aspects of the law. General assessment would examine adherence of the national legal system as a whole, which may help to identify priorities for further analysis and for reform. Specific assessments focus on identified parts of the legal framework; for example, in terms of land registration, gender equality etc. Irrespective of the scope however, assessments are best conducted with broad-based participation of all relevant stakeholders. During the meeting Moises Festo, Project Coordinator Development Workshop, shared Angola's experiences in how assessing the law supported the recognition of communal tenure rights in Angola. Please see the box, below.

Experience 1 > **ANGOLA: ASSESSING THE LAW**

ANGOLA: ASSESSING THE LAW

In August 2017, Angola elected a new president for the first time in 38 years. The priority areas President Joao Lourenco has committed to address are increased transparency and investment in agriculture. Moreover during a speech in Cachiungo municipality (one of ten municipalities of the project implementation) in October 2017 he specified that increased production in the agricultural sector requires guaranteed tenure security for farmers and their families in the form of titles.

In 2004, the Government of Angola passed a New Angolan National Land Law (*Lei de Terras de Angola*) following the Civil war which ended in 2002. The main focus of the law was to provide recognition of customary tenure rights which had not been respected during colonial times and the civil war and to thereby halt the devastating impact local populations had oftentimes suffered due to the consequences of unclear tenure rights and forced evictions.

While the recognition of customary rights for communities by law and its requirement to clarify rights through participatory means is a major achievement of the 2004 law, its regulations do not specify to a sufficient degree the procedures for communities to actually obtain formal recognition. As a result many communities are still faced by weak tenure rights.

World Vision International and Development Workshop collaborate in partnership with the Government of Angola on the implementation of the EU-funded project 'Strengthened capacity for improved governance of land tenure and natural resources by local government in partnership with non-state actors in the Central Highlands of Angola'. The objective of the project is to empower national, provincial and municipality level government and local non-state actors and communities to facilitate the recognition of tenure rights.

During the 6th Capitalization meeting of the European Union Land Governance Programme Moises Festo, Project Coordinator Development Workshop, shared their experiences in how assessing the law supported the recognition of communal tenure rights.

> *What type of legal assessment was/will be conducted – checking compliance with VGGT in general or specific tenure-related provisions? What is/was the purpose of the assessment? To draft/reform principal land law or implementing legislation? To develop land policy, land use plans etc.?* **What is the scope of assessment in terms of legislative/policy areas? Are all relevant laws (to be) assessed?**

The project is currently conducting an analysis of the Angolan land-related legislation against the VGGT with a view to assessing potential gaps that may need to be addressed in order to ensure international principles are embedded and the procedure for recognizing customary rights is simplified, understood and accessible to the local populations.

During the assessment we find it important not only to look at the National Land Law itself but also at the related aspects of the legal framework, such as the regulations of the National Land Law, the Local Administrative Law, the Forest Law and the Constitution. In addition, processes in individual offices were assessed and documented to identify best practices.

> *What activities accompanied or were implemented alongside/ following the assessment?*

Relevant activities that accompanied the assessment included:
1. Identifying the procedures adopted by the Provincial Government of Bié using Diagnostic Rural Appraisal method followed by issuing *despachos* as a model for the effective recognition of customary land rights for other provinces.
2. The Government of Bié showed the political will and leadership to enforce the Office procedures (*Despacho)*, and advocated to scale it up at national level
3. Production of materials to disseminate the land law and the VGGT among local populations through the translation of the VGGT into Portuguese.

> *How participatory was/will the assessment (be)? Government agencies, NGOs, rural producer organizations, associations of indigenous peoples and rural communities, business lawyers, academics, experts, women, youth, elders, members of minority groups?*

During the assessment the team conducted technical discussions with the Provincial Direction of Urbanism in Huambo Province and consulted communities. The objective of these discussions was to harmonize and simplify the process for issuing titles.

Once finalized, the report of the assessment was shared with all relevant stakeholders including local, provincial and national authorities, civil society, the private sector, the faculty of law and other faculties that touch upon the law in their curricula. In addition, a workshop was organized to present the main findings of the analysis.

What were the lessons learned from conducting the assessment?

The key findings can be summarized as follows:
1. Simplification and harmonization of processes for land registration/titling requires strong political commitment, which in turn, requires a long-term advocacy effort, which should accompany the assessment.
2. Once the assessment has been conducted, it is key to address gaps in legislation and its regulations by starting at the local level and subsequently, scale up local experiences to national level to reach a real impact
3. Technology can be used as a strong tool to achieve legal, institutional and administrative reforms
4. Projects aiming to safeguard and clarify land rights must consider the time frame it takes to influence these processes as they are linked to broader political, legislative and economic issues.

ii)   Legal reform

The quality of the lawmaking process matters significantly. Field piloting of draft laws and regulations can help to test administrative procedures before formally enshrining them in law. In preparing new legislation, drafters should ensure overall consistency of the legal framework, considering laws that may need to be amended or repealed, and compliance with international treaties. To ensure that tenure governance laws protect the interests of all legitimate tenure right holders, lawmakers should create opportunities for citizens from a broad spectrum of society to have their voices heard throughout the lawmaking processes. Public-interest legal service organizations can play an important role by encouraging government authorities to convene consultations and by facilitating meaningful, broad-based participation.

The reflection of the VGGT into national law should follow a broad participatory process that allows all stakeholders to discuss and find common ground on the provisions which should be prioritized to be included in national law. Some of these provisions include:
- recognition of legitimate tenure rights, including customary rights;
- redistribution and restitution of tenure rights that were dispossessed in the past;
- consecration of the principles of transparency to be applied in policies, laws, procedures and transactions of tenure rights;
- recognition of the principles of consultation and FPIC;
- environmental and social impact assessment for all proposed tenure concession and investment ventures;
- rules on expropriation and just compensation;

During the meeting Mike Chigowo, shared Malawi's experiences in using the law to improve reform processes. Please see the box, below.

*Experience 2 > **MALAWI: USING THE LAW TO IMPROVE REFORM PROCESSES***

MALAWI: USING THE LAW TO IMPROVE REFORM PROCESSES

In Malawi, formal ownership of land was introduced in 1902, when Certificates of Claim were issued by Governor of Nyasaland to white settlers. In 1903 and 1920, Land Commissions were instituted to address legal aspects of colonial land holding policies and landlessness among the natives. In 1951, a Land Ordinance was passed which defined land as public, private and customary. The Land Ordinance was superseded by the Land Act in 1965 which maintained the three land categories. In 1967, an attempt was made to develop a comprehensive body of land laws which include: Registered Land Act, Customary Land (Development) Act, and Local Land Boards Act. In 1996, a Presidential Commission of Inquiry on Land

Policy Reform was constituted to promote scholarly discourse, gather stakeholders' opinions and organize findings in order to aid the land policy efforts. This led to formulation of a National Land Policy in 2002.

Between 2003 and 2010, a special Law Commission reviewed and formulated land-related laws in line with the National Land Policy. However, Parliament failed to enact the bills in 2013 because of concerns related to gender responsiveness and powers of traditional readers over land. In 2016, a package of 10 land related Bills was enacted into laws.

Adoption of the new legal framework on land was an important step for unblocking law-related bottlenecks in implementing the national project under EU Land Governance Programme. Oxfam Malawi, DAI, LandNet and the Centre for Environmental Policy and Advocacy collaborate with the Government of Malawi to implement the EU-funded project 'Promoting Responsible Land Governance for Sustainable Agriculture'. The objective of the project is to contribute to an improved land governance framework and its implementation in Malawi in line with the VGGT, with particular emphasis on gender sensitive compliance regarding land tenure rights. In line with this objective the project addresses two main thematic areas:
- Strengthening capacity in implementing land policies and laws in Malawi (implemented by DAI-Europe).
- Strengthening land governance system for smallholder farmers in Malawi (implemented by a consortium of three CSOs led by Oxfam).

How participatory are land reform processes in Malawi and how is participation ensured?

The work of the Presidential Commission of Inquiry on Land Policy Reform was accompanied by an extensive consultative land reform process started in 1995. This included:
- the institution and engagement of an Inter-Ministerial Steering Committee composed of senior officers from various Government Ministries.
- the creation and engagement of a Policy Planning Unit in the then Ministry of Lands and Housing.
- the formation and engagement of a 22 member multi-disciplinary and inter-ministerial task force which included representatives from: government, the private sector, NGOs and CSOs.
- the engagement of national and international technical experts.
- additional use of diverse channels by the Presidential Commission of Inquiry on Land Policy Reform of 1996 to solicit views from the public including public hearings, written memoranda from both government and non-government agencies, correspondence from the general public, review of existing studies and studies commissioned by the Commission; and consultative workshops.

The 1999 report of the Presidential Commission of Inquiry on Land Policy Reform and additional consultations then informed the formulation of the National Land Policy. Additional consultations included:
- focus group discussions;
- regional consultative workshops involving members of parliament, political & traditional leaders, the judiciary, CSOs and ordinary citizens;
- expert opinions and revisions including scholars and land policy experts;
- a national consultative workshop including international observers;
- written proposals from stakeholders, discussions on the radio, in newspapers and on national television;
- political clearance through a review by the Cabinet Committee on the economy and series of discussions with heads of land sector ministries and policy makers in Government.

During the subsequent review and formulation of new land related laws the Law Commission synthesized the recommendations made by the Presidential Commission of Inquiry on Land Policy Reform and considered the National Land Policy. In addition, the Commission conducted a comparative survey of provisions governing land matters in other common law jurisdictions. It also held regional and national stakeholder workshops to solicit views of all stakeholders. Finally, oral or written submissions from interest groups and the general public were made to the Commission.

Hence, overall, land reform processes have been consultative and participatory since 1996 when the work of the Presidential Commission of Inquiry on Land Policy Reform started. It is worth noting however that the early reform stages that led to the development of the land policy were conducted at fast pace, while the formulation of laws took longer. Due to the delays in drafting laws, emerging issues caught up with the drafting work which created anxiety and dissatisfaction among stakeholders and culminated in failure to enact the laws in 2013.

Is the new land reform consistent with other national legislation or are there need for guidance on drafting?

Drafting of the new land related laws took into consideration the existing legal framework including the Malawi Constitution, international law and practice, several research findings including the report of the Presidential Commission on Land Reform. In addition, the commission examined existing statutes on land matters, especially (but not limited to) the Land Act, the Registered Land Act, the Deeds Registration Act, the Conveyancing Act, the Land Acquisition Act, the Adjudication of Titles Act, the Customary Land (Development) Act. Finally, A comparative survey of provisions governing land matters in other common law jurisdictions was also conducted.

Are the new land laws clear and take into account the capacity of national institutions to implement them?

The new Land-related Laws of 2016 include reviewed and new laws. In some instances the laws give general principles which still require subsidiary legislation (regulations and guidelines). The laws which were reviewed have a saving provision on the continued application of the subsidiary legislation, e.g. Land Act, the Town and Country Planning Act, the Land Survey Act, the Registered Land Act, the Lands Acquisition and Compensation Act, and the Local Government Act. The basis for the continued application of the subsidiary legislation is that they must not contradict the new land related laws. The Customary Land Act as a new law requires subsidiary legislation and is critical for implementation of the land governance project in Malawi.

Currently, most processes related to land administration are centralized with limited representation at regional level and in some districts. Nonetheless, the implementing capacity is constrained in terms of human, financial resources and equipment. The new land laws envisage a highly decentralized land administration system involving locally constituted Customary Land Committees at Group Village Headman level and Land Tribunals at Traditional Authority level supported by district level officers, which increases the given capacity constraints, particularly in terms of decentralizing land administration and management functions including setting up structures at Group Village Headman level.

The new land laws considers development of the appropriate capacity as an important issue that has to be addressed during the implementation phase.

Was piloting of the new land laws envisaged and is implementation on the new legislation planned or in place?

Views differ on whether regulations under the Customary Land Act need to be in place before any fieldwork can be done or whether the regulations can be developed in tandem with the pilots. The Ministry of Justice and Constitutional Affairs holds the view that all regulations need to be in place before conducting pilots. The Technical Assistance Team and the Consortium of CSOs are of the opinion that the development of regulations should proceed in tandem with conducting pilots. This implies that subsidiary legislation needs to be developed first for the Act to come into force. A team comprising officers from the Ministry of Lands, the Technical Assistance team of the project, FAO and Ministry of Justice and Constitutional Affairs is currently drafting the subsidiary legislation for the Customary Land Act.

The divergence of views relate to piloting the Customary Land Act shows that the new land laws did not envisage piloting during the implementation phase.. There is need therefore for continuous dialogue and sensitization on the new land laws.

iii) Implementation of legal frameworks

The implementation of legal frameworks is the role of the State. As such, States should:

- allocate adequate public resources to the implementation of laws;
- raise awareness both in the general public and among state officials about laws that promote responsible governance of tenure;
- streamline legal and administrative procedures;
- establish and rigorously pursue anti-corruption mechanisms, such as criminal sanctions, complaints procedures and ombudsmen's offices;
- pay special attention to the needs of poor and marginalized groups;
- ensure that the national judiciary and officials responsible for adjudicating tenure disputes properly apply national laws that promote responsible governance of tenure
- consider the relevance of extraterritorial dimensions and obligations

Experience 3 > CÔTE D'IVOIRE: IMPLEMENTING THE LAW

CÔTE D'IVOIRE: IMPLEMENTING THE LAW

Côte d'Ivoire's Rural Land Law was voted December 23, 1998. Its objective is the recognition of customary right holders by the issue of land certificates through a state programme of identification, at the request of stakeholders (i.e. non-systematic). A land certificate (*Certificat Foncier*) is not a certificate of ownership, but the basis upon which application for ownership may be made. It can be individual or collective. Application for such certificates is to be undertaken by 2023. Once obtained, the owner of the certificate has three years within which to apply for its registration and transformation into a land title (*Titre Foncier*), a real property entitlement. Each sub-prefect appoints the Village Land Management Committee (VLMC), who oversees the land formalization process. The land formalization process comprises village delimitation and an inventory of customary rights of all landholders. The information is published through display in the village and bordering villages during three months. Land certificates are issued to individuals or groups.

In 2016 of the Rural Land Platform was created in the Office of the Prime Minister responsible for inter-ministerial coordination (Ministry of Agriculture, Ministry of Forestry, Ministry of Internal Affairs, Ministry of Finance). In 2017 l'*Agence du Foncier Rural (AFOR)* was created to be in charge of implementation of rural land policy. The Ministry of Agriculture (*Direction du Foncier Rural* (DFR)) is in charge of conception and implementation control of national rural land policy.

a) *What are the success factors in the implementation of the law?*
- The Rural Land Law of Côte d'Ivoire (RLLCI) recognized that the idea of Africa as empty of owners was a myth, and that customary rights deserved to be treated as real property interests.
- RLLCI opens the way to give legal force to the right of communities to vest ownership in themselves as a group.
- The RLLCI makes room for localized dispute resolution prior to certification and helps to limit contested inheritance matters.
- From the land certificate, communities can make internal arrangements for issue of usufruct and other rights.

b) *What are the challenges to implementation of legislation governing tenure? Normative (non-clarity, ambiguity, inconsistency etc.) or institutional (administrative discretions, mismatch between law and practice, financial and human resource constraints)?*
- A group holding a collective certificate has no easy route to convert that certificate into a land title. Members must subdivide the asset into private parcels.

- The only option for a family to own land is for a single household member to register the land under his name, meaning the land would now belong to him alone rather than to the family.
- The law must address the opportunity to adopt formally recognized common properties as a route to securing many threatened pastures and forested lands.

c) *What lessons have been learned in the implementation of the law?*
- How to decrease costs of registration?
- How to dispel fear of subsequent property taxes?
- How to decrease multiplicity of procedures and actors involved?
- Can all customary rights be identified and converted through registration within a mere decade?
- Do the majority of landholders want such formalization and are they prepared to pay for it?
- How to ensure women's and youth rights are fairly taken into account?

iv) Tenure related dispute resolution

*Box 9 **Dispute resolution in the VGGT: Examples***

The VGGT call on states to provide

- effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights, as well as affordable and prompt enforcement of outcomes (VGGT par. 3A.1.4);
- prompt, accessible services to citizens to protect their tenure rights and facilitate the enjoyment of those rights, and to resolve disputes (VGGT par. 6.3);
- improve the formal state justice system, including making it more accessible, especially for vulnerable groups and to ensure remedies are promptly enforced (VGGT par. 21.1, 21.6);
- strengthen and develop alternative forms of dispute resolution, including customary dispute settlement systems (VGGT par. 21.3).

Competition over land, fisheries, and forests can arise between family members, between individuals and communities and private companies. Proper ways to settle disputes with a view to protecting legitimate tenure rights are a key function of the law. Judiciary dispute resolution mechanism are often insufficient –alternative dispute mechanisms have solved many of tenure-related disputes.

Promoting the use of the VGGT through dispute resolution processes can include the following:
- Litigation may be considered as an avenue for protecting legitimate tenure rights, but it is expensive and time consuming.
- Public-interest legal service organizations can play an important role in monitoring the implementation process. Settling the dispute out of court via mediation, for instance, might also help avoid enforcement issues.
- Use of national courts, or international bodies, such as regional human rights courts for litigation
- The extraterritorial context in which litigation can sometimes take place may be considered. Transnational court action might also enable communities to obtain information that could then be used in local courts.
- Judges might be able to consider the VGGT in dispute-resolution processes
- Legal action may be a dangerous step for an individual or community to take. Assistance of lawyers needed throughout the course of the legal action and beyond.

3   THE FAO VGGT LEGAL ASSESSMENT TOOL

A legal assessment reviews the national legal framework (in light of international legal frameworks/accepted standards) with a view to identifying the strengths, weaknesses, gaps and challenges in existing legal frameworks. The need to review the legal framework in part or as a whole has been identified as one priority in improving governance of tenure in many countries. FAO has developed a Legal assessment tool to support stakeholders in this effort, following the key principles of the VGGT, to:

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Mr Sisay Alemahu, Legal Officer, FAO Transversal introduces the FAO VGGT Legislative Assessment Tool.

- recognize, respect and safeguard/ protect legitimate tenure rights;
- promote and facilitate their enjoyment;
- provide access to justice; and
- prevent tenure disputes.

Box 10 **Using the FAO VGGT Legal Assessment Tool in Sierra Leone**

In Sierra Leone, FAO in collaboration with the Government and relevant stakeholders conducted an assessment of the current policy and legal framework and drafts against the VGGT. The finalized assessment provided detailed recommendations for improving the legal framework and thereby provided support to ongoing processes of reforming the law.

The Report of the application of the FAO VGGT Legal Assessment Tool in Sierra Leone can be assessed:

- The fisheries sector: http://www.fao.org/3/a-i5194e.pdf
- The forestry sector: http://www.fao.org/3/a-i5195e.pdf
- The land sector: http://www.fao.org/3/a-i5202e.pdf

A set of indicators have been developed against which a national legal framework or a specific law can be assessed.

The VGGT (and the F&G) are standards agreed by consensus and build on best practices as well as binding and non-binding provisions of international law. They contain substantive norms and implementation principles (human rights and good governance) that national legislation should reflect, such as participation and accountability and they provide specific guidance on substantive areas of law, such as legal recognition of legitimate tenure rights, including the rights of women, customary and community rights, registration, expropriation and investments. Legal assessment are conducted in order to identify gaps and ensure alignment with these requirements and they help identify obsolescence, ambiguity, contradictions, inconsistencies and impediments to implementation that are found in the legal framework.

Numerous assessment methods exist such as the World Bank-led Land Governance Assessment Framework (LGAF) (see box 11, below), General Legal Assessment Tools (LAT), LAT for gender-equitable land tenure, Methodological Guide for Reporting under SDG 5, Target 5a, Indicator 5.a.2, (see box 12, below). Ultimately, the choice of the assessment method depends on who conducts the assessment and the purpose of the assessment:

- **State-led** assessments may focus on comprehensive legal reform or effective implementation, leading to law reform proposals, the drafting of law, policy, or an implementation plan or the development of practice guides.
- **Assessments that are conducted out of public interest may serve** avenues of advocacy for tenure security and effective enforcement of rights.
- **Lawyers** may conduct assessments to meet due diligence in advising clients, for example to negotiate investment deals.

In addition, one can choose between a general/comprehensive assessment covering a range of issues, such as respect, recognition, protection and safeguards relating to legitimate tenure rights, including access to justice and conflict prevention or targeted assessments, which focus for example on land registration, expropriation or valuation.

Box 11 **The Land Governance Assessment Framework (LGAF)**

> The LGAF highlights areas for legal, policy or procedural reform to improve governance in land administration and identifies priority actions, particularly with a view to financing a country's land sector. It seeks to identify how arrangements in countries compare to global good practice in key areas of good governance identified as:
> - how property rights to land (at group or individual level) are defined, can be exchanged, and transformed;
> - how public oversight over land use, management, and taxation is exercised;
> - how the extent of land owned by the state is defined, how the state exercises it, and how state land is acquired or disposed of;
> - the management of land information and ways in which it can be accessed;
> - avenues to resolve and manage disputes and hold officials to account; and

Assessments generally contain matrices with indicators that are subject to adaptation /selection with a view to reflect country priorities. By looking at policies and primary and secondary legislation, and drafts scoring is then provided based on whether and how each indicator was reflected in the reviewed

Box 12 **Methodological Guide for Reporting under SDG 5, Target 5a, Indicator 5.a.2**

> The following proxies can be used to report under SDG indicator 5.a.2 - 'Percentage of countries where the legal framework guarantees women's equal rights to land ownership and/or control.'
> - Proxy A – Is the joint registration of land compulsory or encouraged through economic incentives?
> - Proxy B – Does the legal and policy framework require spousal consent for land transactions?
> - Proxy C – Does the legal and policy framework support women's and girls' inheritance rights?
> - Proxy D – Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?
> - Proxy E – In legal systems that recognize customary land tenure, does the law explicitly protect

legislation. The process may include training of national legal consultants that support the finalization of indicators; filling in of matrices; report writing; validation of sectoral reports and drafting of an overall report with concrete recommendations that are then submitted to Government. Assessments should be carried out in a participatory manner in order to ensure that all legitimate tenure rights are protected. As such, diverse government agencies, CSOs, rural producer organizations, associations of indigenous peoples and rural communities, business lawyers, academics, experts and concerned citizens should be involved. In addition, the participation of women, youth, elders, members of minority groups and marginalized communities should be ensured.

i) The FAO General Legal Assessment Tool (LAT) for the VGGT and F&G

The General Legal Assessment Tool for the VGGT and F&G focuses on the 5 General principles of the VGGT (see VGGT par. 3.1).

1. Recognition and respect of all tenure rights holders and their rights:
   - Legal recognition and allocation of tenure rights and duties - whether the law recognizes all existing tenure rights, including customary tenure rights, whether recorded or not, with gender equality.
   - Investments - Whether the law provides for the consultation of all stakeholders prior to the transaction of tenure rights, including partnership agreements.
   - The law requires an independent assessment on the impact of large-scale transactions on men and women's tenure rights and food security.
   - Administration of tenure - The registration system organizes the recording, updating and publication of tenure rights and duties of the holder, including associated spousal rights.
   - The law ensures that valuation systems are transparent and take into account non-market values, such as social, cultural, religious, spiritual and environmental values where applicable.

2. Protection of tenure rights against threats and infringements
   - Expropriation and compensation - the law provides for prompt and just compensation to the affected tenure right holders, including to subsidiary right holders such as the spouse
   - Investments - the law sets ceilings on permissible land transactions to protect legitimate tenure rights, human rights, livelihoods, food security and the environment from risks that could arise from large-scale transactions

3. Promote and facilitate the enjoyment of legitimate tenure rights
   - Elimination of unnecessary legal and procedural requirements related to tenure rights

4. Access to justice
   - Resolution of disputes over tenure rights - the law guarantees gender-equal access to competent judicial and administrative systems and statutory or customary dispute resolution mechanisms to resolve disputes over tenure rights
   - timely, affordable and effective remedies to disputes over tenure rights, with right to appeal

5. Prevention of disputes, conflicts and corruption
   - Clear mechanisms are in place to prevent corruption in land administration and dispute resolution
   - revision or repeal of discriminatory legal instruments/provisions

When conducting the assessment indicators are selected based on the guidance given by the VGGT and F&G that are relevant to the given assessment. Subsequently, the legislation to be assessed is scored based on the selected indicators as illustrated in Figure 3 below. The scoring is done from 0-4 as described in Figure 4 below.

Guiding Principle 3: Promote and facilitate the enjoyment of legitimate tenure rights					
Administration of tenure					
VGGT Sect.	VGGT Indicator	Policy	Law	Basis for assessment	Recommendations
17.1	The registration system organizes the recording, updating and publication of tenure rights and duties of the holder, including his or her family status and associated spousal rights.	1	3	**Law:** The General Registration Ordinance (Chapter 255). Section 5 provides for the establishment of the Office of the Administrator and Registrar-General (OARG) which is the general registry and depository of all registers, instruments and records and copies delivered. **Policy:** The draft National Land Policy, 2014. Section 6.1.8 lists a number of special measures relating to customary land tenure, including the registration of land rights under customary tenure after the introduction of the new system of registration of titles. Section 7.1.4 envisions the joint spousal registration and documentation of land rights, as well as joint spousal consent to land disposals, applicable for all forms of tenure.	• The General Registration Ordinance (Chapter 255) should be amended to provide for the establishment of OARG offices in the provinces and other locations • Clarify the registration process for land held under customary tenure. Ensure that joint spousal registration applies to customary tenure as well as freehold tenure. • Provisions should be made that when providing legal recognition to informal tenure, this should be done through participatory, gender-sensitive processes, having particular regard to tenants; that these processes should facilitate access to legalization services and minimize costs; and that technical and legal support should be provided to communities and participants.

Figure 3 Example of assessment in the FAO General Legal Assessment Tool (LAT) for the VGGT and F&G

Policy - Stage of development	Law – Stage of development	Score
Policy absent	Law absent	0
Policy in early stage of development (informal draft available)	Law in early stage of development (informal draft available)	1
Policy in formal adoption process (usually formal draft available)	Draft law in formal adoption process (formal draft available)	2
Policy formally adopted	Law adopted	3
Element of policy appears in multiple implementing policy instruments (strategies, plans, programmes, etc)	Element of law appears in multiple implementing legal instruments	4
Not applicable	Not applicable	N/A

Figure 4 Scoring of the FAO General Legal Assessment Tool (LAT) for the VGGT and F&G.

ii) The Gender Legal Assessment Tool (GELT) for the VGGT and F&G

The Gender Legal Assessment Tool (GELT) can be used for policy and legal analysis with a view to capturing the extent to which national legal and policy frameworks are conducive to gender-equitable land tenure, whether officially published legislation, drafts and/or primary and secondary legislation. It examines officially published primary and secondary material/drafts - Act, Statute, Code, *Loi d'Orientation*, Proclamation, Decree; regulations, Ministerial order, rules, bylaws, arrét, resolution, circular, directive and seeks to flag areas where the legislation contains gender-based exclusions or restrictions, and where gender neutrality or lack of gender sensitivity in the legislation puts women at a disadvantage.

The GELT includes 26 legal indicators, divided under the following eight clusters – drawn from internationally agreed instruments:

- Ratification of human rights instruments
- Elimination of gender-based discrimination in the Constitution
- Recognition of women's legal capacity
- Gender equality with respect to nationality
- Gender equality in property rights
- Gender equality in inheritance
- Gender-equitable implementation, dispute resolution mechanisms and access to justice
- Women's participation in national and local institutions enforcing land legislation

Similar to the General Legal Assessment Tool, the GELT is conducted by selecting indicators that are relevant to the given assessment. Subsequently, the legislation to be assessed is scored based on the selected indicators as illustrated in figure 5, below. The scoring is done from 0-4 as described in figure 4 above.

	Key element 5: Gender equality in property rights	Law	Policy	Basis	Recommendations
12	The law recognizes gender-equality in the right to own or control property regardless of the type of marriage.	2	1	**Law**: Persistence of gender-based discrimination in the legal framework. In Sierra Leone, a person's personal law is governed by the type of marriage contracted, and in this regard, there are three different types of laws which are in operation: 1) The Christian Marriage Act, cap 95, The Mohammedan Marriage Act, Cap 96 and the Customary Law. The statutory provisions are silent on the right to own or control property during the person's lifetime. The Customary law is unwritten and differs from tribe to tribe, but one thread that is common is that it is vastly in favour of men in most respects. The Matrimonial Causes Bill and the Gender Equality Bill are pending adoption. **Policy:** The draft National Land Policy, 2014. Section 7.1.4 contains a statement that the Government shall ensure that appropriate provisions are inserted in the new basic land law to ensure and protect equal rights of inheritance and ownership of land for women and children.	• Adopt the Matrimonial Causes Bill and the Gender Equality Bill to ensure gender equality in the right to own or control land across all property regimes in the country. A new basic land law should also contain appropriate provisions regarding the equal right of men and women to own and hold property, regardless of marital status or the type of marriage.

Figure 5 Example of assessment in the FAO Gender Legal Assessment Tool (GELT)

4   THE SMALL-SCALE FISHERIES GUIDELINES

Small-scale fisheries play a key role in ensuring food security and eradicating poverty. However, the overall development of the fisheries sector, as well as increased pressure from other sectors (e.g. tourism, aquaculture, agriculture, energy, mining, industry, infrastructure developments) with often stronger political or economic influence, has contributed to a decline in aquatic resources and threats to aquatic habitats, ecosystems and small-scale fisheries community livelihoods. Small-scale fishers, fish workers and their communities also face a myriad of other challenges and constraints, including unequal power relations, lack of access to services and limited participation in decision-making processes, which may lead to unfavourable policies and practices within the fisheries sector and beyond.

The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) provide an important guidance tool to address the needs of the sector and empower stakeholders to secure sustainable small-scale fisheries.

The SSF Guidelines are the first international instrument dedicated entirely to the immensely important – but until now often neglected – small-scale fisheries sector. The SSF Guidelines represent a global consensus on principles and guidance for small-scale fisheries governance and development. They were developed for small-scale fisheries in close collaboration with representatives of small-scale fisheries organizations in a process facilitated by FAO. They are directed at all those involved in the sector and intend to guide and encourage governments, fishing communities and other stakeholders to work together and ensure secure and sustainable small-scale fisheries for the benefit of small-scale fishers, fish workers and their communities as well as for society at large.

The objective of the SSF Guidelines is to:

- Enhance the contribution of small-scale fisheries to global food security and nutrition and to support the progressive realization of the right to adequate food.
- Promote the contribution of small-scale fisheries to an economically, socially and environmentally sustainable future for the planet and its people.
- Contribute to the equitable development of small-scale fishing communities and poverty eradication and to improve the socio-economic situation of fishers and fish workers within the context of sustainable fisheries management.
- Provide guidance that could be considered by States and stakeholders for the development and implementation of ecosystem friendly and participatory policies, strategies and legal frameworks for the enhancement of responsible and sustainable small-scale fisheries.
- Achieve the sustainable utilization, prudent and responsible management and conservation of fisheries resources consistent with the Code of Conduct for Responsible Fisheries and related instruments.
- Enhance public awareness and promote the advancement of knowledge on the culture, role, contribution and potential of small-scale fisheries, considering ancestral and traditional knowledge, and their related constraints and opportunities.

The SSF Guidelines are consistent with and promote international human rights. Moreover, as specified in their preface, the SSF Guidelines are complementary to other international instruments including the VGGT.

The SSF Guidelines address all aspects relevant to fisheries including social development, employment and decent work; post-harvest and trade. In addition, the SSF Guidelines reiterate the importance of responsible governance of tenure (section 5.a). Moreover, they specify the word tenure right to be used in accordance with the VGGT and call for States to adopt measures to facilitate equitable access to fishery resources for small-scale fishing communities, including, as appropriate, redistributive reform, taking into account the provisions of the VGGT in par. 5.8. The VGGT on the other hand address aspects relevant to the responsible governance of tenure, including of fisheries and of cross-sectoral issues.
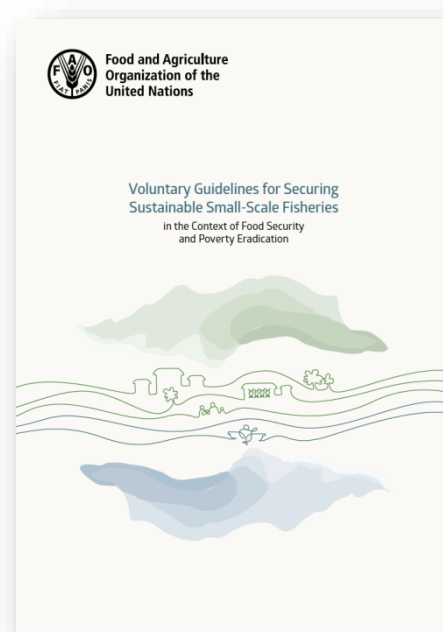
5 ADDRESSING DISPUTES AND CONFLICTS RELATED TO TENURE RIGHTS

Box 14 *Tenure disputes, violent conflicts and corruption in the VGGT*

"*States should prevent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels, and in all settings.*" VGGT par.

Land, fisheries and forests are important resources for a variety of actors. Individuals, communities, private companies, the state and others use them for different purposes and seek to benefit from them, sometimes to the detriment, real or perceived, of others. It is important to recognize that competition over the use of natural resources is a natural aspect of change and, if managed effectively, it can play a constructive role in promoting greater access and equity. However, competition over resources can also lead to tensions and disputes that, if not addressed, can escalate into conflicts. In the worst cases, conflicts may involve violence. Land, forests and fisheries hold importance for individuals and communities in a number of ways:

- economically, as a main source of livelihoods and food security or as a safety net;
- as a source of social legitimacy and as a reflection of power within society;
- as a source of cultural identity and as a marker of belonging to a community;
- as a political territory, for example, for a minority group.

While natural resources are largely fixed or declining assets, the demands upon them are generally increasing. Current trends in population growth, climate change, environmental degradation, and use and resettlement patterns create real challenges.

In some cases, natural resources can be insufficient to sustain livelihoods. Resource scarcity can have profound consequences for those already marginalized, further entrenching poverty, sharpening social cleavages and generating tensions. The presence of high value resources can also be potential sources of competition as parties seek to exploit and commercialize these resources.

Competition over natural resources is almost always present. It becomes an area of dispute or conflict when competing explicit claims are made and tensions rise. In some cases, the competition between individuals or groups is limited in nature and claims can be addressed under existing law. In other cases, competing claims are made by groups, reflect broader and deeper competing interests, and may not be easily resolved within the existing legal framework. There may be no agreement as to the applicable law, and parties often have fundamentally different views of the nature of the conflict. Disputes and conflicts about resources may occur inside households, as well as at local, national and international levels.

Actions that can be taken to reduce tensions before they escalate into violence and to manage peacefully, disputes and conflicts include:

- Understanding the causes: Identifying the underlying causes of tensions over resources is an essential first step in preventing and managing disputes and conflicts.
- Using and strengthening dispute resolution mechanisms: Some disputes can be addressed through available institutions, mechanisms and processes. These dispute resolution mechanisms should be used efficiently and may require improvement.
- Undertaking policy or legal reform: Not all tenure - related tensions can be solved under existing law which may require substantive reforms that address vulnerabilities and triggers.

Box 15 **FAO E-learning module: Addressing disputes and conflicts over the tenure of natural resources**

This course provides guidance on managing competition over the use of land, fisheries and forests. The course introduces a process for analyzing the underlying causes of disputes and conflicts. It also illustrates a range of dispute resolution mechanisms and some options for policy and legal reforms to prevent disputes and reduce vulnerability to conflict.

The course can be accessed at:
http://www.fao.org/elearning/#/elc/en/course/VG7
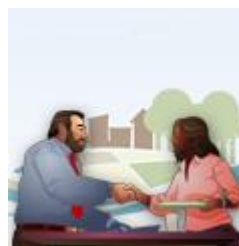
5.1 CASE STUDIES

The meeting provided the opportunity to learn more about an LPI study on "Land, Ethnicity and Conflict: Challenges and Prospects for Land Policy Development and Sustainable Peace" and for participants to share their experiences in addressing disputes and conflicts over tenure rights in Burundi, Ghana, Niger and Sudan, as described in the section/boxes, below.

i) Land, ethnicity and conflict

This study is on the intersection between land, ethnicity and conflict based on the premise that understanding land related ethnic conflicts is key to land policy development and to addressing peace and security in Africa. Secondly, the resolution of conflicts is a strong foundation to boosting economic growth and sustainable development on the continent.

Land related conflicts are not only based on competition for the land and its resources and the insecurity of tenure as a whole, but are also a result of poor governance and leadership which uses ethnicity to advance a non-inclusive political agenda. When leaders politicize ethnicity and instrumentalize it for acquisition of power and land ownership, they create a vicious cycle of inequitable access to land and other natural resources and trigger a cyclic wave of uncontrolled conflicts. The convergence of political authority and authority over land is a recipe for much violent conflict across the continent. Land is at the heart of the political, social and economic development in Africa and

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Prof Kimani presenting the LPI study on Land, Ethnicity and

the majority of the populations rely heavily on agriculture and natural resources for most of their livelihood. While violent conflicts in many parts of Africa may be related to political exclusion, they can also be linked to inequitable access to land resources and the way social, economic and cultural concerns are handled by leaders and policy makers. Control, access and competition for land based resources can be mapped into existing perceptions of inequality, resulting in hardening of group

identities and providing a catalyst for hostility fuelled by poor or weak leadership in both informal and formal institutions, absence of adequate guidelines and weak resource management systems leading to declining rule of law and increased poverty and inequality.

Root causes of conflict in Africa

Root cause of inter-ethnic conflict	Land as a factor
Weak land governance policies and elite capture of the state	State machinery in hands of a few. Political authority coincides with authority over land. Elite seize large scale land based investments, as well as public and community land.
Exclusionary politics in land ownership practices	Certain regions and ethnic groups have better facilitation, access and ownership of land because they have political power. Competition leads to strong ethnic sentiments around territory and identity.
Ineffective land administration systems	Few reliable land documents available. No digitization of titles ,and fraud is common. Customary land undocumented and therefore open to abuse by political elite.
Land scarcity, population pressure, climate change and environmental degradation	Rapid population growth with many youth unable to access land and secure livelihoods. Uncoordinated land acquisitions, unchecked land degradation, and depletion of forest cover leading to land hunger in communities.
Poverty and inequality	High inequalities in access to land and security of tenure, food insecurity and low education levels. Historical discrimination against poor and marginalized communities, especially pastoralists and coastal communities.
Legal Pluralism	There are competing legal regimes and land uses between individuals and communities especially farmers and pastoralists.
Corruption	When land is acquired corruptly, communities lose their livelihoods. The struggles between powerful public officials/investors and communities can lead to violent conflict.

12

Recommendations

(1) **Policy guidelines** for addressing land, ethnicity and conflict are needed to address among other issues, ethnic dimensions to land, the different types of conflicts and how to mitigate them, and best practice in securing community land rights. The guidelines would also deal with cross cutting issues such as traditional land governance institutions and implementation of international, continental and regional protocols related to land rights.

(2) **Secure community land rights** and insulate same from appropriation by state agencies, economic and political elite, land speculators and foreign investors. Securing community land rights should be prioritized across the continent, monitored and evaluated. It is encouraging that a number of countries have developed national constitutions and legislative frameworks that accelerate adjudication and titling of community lands, recognize land tenure pluralism, protect women's land rights and secure the rights of smallholder producers and communities. It is urgent that governments ensure that the land rights of pastoralists, women, migrants, refugees, minority groups are protected. In addition, action ought to be taken to secure collective land rights such as forests, wetlands, and grazing land.

(3) **Pluralism in land tenure:** Adopt innovative hybrid approaches which combine the best in community and statutory land systems by drawing from community experiences in order to buttress customary land rights while at the same time ensuring that the rights of women and other marginalized groups are respected. These community based solutions would include processes for mapping, demarcation and registration of land rights and claims at the community level to land rights are vested in the people other than the elite and international investors.

(4) **Ethnicity, state legitimacy and nation building:** The resolution of conflicts will only succeed if leaders pay attention to the root causes of land problems in Africa. Many of these problems can be traced to the colonial period and the state formation process. Ideally, national loyalty ought to converge with state loyalty so that the state gains legitimacy and political authority across the various ethnic groups. State building and the nation building process ought to go hand in hand. But ethnic

heterogeneity has not been harnessed to build cohesive nation-states. Ethnic loyalty takes precedence over state loyalty. Inclusive governance practices and meaningful public participation in local and national decision-making institutions, including land administration boards, are vital in mitigating conflict. African governments should build political systems that protect the land rights of all citizens.

(5) **Address state weaknesses:** Citizens will view the state as legitimate if it provides essential services (security, food, health, education). When these are not provided, citizens do not see the state as protecting their interests. Other centres of power, such as gangs, emerge to support local communities, provide services and levy protection 'taxes'. African leaders ought to urgently address corruption in service delivery and impunity among individuals and groups who violate the rights of citizens.

(6) **Land inequity:** Inequitable land distribution with ethnic political and economic elite occupying large parcels of land while the rest of the community is left to occupy smaller pieces or is landless should be addressed urgently through, for example, land redistribution programs. Land redistribution would contribute to reduced conflicts currently accentuated by land hunger, achieve more equitable access to land, reduce poverty and landlessness, advance rural development by raising agricultural production, and increase the size of produce smallholder farmer who feed households. Governments should explore how this can be effectively and sustainably undertaken.

(7) **Strengthen local and regional dispute resolution mechanisms.** The prevention of violent conflict, inter-ethnic reconciliation and the restoration of peace and security is not the responsibility of the national government alone. Intergovernmental organizations ought to take a proactive role in monitoring early warning signs of conflict. In addition, governments ought to consider strengthening legitimate community based traditional systems, which were undermined under colonialism, as instruments dispute resolution. Moreover, the use of Traditional Dispute Resolution Mechanisms (TDRMs) and Alternative Dispute Resolution (ADRs) systems such as mediation and arbitration should be encouraged and incorporated in the judicial system but in a manner that protects the land rights of women and minority groups.

(8) **Support civil society organizations**: Civil society organizations play an important role in safeguarding the land rights of communities. Governments and funding agencies ought to see CSOs as providing a critical link between the state and communities and therefore create spaces for civic engagement.

Experience 4 > GHANA: ADDRESSING DISPUTES AND CONFLICTS RELATED TO TENURE RIGHTS IN FISHERIES

GHANA: ADDRESSING DISPUTES AND CONFLICTS RELATED TO TENURE RIGHTS IN FISHERIES

Discussion around tenure rights in fisheries in Ghana in principle focuses around rights to landing sites (for landing of fish, trade and processing), to fishing grounds, to operate legally and freely without being obstructed physically and environmentally from oil installation areas, Marine Protected Areas and/or closed areas), access to the fishing areas (IEZ) and legal access to land and water bodies for fish farming. Land governance therefore plays a key role in resolving conflicts and disputes in Ghana's fisheries sector.

The "*Far Dwuma Nkɔdo*" and "*Far Ban Bo*" projects collaborate with the Ministry of Fisheries and Aquaculture in Ghana to implement the EU-funded project "Ensure greater environmental sustainability and social equity in Ghana's Fishing Sector". The objective of the project is to contribute to greater environmental sustainability and social equity through a reduction of illegal fishing and strengthened capacity to support legal sustainable and co-managed fisheries.

During the meeting Antoine Rougier, Country Coordinator of the "*Far Dwuma Nkɔdo*" project shared his experiences on addressing disputes and conflicts related to tenure rights in fisheries in Ghana.

What are some of the root causes and underlying factors of disputes between small scale fishers in Ghana (canoers vs. canoers)?

Disputes generally arise for a number of reasons such as access to landing and processing sites and fishing grounds. In addition, disputes arise with those fishermen and women that increase their catch through illegal means and thereby ultimately, decrease the catch of others. This includes disputes arising over illegal fishing practices such as light fishing and the use of explosives or over fishing on traditional fishing holidays. Oftentimes, disputes in the fishing sector are also related to theft of gear & fishing nets, fishing areas and aquaculture.

Many argue that one of the key underlying factors of disputes is the existence of open access fisheries in Ghana. Additional underlying factors include weak communication about existing laws and environmental and social benefits of responsible fishing, inadequate enforcement of existing laws, inadequate laws, weak community leadership, eroding powers of chief fishermen, dispute over pre-financing by women, and outwitting by fishermen.

What are some of the root causes and underlying factors of disputes between small scale fishers and off shore oil companies?
Generally disputes between companies and small scale fishers arise in the restricted fishing areas, i.e. offshore installation areas (no fishing areas, safety zones, etc). Some of the root causes include the means of enforcement of restricted fishing areas, seismic exploration during fishing seasons and in fishing zones, collision with oil supply vessels, damage of fishing gears by oil vessels and poor compensation regime for those who have originally fished in that area.

Some of the underlying causes include weak communication, cases where harmful oil exploitation is prioritized over fisheries and a legal framework which is inadequate to address current concerns including those which would have been addressed by enacting the legislation proposed in 2013.

What are some of the priority issues you suggest to prevent and resolve disputes?
In my opinion, the following are priorities to address: First, policy gaps related to offshore oil and gas extraction and industrial trawlers should be addressed. Second, landing sites for smallholder fishermen and women should be secured. Third, the political will to enforce existing laws needs to be increased through increased communication and sensitization of the environmental and social benefits and risks of current and potentially improved practices.

How are the projects supporting Government efforts to address these gaps?
The projects support Government efforts in several areas: First, the projects support efforts to address policy gaps, by analyzing existing policies and developing policy advocacy strategies. Second, the projects strengthen efforts to secure landing sites for smallholder fishermen and women, through negotiations with landowners and with government and other stakeholders, through mapping, demarcation and registration of landing sites and by advocating for marine spatial planning and fisheries co-management models. Finally, the projects aim to strengthen political will. They strengthen the capacity of smallholder men, women and youth to engage and demand for improved governance, social accountability and political will. In addition, the project increases dialogue with the government and enforcement agencies, increases stakeholder engagement, communication and mobilization to demand reforms. Finally, the projects also provide support to resolve disputes through dialogue, through grievance mechanisms and through the courts.

Experience 5 > ***SUDAN: UNDERSTANDING THE CAUSES OF CONFLICTS***

SUDAN: UNDERSTANDING THE CAUSES OF CONFLICTS

In Darfur, communal land tenure rights were protected and managed under customary mechanism by the Native Administrations until 1986. In 1970, the newly passed law of the land revoked the institutionalized role of Native Administration, which existed since the British colonial era and nationalized all unregistered lands owned through customary systems under government ownership. At this point in time, about 95% of the lands in Darfur were not formally registered and locality and village level administrative units lacked formal institutions that would have provided and protected tenure rights following the demolition of customary institutions. As a result, the implementation of this law brought contention and dissent that led to the prolonged ongoing conflict in Darfur. According to UNOCHA 2.6 million people have been displaced internally in Darfur Region, of which most do not have access to land to sustain their livelihoods.

FAO collaborates with the State Ministry of Agriculture, Darfur Regional Authority (DRA), the State Ministry of Animal Resources, Darfur Land Commission (DLC), Forest National Corporation (FNC) at state level and the Voluntary Return and Resettlement Commission (VRRC) in Sudan on the implementation of the EU-funded project 'Promoting the provision of legitimate land tenure rights using Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) for conflict-displaced communities, including small-scale rural farmers, pastoralists, and Internally Displaced Persons (IDPs) in the Greater Darfur region of the Sudan'. The objective of the project is to support the Government of the Sudan to reform its land laws; to develop practical solutions to secure access to and use of crop land, livestock routes, range and pastures including the provision of adequate and practical dispute resolution mechanisms; and assist DLC, VRRC, Ministry of Agriculture, Ministry of Animal Resources, Ministry of Housing and Public Infrastructure at state and locality levels; and to promote the provision for legitimate land tenure rights to conflict displaced communities including small-scale rural farmers, pastoralist, and IDPs in Darfur region.

During the meeting Abdirahman Issack, Technical Advisor, FAO Sudan, shared his experiences on understanding the causes of conflicts.

Does land governance play a role in resolving conflict in Sudan?

Ideally yes, because before the enactment of the 1970 Land Law and subsequent disbandment of the role of native administrations, customary institutions played a key role in resolving conflicts in Sudan.

What are some of the land-related causes of conflict in Sudan?
Some of the root causes, include the invalidation of customary land rights by the State, the emergence of armed indigenous rebellion groups in Darfur; mistrust between communities based on affiliation to the conflicting actors (Government and rebels), eviction of indigenous tribes from their customary lands and occupation by tribes affiliated to the ruling political party and the expropriation of unregistered land by the 1970 Land Law. Some of the secondary causes leading to conflict are corruption, tribalism, favoritism, nepotism, patronage through political affiliations, bribery, fraud and many more.

Does your project make an assessment to identify the causes? If so, what methods do you use for this assessment? What works well, what are the challenges, what would you do differently?
Assessments on the causes of conflict in Darfur are readily available although the focus may not be on land related. Therefore, the project conducts a range of activities to enhance the information available on land related causes of conflicts. This includes developing profiles of cases where community conflicts over land were attempted to be resolved. It also involves documenting lessons learned from both successful and unsuccessful land related conflict resolution attempts. In addition, types of trainings provided by community leaders of different organizations in the last 4 to 5 years are identified and it is assessed whether previous trainings have improved capacities to resolve community disputes or conflicts compared to before the training. In relation to this, short stories are developed on how trainings were beneficial to dispute/conflict resolution platform members. The project also identifies preferred means (customary or formal) of resolving land related disputes depending on tribal affiliations of different communities within each locality and documents reasons that lead to preference of one means over another. Finally, the project documents processes used by each mechanism and estimates average time taken to resolve land related disputes by each mechanism, collects information about the cost associated with the process by each mechanism in resolving land disputes and identifies capacity gaps and challenges faced by each mechanism in resolving land disputes.

The project uses a range of methods to obtain the information. This includes reviews of existing literature (research, assessment, studies and reports) and participatory methods to obtain information including focus group discussions, interviews with stakeholders and key community leaders, discussions with targeted community groups (women, men and youth) and discussion with CSOs and with different livelihood groups (farmers, pastoralists and traders).

What has worked well in this regard was partnering with highly skilled, respected local service providers to conduct the assessments who are known for their impartiality. Working with these type of service providers can be a key entry point to understand root causes of conflicts in project localities.

Some of the challenges faced included, responses by communities were sometimes shaped by their perception towards tribal thinking and political affiliation. In addition, the project encountered difficulties as applying the right based approach of the VGGT is viewed with sensitivity due to the political conflict over land in Darfur. Additionally, overlapping mandates between State ministries (land service providers) and commissions (Darfur Land commission (DLC)) and Humanitarian aid Commission (HAC)) required careful consideration of which government partners to work with that can provide legitimacy from other institution that claim a similar role. Finally, project implementation is confronted with difficulties in view of the insecurity and restriction to access project localities.

In retrospect, what could be done differently is training influential policy makers before the assessment and making them take the lead role or at least ensure that they are fully involved in conducting the conflict assessments from the outset.

In your perception, what are three priority areas in land governance that would need to be addressed in order to contribute to resolving the conflict?
Three priority areas in land governance that would need to be addressed are the disarmament of militias which has caused displacements of 2.6 million people and adopting strong legal action against armed nomads who deliberately disturb farmers and their fields; establishing inter and intra community trust building for peaceful co- existence; and empowering native administrations that govern land tenure right through customary means.

Which of the causes does your project address and how? What works well, what are the challenges, what would you do differently?
As a first step, the project addresses the causes of conflict by conducting assessments to understand causes and drivers of conflicts in each project locality. Subsequently, the project aims to establish peace negotiation platforms that address disputes over land resources in order to prevent conflicts. Finally, the project aims to train communities and their leaders on land resource management to reduce competitions that cause conflicts and trains female poetess (Hakamats) -former war mongers to be ambassadors of peace.

So far, one of the key issues that worked well was the establishment or revival of community peace negotiation platforms. Some of the key challenges faced were that native administrations lose community trust and respects in case they are suspected of government affiliation. Another key challenge faced is that armed communities usually prefer not to reconcile with unarmed communities because they are regarded as weak (superiority complex). As such, what I would suggest to do differently is to promote impartiality to gain trust of conflicting parties in order to resolve the conflicts.

Experience 6 > **NIGER: PREVENTING DISPUTES OVER TENURE RIGHTS WITH PASTORALISTS**

NIGER: PREVENTING DISPUTES OVER TENURE RIGHTS WITH PASTORALISTS

The *Gestion decentralisee partielle du Code Rurale du Niger* receives funding from the European Union through the *Sécurisation des systèmes fonciers pastoraux au Niger par le renforcement de la gouvernance foncière* project (PSSFP/RGF). The key objective of this project is to help secure pastoral land tenure systems in Niger by improving the recognition of land rights of pastoralists; safeguarding the space and resources needed for pastoralism; preventing conflicts around the use of pastoral resources; strengthening the capacities and structures of the Code Rural with regards to pastoralism; and supporting the regional permanent secretariats of the Rural Code in Dosso and Zinder regions in the elaboration of a management scheme (SAF) and the running of the Cofos.

During the meeting Mr Altine Boubacar, Technical Advisor to the Code Rurale, shared his experiences on understanding the causes of conflicts.

What role did good tenure governance play in resolving conflicts in Niger? Which are the key land-related causes (root causes and secondary causes) of tenure related conflicts (in general) in Niger?
Land conflicts in Niger stem mainly from problems of access and use of spaces and resources. Principally, one can distinguish the following types disputes:

- Disputes between farmers and pastoralists: These type of disputes and conflicts mainly take place in the Agro-Pastoral Zone and in the proximity of strategic resources. Reasons behind them include environmental degradation, occupation of pastoral areas through farming activities, re-cultivation of land in pastoral area, early descent of animals into grazing areas.
- Disputes between farmers usually arise because parties do not respect given restrictions, a lack of clarity over tenure rights of a given plot and its boundaries, land transactions without written records and disputes over inheritance.
- Disputes between pastoralists: This type of conflicts mainly takes place in the pastoral zone and in the proximity of gathering points. Causes of these conflicts are generally access to water points, creation of new water points, stigmatisation of pastoralists and anger about the priority right of pastoralists in neighbouring territories.
- Conflicts between communities and authorities: This type of conflicts mainly takes place in the peri-urban areas. Causes are mainly the absence or disregard for urban land use planning.

What is the role of the Code Rural in dealing with disputes and conflicts related to natural resources in Niger?

In Niger, the Rural Code, through its legal and institutional framework, particularly focuses on the prevention of rural conflicts, from the outset. As such, the following achievements and mechanisms are to be noted:
- Separation of land use in the country into two distinct zones, i.e. the agricultural zone and the pastoral zone.
- The legislative and regulatory framework is based on the actual land and natural resources management system integrating both customs and written law.
- Operationalization of an inclusive and legitimate institutional mechanism
- Operationalization of instruments and tools for securing (Dossier Rural) and management (SAF) of land and resources: ownership, commons, allocation of authority with a view to effective and sustainable use.
- The power of rural police, which ensures management and development of the agricultural, forestry and pastoral resources as foreseen by the Land Liberation Order.

In addition, the Code Rural intervenes in conflicts that may arise, mainly through the following mechanisms:
- Providing expert support to assess, objectively and in accordance with the relevant provisions, the disputes in question
- Developing the capacities of customary and judicial authorities on the texts and principles governing the management of natural resources.

How does the project support the Code Rural in addressing disputes and conflicts over tenure rights? What worked well, what are the challenges and lessons learned?

The Project intervenes in the prevention of disputes and conflicts through two main pillars of activities, namely:
- Land use planning: The project is developing an inventory of pastoral areas and pastoral resources to secure pastoral areas both in the Agricultural Zone and in the Pastoral Zone
- Developing the capacity of the structures of the Code Rurale: This activity focuses on improving the capacity of the structures to intervene in disputes and develops tools for planning and securing rural tenure rights, particularly through the Land Management Plan.

What are the next concerns to be addressed to improve land governance and improve the way in which disputes and conflicts are addressed?

The concerns and challenges to be addressed for improving project interventions and land governance in a comprehensive way are:
- strengthening political support for project activities and the processes of the Code Rural;
- mobilizing and involving producer organizations in the implementation of project activities;
- developing capacity of project partners to exercise their role in project activities and ensuring control mechanisms for citizens.
- the adoption by the Government of the Dosso Land Development Plan (SAF) thereby making it effective and stimulating other regions to move forward in their process of securing resources;
- hold a national meeting on tenure (*les Etats generaux du foncier*) with the objective of initiating a national debate about the current challenges and opportunities surrounding land governance;

▪	pursue and succeed in making effective the securing of at least 75% of pastoral areas and pastoral resources in the Agricultural Zone

Experience 7 > **BURUNDI: APPROACH AND RESULTS IN MEDIATION AND CONFLICT RESOLUTION: THE CASE OF THE INVENTORY AND REGISTRATION OF PUBLIC LANDS IN BURUNDI**

BURUNDI: APPROACH AND RESULTS IN MEDIATION AND CONFLICT RESOLUTION: THE CASE OF THE INVENTORY AND REGISTRATION OF PUBLIC LANDS IN BURUNDI

The Gesellschaft für Internationale Zusammenarbeit (GIZ) is collaborating with the Government of Burundi on the implementation of the EU-funded project 'Projet d'Amélioration de la gestion et de la gouvernance foncière au Burundi' (PAGGF). The objective of the project is to contribute to the improvement of land governance which is sensitive to the risk of interpersonal conflicts, access to land for vulnerable groups and equitable production and economic development in Burundi. All project activities ultimately aim to contribute to a reduction of disputes and conflicts, i.e.:

1. The project increases clarity over tenure rights and thereby ultimately reduces the scope for disputes and conflicts. It supports the systematic identification of State land (about 10% of national territory), through the establishment of an inventory of State lands in hill areas, including the identification and delimitation of lands through the *Comités Reconnaissance Collinaires*. In addition, it supports the demarcation and measurement by the National Cadastre and registration by the Land Registry.
2. The project provides legal support and mediation in case of disputes over the registration of state land and supports some aspects of the implementation of the land reform. In addition, it proposes a roadmap for decentralized management of private lands.
3. The project increases awareness of the legal and regulatory framework and thereby increases the take up of the process and reduces potential disputes resulting from a lack of knowledge about the law.
4. The project is conducting a capacity development campaign to familiarize local populations with the process of dispute resolution through cartoons and songs and provides trainings.

During the meeting Ms Twagirayezu Annonciate, Deputy Project Manager, shared her experiences on mediation and conflict resolution through the inventory and registration of public lands in Burundi.

Which are the key land-related causes (root causes and secondary causes) of tenure related conflicts (in general) in Burundi?
Land-related causes for conflicts on Burundi's State lands can be separated into root causes and secondary causes. Root causes include the impact of the recurring crises and the need for appropriate compensation and (re-)allocation of those in need.
- The occupation of public lands by internally displaced is not regulated appropriately.
- Lands which have been abandoned by the displaced are reassigned by the Government to others.
- Victims of natural disasters and the landless (repatriates, indigenous peoples who were local to public lands, in afforested areas, in forests and in natural reserves) are allocated land in areas to which others may hold legitimate rights.
- Expropriation for public purposes (cemeteries, reforestation, and infrastructure) is often not accompanied by adequate compensation.

Secondary causes of disputes include:
- Irregular attribution of the law, sometimes caused by a lack of knowledge about the laws.
- Customary beliefs on how tenure issues and specific transactions should be addressed, even if the customs may not be well adapted to the context.
- The costs involved in following formal procedures including to register land (beneficiaries are satisfied with certificates, without proceeding to receive a formal title).
- The national administration has no land use plans which leads to encroachment on public lands.
- Conflicts that stem from user rights, such as exploitation of firewood in state-owned woodland, clay extraction, brick making on public land, extraction of quarries.
- Overlapping mandates between authorities. Sometimes public lands are allocated illegally by institutions which do not have the authority.

As a consequence of these root and secondary causes there are several types of land-related conflicts on public lands. Some relate to boundary disputes, some to overlapping rights to the same plot of land, some relate to compensation claims whether in-kind or in cash, while some relate to disputes over tenure rights in general.

How does good governance play a role in resolving disputes and conflicts over tenure rights in Burundi?
Good governance provides the basis for preventing and resolving conflicts and disputes. Looking at the causes of conflict as mentioned above, for example, the existence of a sound legal framework that people are aware of and respect would reduce the potential for disputes and conflicts. Having clear and secure tenure rights as currently supported by the establishment of an inventory of State lands and recording of tenure rights can significantly reduce the prevalence of disputes. Finally, the existence of a clear institutional structure can provide the opportunity to clarify rights, enforce rights and support dispute resolution.

What are some of the challenges you face in resolving disputes and conflicts and what are some of the solutions you propose?
There are numerous challenges to be addressed in reducing and resolving the prevalence of disputes and conflicts. Challenges faced include for example the duration (and cost) of process to resolve disputes, the need to clarify the terms of reference of committees, the amount of disputes that exist on the ground that do not yet have a solution provided for in the current set of regulations and the link with the judiciary. Other issues to consider are the multiplicity of actors with various strategies, and overlapping mandates, political orientation and management issues such as the need to manage continuity of initiatives, the need for the existence of a Risk Management Office, management of decentralized processes.

Some of the proposed solutions include advocacy for the extension of the project and additional funding, more consultative meetings with stakeholders, advisory support to decentralized authorities and the development of remote communication tools.

6   DESIGNING CAPACITY DEVELOPMENT INTERVENTIONS

"Capacity development is not a one-off exercise. It implies supporting a process of learning and change and hence takes time. A high level of engagement with national actors to support their ownership and leadership is required."
Justin Chisenga, Capacity Development Officer, FAO.

A well designed capacity development project provides the basis for sustainability. Project results and processes are integrated in existing structures. Partners (universities, research institutes, CSOs, private sector, regional bodies) have the opportunity to maintain and/or upscale project results, new and/or improved policies enable upscale of project results. New provisions in national budget or other means are taken to financially sustain outcomes, i.e. the project has an 'after-project' vision.

 "Capacity is the ability of people, organizations and society as a whole to manage their affairs successfully. Capacity development is the process of unleashing, strengthening and maintaining of such capacity." (OECD DAC) Capacity development should not only focus on individuals, but also on organizations and on creating an enabling policy environment.

Capacities at the three dimensions (individual, organizational and enabling environment) are interlinked: Individuals, organizations and the enabling environment are parts of a whole. Capacity development often involves enhancing the knowledge and skills of individuals, whose work results greatly rely on the performance of the organizations in which they work. The effectiveness of organizations is influenced by the enabling environment. Conversely, the environment is affected by organizations and the relationships between them.

Figure 6 The capacity development dimensions

Capacity development interventions should address real capacity needs, which oftentimes are much more complex than training needs of individuals. Individual capacity development dimension areas include knowledge, competencies, attitudes and behaviours and values. Organizational capacity development dimension areas are linked to the functioning and performance

of organizations, including the mandates, systems, internal processes, organizational priorities, motivation and financial/ non-financial incentives, collaboration and knowledge sharing mechanisms and infrastructure and equipment. Enabling environment capacity development areas focus on the context in which individuals and organizations work, including the institutional set-up of a country, implicit and explicit rules, power structures and the legal, policy and political environment.

When designing capacity development interventions it is important to carefully set priorities and determine where to start. This includes taking into consideration actual demand and the opinions of local actors, internal politics and power, existing initiatives, momentum, incentives motivation and readiness. Some useful guiding questions include:

- What are the priority issues?
- Which aspects will lead to changes?
- Who/what is 'ready' to change?
- Which capacities are pre-requisites for others (critical path)?
- What resources are there?
- What are the quick wins, and what needs more time?

Capacity development interventions should be based on real needs, and thus there is a need to assess existing capacity strengths and gaps. Different approaches exist to assess capacity. These include

- participatory /Focus Groups
- Interviews
- Surveys
- Document Review

An example of a capacity assessment template is given in figure 6, below. The template provides room to assess the present and desired state of capacity for different types of capacities at the individual, organizational and environmental level. In addition, it allows to identify the appropriate intervention for each specific type of capacity development intervention and its sequence.

Determining the appropriate modality is another key step in designing capacity development interventions, i.e. the right intervention for the right capacity need. Figure 7, below, provides an overview of possibly capacity development interventions (or modalities).

Dimensions	Present capacity state	Desired capacity state	How to get there (intervention)	Sequence
Individual				
Organizational				
Enabling Environment				

Figure 7 Example capacity assessment template

Figure 8 Examples of possible capacity development interventions

Experience 8 > **ETHIOPIA: DESIGNING CAPACITY DEVELOPMENT INTERVENTIONS**

ETHIOPIA: DESIGNING CAPACITY DEVELOPMENT INTERVENTIONS
Support to Responsible Agricultural Investment in Ethiopia

Overall objective of the project
To contribute to improved food and nutrition security by promoting secure land tenure and responsible agricultural investments

Specific project objectives
Establishing an accountable, conducive and transparent framework for socially and environmentally responsible agricultural investments benefiting local communities and economies

Main pillars of the project
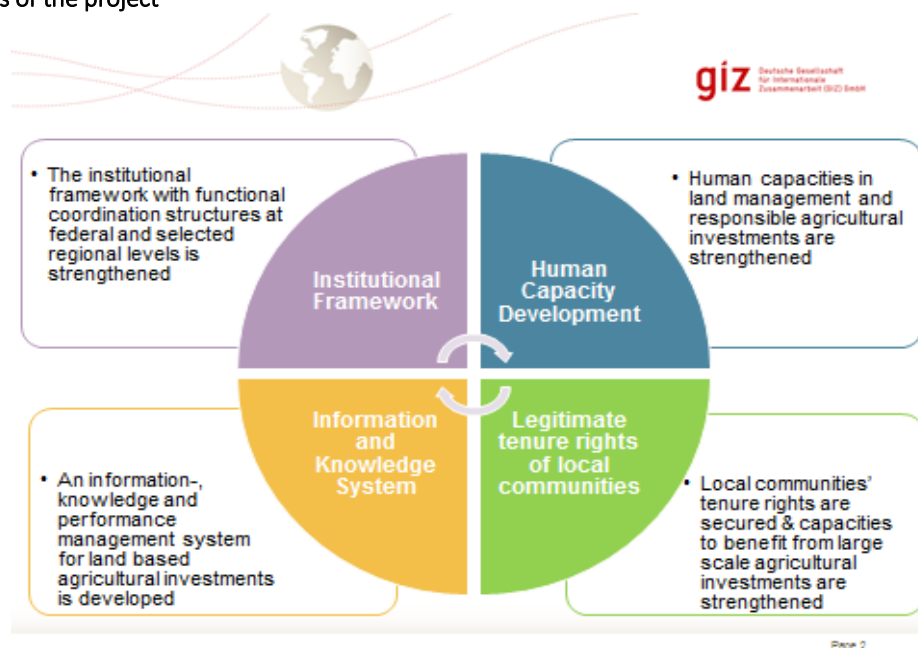
How significant is capacity development to sustainably contribute to improved governance of tenure through your project?
  ➢ Gives general awareness and understanding of the subject
  ➢ Improve technical skill
  ➢ Increase knowledge

43

- ➢ Improve attitude

Underlying problems:
- ➢ Lack of awareness on, VGGT ,RAI and other international tools, government officials , experts and investors and local community
- ➢ After the trainings one investor said that ''if I had been informed beforehand on tenure security ,I wouldn't have been fail in conflict with the community''
- ➢ ''I regret that I have never been used consent of the community in land transfer and identification'' government official said, this shows that how the trainings are important for our stakeholders

Which method did you use to assess the need for capacity development interventions?
- ➢ Stakeholder analysis map
- ➢ Detail institution business plan
- ➢ Focal point
- ➢ Project coordination unit
- ➢ Private consultant hired to made gap assessment, we are using it
- ➢ Team discussion to identify the gap
- ➢ Consultation with the directors
- ➢ Review list of trainings and Equipment
- ➢ Evaluation each training, for improvement

Major capacity gaps identified
- ➢ No generally applied code of practice for large scale agricultural investment
- ➢ Contracts often don't include obligations
- ➢ Lack of monitoring system

Which capacity development dimensions did you include in that assessment (enabling environment, institutions, and individuals)?

Institutions
- ➢ Mandates
- ➢ Stockholder mapping
- ➢ Institutional linkage

Individual level
- ➢ Knowledge
- ➢ Skill
- ➢ Attitude

Enabling Environment
- ➢ Investment policy
- ➢ Legal framework
- ➢ Accountability
- ➢ Institutional arrangement

Content
- ➢ Tailor made based on beneficiary need and gap identified
- ➢ Step by step approach
- ➢ Organizing Field exercise, to support classroom training
- ➢ Use resource person for the training (from the universities)
- ➢ Using CSOs, for the local community training
- ➢ Using Consultants to provide trainings (BVVG)
- ➢ Experience sharing where there is good experience
- ➢ Organize Tour visit abroad
- ➢ Using local language for the training

Topics, covered
- ➢ VGGT, F&G, RAI
- ➢ Entrepreneurship and farm business Management
- ➢ Introduction to QGIS, and Advanced GIS
- ➢ EIA, EMS
- ➢ Database management

What challenges did/do you face, what went well, what would you differently?

Challenges
- ➢ Missing IT infrastructure
- ➢ Finding suitable time for the training

> ➢ In some positions no staff assigned
> ➢ Staff turnover of the stakeholder staff

What went well?
> ➢ Addressing all stakeholders (Government officials and experts CSOs, Investors)
> ➢ Engagement of CSOs, we are working with four CSOs, this gives good opportunity to address the local community
> ➢ By doing all these, the training evaluation report made by the trainees shows good result

Additional capacity gaps Identified:
> ➢ Entrepreneurship and business management, for investors
> ➢ Entrepreneurship and farm machinery handling for youths (Kulumessa training center, GIZ TC)
> ➢ Gender mainstreaming planned (UN women)
> ➢ Legal development and Technical guide development

Timing:
> ➢ based on priority of activities

Box 16 **Further reading: Capacity development in FAO**

> - **http://www.fao.org/capacity-development/resources/practical-tools/en/**
>
> **Publications:**
>
> - **Capacity Development - Basic Principles**
>
> This module provides an introduction to FAO's capacity development framework, basic principles and concepts.
>
> FAO Learning Module 1
>
> - **FAO Learning Module 2 on Capacity Development - Programming (Revised edition)**
>
> This module concerns integrating capacity development into programming and covers the assessment process, engagement with stakeholders and tracking capacity development. Tools are provided.
>
> - **FAO Learning Module 3 on Capacity Development - Good Learning Practices**
>
> This module concerns strengthening the capacities of individuals, and hence how to design, deliver and evaluate effective learning events and programmes. Tools for each phase of the cycle are provided.
>
> - **FAO Learning Module 4 on Capacity Development - Organization Analysis and Development**
>
> This module concerns the organizational dimension of capacity development, and hence how to strengthen the capacities of organizations. Topics include assessment of organizational capacity, change management and tracking organizational change. Tools are provided.
>
> **E-learning:**
>
> - ***Developing Country Capacity***
>
> This e-learning course is designed for partners in Member Countries and provides an overview of capacity development programming, effective learning practices and organizational change. Useful tools and case studies are provided.
>
> - ***Organizational Analysis and Development***
>
> This is an e-learning course designed for partners in Member Countries and concerns the organizational dimension of capacity development, including organizational assessment, change management and evaluation of organizational change. Tools and case studies are provided.
>
> ***Capacity Development Now'***
>
> This is an introductory e-learning course on the basic principles of capacity development. It is

7 MONITORING AND EVALUATION FOR RESULT ORIENTED MANAGEMENT OF PROJECTS AND PROGRAMMES

"In an increasingly performance-oriented society, metrics matter. What we measure affects what we do. If we have the wrong metrics, we will strive for the wrong things."

J.E. Stiglitz, A. Sen, J.P. Fitoussi, "Mis-Measuring our Lives

There is a need for projects to increase their focus on results. Moreover, results should be measurable with a view to provide the basis for project management, learning and decision making and reporting. They should provide the basis for dialogue at every stage of the management cycle and for planning, monitoring and evaluation.

Results monitoring (and the respective indicators) should ultimately also serve to improve the quality of project activities and their results, by providing key data to inform decision making and enhance learning by identifying what works and what doesn't. Moreover, results monitoring also provides accountability, by demonstrating in an objective way how public funds have been used and what they have achieved. In addition, they offer the opportunity to align actions with defined priorities and bring clarity to the dialogue between project partners.

7.1 THE LOGICAL FRAMEWORK MATRIX (LFM)

The Logical Framework Matrix (LFM) is the key tool for projects to monitor their results. It provides the roadmap that indicates where projects are going, how they will get there and how one will know whether they have arrived. The LFM should be used during synthesis, planning, communication, monitoring and evaluation. Figure 8, below, illustrates the logic of a LFM. The results chain is represented by the green column. It shows how the impact or overall objective is the starting point. The underlying outcome(s) or specific objective(s) leads to the impact, the outputs lead to the realizing the envisaged outcome and the activities support realizing the envisaged outputs. Indicators, baselines, targets and sources of verification are required to objectively measure progress towards every envisaged result at the impact, outcome and output level. Indicators define what is to be measured (not what is to be achieved; that's the job of targets). Targets define the desired value or direction for progress. Milestones define the path towards the target. Baselines define the starting point and are therefore crucial for target setting. Sources define where the information/data comes from
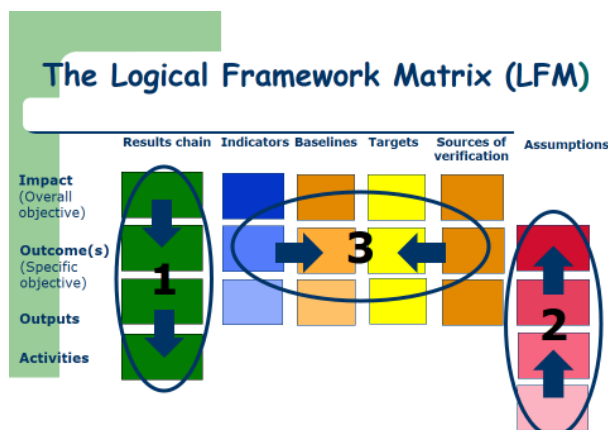
Figure 9 Logic of the Logical Framework Matrix

Assumptions for realizing the envisaged activities are required at the activity, output and outcome levels, indicating the risks that lie beyond the project scope which may hamper achieving the results. Figure 9, below shows the vertical logic of the LFM:

- If the assumption made for each activity hold true, the activities should be achieved.
- If the activities are achieved as measurable through the indicators, baseline and targets through verifiable sources of information and the assumption for the activities hold true then this should contribute to achieving the envisaged output.

- If the outputs are achieved as measurable through the indicators, baseline and targets through verifiable sources of information and the assumption for the output hold true then this should contribute to achieving the envisaged outcome.
- If the outcome is achieved as measurable through the indicators, baseline and targets through verifiable sources of information and the assumption for the outcome hold true then this should contribute to achieving the envisaged impact.

Figure 10 Vertical logic of the Logical Framework Matrix

i) Indicators

When defining indicators the focus should be on what will be measured not by how much. At the impact level long term goals should be used to which the project contributes, e.g. SDG indicators, prevalence of st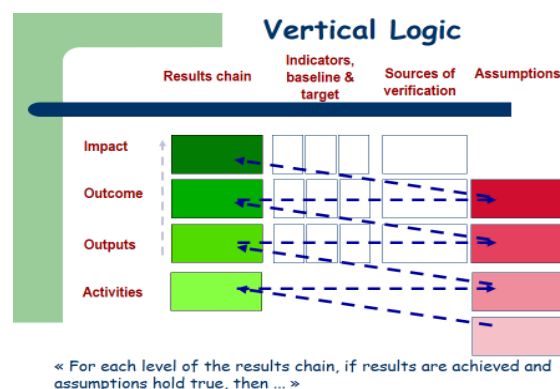unting (moderate or severe) of children under five years of age). At the outcome level the focus should be on what will change for the beneficiaries/target groups in terms of behaviour, perceptions and /or systems, e.g. the proportion of total adult population with secure tenure rights to land, with legally recognized documentation. At the output level the services or goods delivered to the target groups should be measured, e.g. the number of seedlings and/or tools provided to the target group.

In developing indicators a few simple rules should be followed. The first rule is to be clear. When defining results it is important to keep in mind which indicators may realistically be able to measure the results. For example, the indicator, "Reduce poverty by transforming agriculture into a competitive, sustainable, and inclusive agriculture that brings economic growth, improved livelihoods and job creation, food and nutrition security" would be very difficult to measure. On the other side, an indicator along the lines of the following, "increased efficiency and effectiveness of research and extension systems, reaching more to smaller farmers and leading to a more diversified production" is more feasible to be measured.

Good indicators depend on clearly stated objectives/results on all levels. They provide us the opportunity to compare:

- Baseline situation vs. actual situation
- Actual vs. planned
- Trends over time
- Comparisons between periods
- Geographical variability
- Variability between groups
- Standards and benchmarks

At the outcome level for example, the indicator "Improved strategic linkages for food security and nutrition, and support to local market sales in each State." Is not really objectively measurable. To the contrary, the following indicator is concrete and measurable, "Sales of locally produced vegetables increased by 25% by project end."

At the output level for example, the indicator "Increase the number of households (HH) who have increased their production levels thanks to the provision of water harvesting and/or irrigation systems" is difficult to objectively measure. It doesn't define what increased production levels are and includes two items levels to consider, i.e. increased number of HH who have increased production levels and production levels increased thanks to the provision of water, harvesting and/or irrigation systems. To

the contrary, the following indicator is more concrete and measurable, "Increase the area of arable lands under irrigation."

ii) defining appropriate sources of verification

Defining appropriate sources of verification is also key to measuring for results. The source of verification should be explicit, e.g. a line Ministry is not a source of verification, it is rather the survey conducted by a given Directorate/Unit within this Ministry. Good sources of verification can include the following:

- Routine statistics
- Management reports
- Technical or specialized reports
- Observation / site inspection
- Special survey
- Administrative records

In addition, it is important to list the specific data sources, i.e. not just the organization, but also the specific data collection method (e.g. survey or report) for each indicator. In doing this, the frequency should be clear and consistent with milestones and targets; disaggregated data as required, should be provided; and the data collection and reporting responsibilities should be clearly specified.

7.2 DEVELOPING A SOUND MONITORING AND EVALUATION (M&E) SYSTEM

An M&E system refers to all the functions required to measure a project/plan progress and to assess the achievement of its results. The system is usually composed of a set of results, measured by indicators (together called the result framework) through monitoring tools and a manual that describes the roles and responsibilities related to its functioning.

- Monitoring is a continuous process by which stakeholders obtain regular feedback on progress towards achieving the set milestones and results (often focusing more on process, activities, inputs and outputs).
- Evaluation is the periodic review of the results of a project/plan (typically carried out at mid-term or at completion) towards its outcomes, development goals and impact (see Impact Evaluation).

Both monitoring and evaluation processes enhance the effectiveness of project/plan implementation and contribute to its ongoing revision and update. These processes also promote accountability, where implementers have clearly defined responsibilities, roles and performance expectations, including the prudent use of resources. For public sector managers and policy-makers for example, it includes accountability to taxpayers and citizens. Through systematic collection of information, the M&E systems contribute also to provide evidence for the mid-term and the completion results assessments as well as beneficiary-level impact analysis. M&E also enhances learning and encourages innovation to achieve better results and contribute to scaling up of projects.

The following steps should be taken for designing an M&E system:

1. Define the objective and scope of the monitoring system
2. Identify performance-related questions, information needs and indicators
3. Plan for data collection and the organization of information
4. Plan the activities and processes needed for an efficient linkage between information and decision making (with a view to improving and managing the project/programme)

5. Plan the information flow and reporting process (how and to whom?)
6. Plan for the necessary means and skills

When developing an M&E system it is essential to focus on outcomes and outputs to assess the project/ programme performance. Particular attention should be given to process and input indicators which assess the efficiency and implementation (use of resources and activities). In order to keep it simple, the M&E system should build on existing systems and capacities rather than reinventing the wheel and adding additional burdens to project implementers. The identification of indicators and the source of information should happen at the same time to ensure feasibility of monitoring. At all stages responsible managers & stakeholders should be involved to ensure appropriateness and feasibility. In addition, it is useful to involve beneficiaries to ensure that indicators are relevant to them as well. Finally, a balance of quantitative and qualitative indicators is useful.

*Box 17 **Further reading: Monitoring and Evaluation (M&E) systems***

A guide for project M&E: 2.1 An Overview of Using M&E to Manage Impact (IFAD)	Useful guide on how to use Managing for Impact under the frame of M&E, using 4 elements: guiding the project strategy for poverty impact; creating a learning environment; ensuring effective operations; developing and using the M&E System.
Ten Steps to a results-based Monitoring and Evaluation System (Word Bank, 2004)	A guide on how to design and construct a results-based M&E system in the public sector. The handbook focuses on a comprehensive ten-step model that will help guide the user through the process of designing and building a results-based M&E system.
Performance monitoring indicator Handbook (Word Bank, 1996)	Provides background on typology of indicators, describes how indicators are developed and applied in all project phases; provides examples of performance indicators and shows how the indicators were developed on the basis of each project's development objectives.
The use of monitoring and evaluation in agriculture and rural development projects (FAO, 2010)	Provides overview of problems of putting M&E into practice and identifies absence of clearly identifiable monitorable indicators and a lack of ownership and participation by the stakeholders as main weaknesses. Includes also guiding principles for result-oriented project M&E systems as a result of the review.
Stocktaking of M&E and Management Information Systems (FAO, 2012)	Key points about which ME&L approaches, methodologies and processes best serve projects in achieving results, as well as how to combine MIS and ME&L systems to ensure their usefulness for project management.
RuralInvest - Module 3 (FAO, 2007)	This Module provides a detailed description of the methodology and procedures involved in the phase of formulation and evaluation of small-scale community or family investment projects in rural areas.
Project Planning and Management-C134 Unit Ten: Monitoring and Evaluation (SOAS, 2013)	Provides guidance to aid the design and implementation of effective project M&E. Emphasizes the involvement of stakeholders in design and implementation and discusses how to create a learning environment for managers and for project implementation.
Participatory monitoring and evaluation: a process to support governance and empowerment at the local level (Royal Tropical Institute, 2006)	Introduces participatory M&E and explores the potential benefits of PM&E for local governance, for key actors, and for multi-stakeholder processes. It sets out operational guidelines for introducing and embedding PM&E into World Bank activities and is illustrated with examples from practice.

49

[Tracking results in agriculture and rural development in less-than-ideal conditions (GDPRD, 2008)](#)	Focuses on M&E of national agriculture and rural development plans and includes broad indicators. Also refers to cases where countries established national M&E systems.

1 THE CONFERENCE ON LAND POLICY IN AFRICA (CLPA)

The 2017 Conference on Land Policy in Africa, "The Africa We Want: Achieving socioeconomic transformation through inclusive and equitable access to land by the youth" will take place from 14 – 17 November 2017 in Addis Ababa, Ethiopia, https://www.uneca.org/clpa2017/pages/call-abstracts-and-proposals-other-forms-participations.

The Conference is intended to have a catalytic effect on evidence based land policy development and implementation by creating space for presenting research, and other evidence by Africans and other interested stakeholders. Conference participants will therefore include governments, parliamentarians, farmers, researchers, civil society, private sector, land practitioners (surveyors, mapping companies, administrators), and donors. The conference will provide a platform for showcasing emerging and promising practices, networking among land experts and land professionals and facilitating dialogue leading to practical follow up or joint actions on key strategic areas in Africa.

2 SEVENTH (7TH) CAPITALIZATION MEETING

It was agreed that the 7th Capitalization meeting should take place outside Addis Ababa. No firm location was agreed. Further discussions would be held with in-country projects for a decision to be made by the end of December 2017.

CLOSING

The meeting was closed on 10 November 2017 at 12:30 by Mr Joachim Knoth from the European Commission's Directorate-General for International Cooperation and Development, Mr Adama Ekberg Coulibaly, Chief, Food Security, Agriculture and Land Section, UNECA and Mr Odame Larbi, Coordinator of the Transversal Programme.

Mr Joachim Knoth thanked the FAO and LPI and all country-level projects for joining efforts around the world to improve governance of tenure and re-emphasized the need to improve result monitoring. Mr Adam Ekberg Coulibaly thanked the European Union for their support to land policy processes on the African continent and the FAO for their close partnership with LPI, particularly in the implementation of the AU Declaration on Land Issues and Challenges, the F&G and the VGGT. He again stressed the need to improve communication at all levels of project implementation.

ANNEXES

1 ANNEX I: AGENDA

Day 1: 08.11.17		
08:30-09:00	REGISTRATION	
09:00-10:00	OPENING	▪ Introduction of participants ▪ Statements ▪ Introduction of the meeting
10:00-10:10		▪ Group photograph
10:10-10:30		▪ Coffee break
10:30-11:20	USING THE LAW TO IMPROVE GOVERNANCE OF TENURE I	▪ Using the law to improve governance of tenure (Presentation: FAO)
11:20-12:00		▪ Sharing experiences from country-level projects I (World Café: Angola and Malawi)
12:00-13:30		▪ Lunch break
13:30-13:50		▪ Sharing experiences from country-level projects II (Presentation: Côte d'Ivoire)
13:50-14:20		▪ Tools: Using the VGGT Legal Assessment Framework (Presentation: FAO)
14:20-14:40		▪ Coffee break
14:40-16:20		▪ Tools: Using the VGGT Legal Assessment Framework (Group work)
16:20-16:30	CLOSING DAY 1	▪ Closing
Day 2: 09.11.17		
09:00- 09:25	ADDRESSING FISHERIES TENURE	▪ Presentation: Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (Presentation: FAO)
09:25-09:55		▪ Sharing experiences from country-level projects (Presentation: Ghana)
09:55-10:15		▪ Coffee break
10:15-11:15		▪ Addressing challenges (table discussion)
11:15-12:00	MID-TERM REVIEW OF THE EUROPEAN UNION LAND GOVERNANCE PROGRAMME	▪ Mid-term review (Presentation: EU)
12:00-13:30		▪ Lunch
13:30-14:10	ADDRESSING DISPUTES AND CONFLICTS RELATED TO TENURE RIGHTS	▪ Study on land, ethnicity and conflict (Presentation)
14:10-14:55		▪ Sharing experiences from country-level projects (World Café: Côte d'Ivoire, Ghana, Sudan)
14:55-15:15		▪ Coffee break
15:30-15:45		▪ Sharing experiences from country-level projects (Presentation: Burundi, Niger)

15:45-16:25		▪ Debrief	
16:25-16:30	CLOSING DAY 2	▪ Presentation	
Day 3: 10.11.17			
09:00-09:45	DESIGNING CAPACITY DEVELOPMENT INTERVENTIONS	▪ Designing capacity development interventions (Presentation)	
09:45-10:00		▪ Coffee break	
10:00-11:00		▪ Group exercise	
11:00-11:15		▪ Debrief group exercise	
11:15-12:00	MONITORING AND EVALUATION IN THE CONTEXT OF THE EU LAND GOVERNANCE PROGRAMME	▪ Improving M&E systems (Presentation)	
12:00-13:00		▪ Lunch	
13:00-14:00		▪ Group exercise based on existing log frames (Burundi, Uganda)	
14:00-14:15		▪ Coffee break	
14:15-15:00		▪ Debrief group exercise	
15:00-15:30	DEBRIEF CAPITALIZATION MEETING	▪ Presentation	
15:45-16:00	CLOSING	▪ Presentation	

2 ANNEX II: PARTICIPANTS

M/F	Name	Title	Organization	Country	Email
Mr	Moises Festo	Project Coordinator	Development Workshop	Angola	dinhofesto@gmail.com
Mr	Yogoza Jeremie	Legal advisor	Direction des Titres Fonciers, Ministry of Justice	Burundi	yogozajeremy@yahoo.fr
Mrs	Twagirayezu Annonciate	deputy project manager	PAGGF-GIZ	Burundi	annonciate.twagirayezu@giz.de
Mr.	Honelign Endalew	Senior Land Registration Expert	MOANR/LAND Ethiopia	Ethiopia	honend20012@yahoo.com
Mr.	Bayeh Tiruneh	LM Advisor Expert	GIZ - ETH	Ethiopia	Bayeh.tiruneh@giz.de
Mr.	Oliver Schoenweger	Project Manager	GIZ - ETH	Ethiopia	oliver.schoenweger@giz.de
Mr.	Dante Dagnew	Land and RAI advisor	GIZ - ETH	Ethiopia	damte.dagnew@giz.de
Mr.	Samuel Kassahun	Executive Director	Transparency Ethiopia	Ethiopia	samuelkassahun@yahoo.com
Mr.	Mengistu Beyessa,	Executive Director	AEPA	Ethiopia	mengistujale@yahoo.com
Mr.	Bereket Wolde Giorgis	Project Manager	MELCA Ethiopia	Ethiopia	melca.ethiopia2004@yahoo.com
Ms.	Yuliya Golbert	Project Assistant	GIZ	Ethiopia	yuliya.golbert@live.de
Mr.	Mike Chigowo	Economist	Ministry of Lands, Housing and Urban Development	Malawi	chigowomike@gmail.com
Mr.	Stephen Nanthambwe	Land Administration Expert	DAI	Malawi	Stephen_Nanthambwe@dai.com
Mr.	Howell M. Musukwa	Lands Officer	Ministry of Lands, Housing and Urban Development	Malawi	howellmusukwa@yahoo.com
Mr.	David Harris	Team Leader	DAI	Malawi	david_harris@dai.com

					lynnkota@gmail.com
Ms.	Lynn Kota	Project director	SWADE	Swaziland	
Mr.	Malangeni Gamedze	Malangeni Gamedze	M&E Officer	Swaziland	malangenig@gmail.com
Mr.	Justice M. Nxumalo	J.M. Management Consulting Services		Swaziland	(justicenxumalo777@gmail.com jm@swazi.net
Mr.	Kyei Yamoah	Programme Manager	Friends of the nation	Ghana	kkyeiyams@gmail.com
Mr.	Christopher Ackon	Program officer	EU Delegation Ghana	Ghana	Christopher.ackon@eeas.europa.eu
Mr.	Antoine Rougier	Ghana Country coordinator	Environmental Justice Foundation	Ghana	antoine.rougier@ejfoundation.org
Mr.	Justice Nana Inkoom	G.I.S. Specialist	Hen Mpoano	Ghana	justinkoom@yahoo.com
Mr.	Alex Sabah	Director for the Fisheries Commission of Ghana for the Western Region.	Ministry of Fisheries and Aquaculture Development of	Ghana	alexsabah66@yahoo.com
Mr.	Justin Chisenga	Capacity Development Officer	FAO	Italy	Justin.chisenga@fao.org
Ms.	Resty Namuli	Technical Expert	GIZ - ILGU project	Uganda	resty.namuli@giz.de
Mr.	Fadul Beshir Alhag	DG of Natural resources	Ministry of Agriculture	Sudan	fadulbeshir10@hotmail.com, naturalsustainable@gmail.com
Mr.	Issack Abdirahman	Technical Advisor	FAO	Sudan	Abdirahman.Issack@fao.org
Mr.	Alhou Abey Bazou	Permanent Secretary	National Rural Code Committee	Niger	abeybazou@yahoo.fr

					boubacaraltine@gmail.com
Mr.	Altine Boubacar	Project Manager	PSSFP-RGF	Niger	
Mr.	W. Odame Larbi	Land Tenure Officer	FAO/LPI	Ethiopia	Wordsworth.Larbi@fao.org
Ms	Leila Shamsaifer	Land Tenure Officer	Italy	Italy	Leila.Shamsaifer@fao.org
Ms	Maria Paola Rizzo	VGGT SOLA Open Tenure	FAO	Italy	MariaPaola.Rizzo@fao.org
Mr	Pascal Gbikpi	Office of the Prime Minister	Cote d'Ivoire	Cote d'Ivoire	pascal.gbikpi@hotmail.fr
Mr	Aemro Gezahagne	IT Consultant	EU Land Governance Programme in Africa FAO	Ethiopia	Aemro.Gezahagne@fao.org
Prof	Kimani Njogu	LPI	LPI	Kenya	kimani.njogu@gmail.com
Mr	Banaras Khan	Programme Officer	FAO Pakistan	Pakistan	Banaras.Khan@fao.org
Mr.	Joachim KNOTH	Policy Officer	European Commission	Belgium	Joachim.knoth@ec.europa.eu
Mr	Kwame Mensah	Project Coordinator	Far Ban Bo (Protecting fisheries livelihoods)	Ghana	kwame.mensah@care.org
Dr	Joan Kagwanja	LPI	LPI	Ethiopia	Kagwanja.uneca@un.org
Dr	Hubert Ouedraogo	LPI	LPI	Ethiopia	Ouedraogo13@un.org
Mr	Mackay Rigava	FAO/LPI	FAO/LPI	Ethiopia	Mackay.Rigava@fao.org
Ms	Yvonne MMangisa	Land Expert	FAO	Malawi	Yvonne.Mmangisa@fao.org
Mr	Yaw Ansah	Fisheries Officer	FAO SFE	Ethiopia	Yaw.Ansah@fao.org

Mr	Sisay Yeshnanew	Legal Officer	FAO SFE	Ethiopia	Sisay.Yeshnanew@fao.org
Mr	Ravelomanantsoa Lalaina	Legal Officer	FAO SFE	Ethiopia	Lalaina.Revelomanantsoa@fao.org
Mr	Sipho Shiba	Land Officer	Ministry of Agriculture	Swaziland	sthokozane@yahoo.co.uk
Ms	Karen McHugh	M&E Expert	EU	Belgium	karenmchugh17@hotmail.com
Mr	Dlamini Mduduzi	Economist	Min of Economic Dev	Swaziland	mduduzi@mepd-acms.org

3   ANNEX III: FACILITATION NOTES AND GROUP EXERCISES

3.1   FACILITATION NOTE: HOW TO CONDUCT A WORLD CAFÉ

The facilitators identify presenters which are perceived as champions in addressing specific questions. The presenters are given a pre-identified set of questions in advance, to prepare for the sessions. The rest of the participants are separated into a number of groups equal to the number of presenters.

Each group has the opportunity to successively follow the presentation of each presenter. Following each presentation the working groups have the opportunity to ask questions and add their experiences to the discussion.

Following the round of presentation and discussion each participant is asked to note down the key take-aways (lessons learned) on cards, which are clustered on a flipchart.

3.2   FAMILIARIZATION EXERCISE: THE LEGAL FRAMEWORK ASSESSMENT TOOL - INVESTMENTS

This group exercise aims to familiarize you with FAO's VGGT Legal Assessment tool. It introduces you to a possible methodology to assess the legal framework in your country against the VGGT in a mock-up exercise.

Instructions:
1. Individually go through the selection of proposed indicators.
2. Discuss in your group, whether the proposed indicators are relevant to assess the legal framework in your country.
3. Individually go through the relevant section in the VGGT (for investments section 12, for regulated spatial planning section 20.).
4. Discuss which additional indicators you would propose. Prioritize and add 2.
5. Discuss which other aspects you would assess the legal framework against and identify whether these issues are addressed in the VGGT:
   i)   within the sections addressing overarching issues (up to section 6), e.g. section 3.1. Guiding principles;
   ii) Within the other sections, e.g section 8, Public land, fisheries and forests, section 11 Markets, or section 16 Expropriation and Compensation.

VGGT sect.	VGGT Indicator
16.1	The legal framework provides a clear definition of the concept of expropriation for public purpose.
16.1	The legal framework provides for prompt and just compensation to the affected tenure right holders, including to subsidiary right holders such as the spouse
12.6	The legal framework sets ceilings on permissible land transactions to protect legitimate tenure rights, human rights, livelihoods, food security and the environment from risks that could arise from large-scale transactions in tenure rights.
12.6	The legal framework requires parliamentary approval for transfers exceeding the ceiling.

12.6	The legal framework provides incentives for investors to seek partnerships with local tenure right holders
12.8	The legal framework encourages responsible investments that respect human rights, promote food security and sustainable use of the environment.
12.8	The legal framework requires agreements for investments to clearly define the rights and duties of all parties to the agreement.
12.8	The legal framework requires agreements for investments to comply with national legislation and investment laws.

3.3 FAMILIARIZATION EXERCISE: THE LEGAL FRAMEWORK ASSESSMENT TOOL – REGULATED SPATIAL PLANNING

This group exercise aims to familiarize you with FAO's VGGT Legal Assessment tool. It introduces you to a possible methodology to assess the legal framework in your country against the VGGT in a mock-up exercise.

Instructions:

1. Individually go through the selection of proposed indicators.
2. Discuss in your group, whether the proposed indicators are relevant to assess the legal framework in your country.
3. Individually go through the relevant section in the VGGT (for investments section 12, for regulated spatial planning section 20.).
4. Discuss which additional indicators you would propose. Prioritize and add 2.
5. Discuss which other aspects you would assess the legal framework against and identify whether these issues are addressed in the VGGT:
   i)   within the sections addressing overarching issues (up to section 6), e.g. section 3.1. Guiding principles;
   ii)   Within the other sections, e.g section 8, Public land, fisheries and forests, section 11 Markets, or section 16 Expropriation and Compensation.

VGGT sect.	VGGT Indicator
20.1	The legal framework provides a clear definition of regulated spatial planning which promotes the objectives of the VGGT.
20.2	The legal framework requires that policies and laws on regulated spatial planning are develop through consultation and participation, and publicized, gender-sensitively.
20.2	The legal framework provides allows for the inclusion of methods of planning and territorial development used by indigenous peoples and other communities with customary tenure systems, and decision-making processes within those communities within formal planning systems.
20.3	The legal framework provides that regulated spatial planning is conducted in a manner that recognizes the interconnected relationships between land, fisheries and forests and their uses, including the gendered aspects of their uses.
20.3	The legal framework requires that spatial planning considers various uses, such as rural, agricultural, nomadic, urban and environmental and all tenure rights, including overlapping and periodic rights.
20.4	The legal framework requires that there is wide public participation in the development of planning proposals and the review of draft spatial plans to ensure that priorities and interests of communities, including indigenous peoples and food-producing communities, are reflected.
21.6	The legal framework requires that there are dispute resolution mechanisms in place and legal assistance is provided to vulnerable and marginalized persons to ensure safe access for all to justice without discrimination.
22.2	The legal framework considers transboundary tenure issues affecting communities, such as with rangelands or seasonal migration routes of

	pastoralists, and fishing grounds of small-scale fishers, which lie across international boundaries.

SCENARIO

for CD Design

The Government of **Country X** recognizes that the eradication of hunger and poverty, and the sustainable use of the environment, depend in large measure on how people, communities and others gain access to land and other natural resources. The livelihoods of many citizens of **Country X**, particularly the rural poor, are based on secure and equitable access to and control over these resources. Yet, tenure rights in the country are not clear and in recent times, there have been increased incidents of conflicts over land, due to:

- An increasing population;
- Degradation and climate change;
- Investment incentives offered to international companies.

Most Government institutions and many bilateral and multi-lateral organizations have varying degrees of activities in the country to deal with tenure issues from the perspective of their area of expertise. In addition, tenure is mentioned as a priority in the country's 5 year strategic plan, the United Nations Programming Framework (UNFPA) and the FAO Country Programming Framework (CPF). However, there is no comprehensive national land policy to guide and coordinate the overall process supported by many actors. As such, the Government of Country X requested development partners to support activities to develop a comprehensive national land policy, in line with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT**) to improve the governance of tenure in the country**. To this effect, development partners and the Government, have agreed to implement a project through which the requested support would be provided.

As part of the identification phase for the project, consultants have:

- Mapped the key stakeholders,
- Developed problem and solution trees,
- Identified key areas for technical intervention (such as the need to record tenure rights, develop laws and reengineer the overall land administration system),
- **Conducted a capacity assessment and identified capacity gaps (see Capacity Matrix) to be addressed by the proposed project**.

SCENARIO
GROUP WORK TEMPLATE

CONCEPT NOTE

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1) SELECTED CAPACITY ISSUES (TWO)

2) MODALITIES SELECTED AND HOW WILL THESE CONTRIBUTE TO PROJECT GOAL (RESULT STORY/THEORY OF CHANGE)

3) HOW IS SUSTAINABILITY ADDRESSED

THE CAPACITY MATRIX

Dimensions	Present capacity state	Desired capacity state	How to get there (intervention)	Sequence
Individual	No awareness on tenure rights and related issues in communities	Communities are aware of tenure rights and related issues		
	Weak policy design & monitoring skills of lead ministry	Lead ministry able to assess, design and monitor tenure policy processes		
	Opposing attitudes by ministries and provincial levels (vested interests)	Collaborative and open attitudes by central and provincial levels		
Organizational	Lack of coordination amongst organizations	Lead organizations clarify mandate and roles on tenure		
	Lack of incentives in lead ministry to take up tenure roles	Lead ministry puts appropriate incentives in place		
	Poor communication with provincial levels and non-state actors	Better networks and communication amongst parties		
Enabling Environment	Low political will and commitment at highest level	Country's leaders become agents of change on and tenure		
	Weak sector policy framework	Relevant Ministries upgrade sector policies		

INVENTORY OF CAPACITY DEVELOPMENT MODALITIES

MODALITIES	APPROPRIATE WHEN….	REMEMBER THAT…
High-level Advocacy	- Buy in and commitment at highest level need to be reinforced	- You might think of lobbying, media campaigns, public events, etc. to influence both public opinion on the demand side and the highest level decision-makers
Policy support and dialogue	- Policy and/or legislative framework are not conducive to effective results and need revision/upgrade	- Support material exist with EASY pol - Inclusive multi-stakeholder processes are an essential part of the success of formulating or revising policy.
Creation of multi-stakeholder processes And support to knowledge-sharing	- Lack of dialogue, coordination and consultation amongst key actors appear to be a main challenge (e.g. between different types of actors or between central and decentralised governmental authorities)	- Type of processes depends on the objectives to be pursued: expressing needs? Identifying common concerns? Decision-making? Overcoming mistrust? Influencing policies? - The options include: Consultations, Consultative forums, Stakeholder platforms, Alliances, Partnerships - Learning Module 4 for details
Financial and non-financial incentives	- Capacities are in place, but motivation appears to be seriously hindering the process	- Depending on how they are used, incentives can either reinforce or discourage ownership by actors benefitting - They should be used carefully to avoid becoming dysfunctional and disruptive to the process - A mix of non-financial incentives should be pursued in-lieu of salary supplements. These might include: public recognition and awards schemes, professional development opportunities, participation in decision-making processes, attendance to conferences and training, prestige and reputation, improved working conditions
Organizational development support: advisory support for more effective processes and systems	- The institutional set-up and/or business processes and workflow are not conducive to effective work, i.e. insufficient delegated authority to actors, no clear accountability lines, no clear support/ commitment from highest levels - The institutional set-up and organizational mandates of main actors are not conducive to effective results	- Refer to LM4 on Organizational Analysis and Development
On-the-job learning (including leadership coaching)	- Little time is available - Knowledge/skill input is needed 'on the spot'	- On the job learning needs careful questioning techniques and non-directive attitudes

	- Small groups (2-4 people) require different kind of learning/advisory support at different points in the process	- Refer to the On the Job tools in the CD Learning Module 3
Formal Face-to-face training sessions	- Large groups have the same learning need(s) - Time and infrastructure is available (room space, PPT projector, flipchart)	- Training requires preparation such as learning needs assessments - It needs to be participatory (e.g. small group-work is preferred to long PPT presentations) - It is more costly - Learning results should be evaluated
TOT and institutionalizing training in national institutes	- Training contents do not require frequent update - Appropriate institutes and national trainers are identified	- New trainers require follow-up support and coaching - Content requires adaptation to national context
Creation of networks, twinning arrangements and SSC	- Some actors have technical knowledge/ experience that could be beneficial to other similarly-positioned players - Organizations and institutions have similar mandates despite different capacity levels	- Requires facilitation and brokering actions - Networks and twinning arrangements might be developed in the context of South-South Cooperation - There are techniques to support knowledge-sharing networks (see IMARK e-learning) - You might start with supporting a *network mapping exercise* (e.g. identifying who might benefit from connecting with whom).
Exposure/study visits	- A good level of capacities is already in place - Funds are available - Exposure to other practices is considered useful - Regional linkages need to be consolidated	- Study tours should be used to complement and enrich a learning process; they work best when combined with other modalities. - It takes preparation time - Participants should be expected to define and implement an Action Plan as a result of the visit
Technical Advisory Support	- Actors lack some technical knowledge in the subject-matter and/or require advice for decision-making	- Technical knowledge can be acquired through several modalities: formal courses or short courses (face-to-face or online) focusing on required technical knowledge - Mentorship by technical experts - Advice by technical experts
Process/methodological support (e.g. for prioritisation exercises)	- Actors have all required knowledge but have difficulties in organizing the work, prioritizing, reaching conclusions, identifying inclusive agreements, etc.	- CD facilitators have a double-role to play: providing content and assist with process. It is important to identify when to play which role, and when they should simply 'observe' and get "out of the way"

Sources:

- FAO Learning Modules 1, 2,3 and 4 on the CD Portal: *www.fao.org/capacity-development*
- Learning Network on Capacity Development (LenCD) website: http://www.lencd.org/

HAND-OUT 2 – SUSTAINABILITY IN PROJECT DESIGN/IMPLEMENTATION

Sound design of CD interventions provides the basis for sustainability.

ELEMENT OF SUSTAINABILITY	ACHIEVED WHEN:	CAN BE PROMOTED IN PROJECT DESIGN/ IMPLEMENTATION BY:
INSTITUTIONALIZATION OF RESULTS AND PROCESSES	New **knowledge** is incorporated in national curricula or systems	Supporting **translation and adaptation** of training or other material in local languages
	New **skills** are utilized regularly in necessary tasks	Encouraging creation of core team of trainers **drawn from national ministries**, with training responsibilities added into their job description Pairing international consultants with national counterparts, with TORs clearly including **coaching** responsibilities. Ensuring **follow-up support** to trained individuals to transfer their new knowledge to others
	Procedural changes are embedded in existing processes	Working with national organizations (whether state or non-state) to **review and improve** their working procedures
	Projects are **anchored** in existing structures and institutions	Designing project activities as **core activities** of national/local organization Working within **existing structures** and processes – avoid creating new ones Making provisions for Project Manager's Office to **share institution's space**
NATIONAL OWNERSHIP	National actors take **control and command** over project/programme activities and are able to **translate commitment into effective actions.**	**Early involvement** of relevant actors in design of methodology, work-plans and needs assessment Encouraging **leadership** of national actors by letting them be in the driver's seat, e.g. in setting timeframes and decision-making Creating opportunities for ongoing **dialogue** with actors
PARTNERSHIPS AT LOCAL, NATIONAL AND REGIONAL LEVEL	FAO's partners at local, national and regional levels (such as universities, research institutes, CSO organizations, private companies, farmer organizations etc.) are enabled to **maintain the**	Using project **"inception"** to maximum extent for careful identification of appropriate partners on the basis of **transparent criteria.** Investing on partners as local/national/regional **champions** (and not only as implementing partners)

	results of project/programme and to **upscale** them.	Empowering regional organizations to become **source of advisory services** in the long run
CONDUCIVE POLICY ENVIRONMENT	**Policy formulation and upgrades** are made or considered to ensure uptake, upscale and sustainability of project results	Identifying and working with 'national champions' with power and authority to support policy changes Ensuring early assessment of policy areas that might represent obstacles for an uptake of project outcomes Expanding focus of intervention to include **soft skills** (negotiation, consensus building, advocacy and facilitation) together with technical skills
FINANCIAL VIABILITY	Provisions are made in **national budget** or other means taken to financially sustain outcomes	Ensuring **dialogue** with Ministry of Finance from early stages of process Considering establishment of a resource mobilization **task force** to liaise with private sector and donors
AFTER-PROJECT VISION (or *exit* strategy)	The project or programme has incorporated an 'after-project' vision of **how results can realistically be sustained.**	Joint planning of **changes in roles and responsibilities** beyond project end, to include common mechanisms for *who* and *when* will take up each activity, and identification of capacity needs to take up such new roles

4 ANNEX IV: SURVEY AND EVALUATION RESULTS

This section presents the analysis of the results of the pre- and post-evaluation of participants, of the 6th Capitalization Meeting of the EU Land Governance Programme which took place at the Conference Centre of the United Nations Economic Commission for Africa in Addis Ababa from 08 to 10 November 2017.

A total of 48 participants (40 men and 8 women) included country-level project implementation teams, focal points from government institutions, EU delegations, FAO and LPI staff and representatives from CSOs and other stakeholder groups. The table below provides an overview of gender representation per country.

Country	# of participants	% male participants	% female participants
Angola	1	100	0
Burundi	2	50	50
Cote d'Ivoire	1	100	0
Ethiopia	8	87.5	12.5
Ghana	6	100	0
Malawi	5	80	20
Niger	2	100	0
Pakistan	1	100	1
Sudan	2	100	0
Swaziland	5	80	20
Uganda	1	0	100
EU	2	50	50
FAO	8	75	25
LPI	3	66.7	33.3

Evaluation

The participants received two sets of questions before and after the meeting, which aim at assessing the knowledge before and after the meeting, i.e. a mini multiple choice quiz and a table providing for self-assessment of knowledge by the participant. In addition participants were asked to indicate the usefulness of each session and present suggestions for the next meeting. The results are provided for below.

i) Mini quiz: Right and wrong questions

The mini quiz is provided in the table below. In total 86% of questions were answered correctly before the meeting, while only 73% of the questions were answered correctly after the meeting.

|		RIGHT	WRONG
1	Legal assessments against the VGGT should assess how customary laws are taken into account in statutes.	☐	☐
2	When laws are drafted it is important to consult all relevant stakeholders and take into account the capacity of national institutions to implement them.	☐	☐

| 3	Challenges to implementing legislation are restricted to non-clarity, ambiguity and inconsistency.	☐	☐
4	Actions that can be taken to reduce tensions before they escalate into violence and to manage peacefully, if not resolve completely, disputes and conflicts include understanding the causes, using and strengthening dispute resolution mechanisms and undertaking policy or legal reform.	☐	☐
5	States should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes.	☐	☐
6	Following an analysis of the underlying causes of tenure-related disputes and conflicts the Ministry of Lands can suggest and enforce a solution to resolve tensions.	☐	☐
7	Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication provide guidance for fisheries-specific topics such as responsible governance of tenure and sustainable resource management, but also for crucial intersectoral issues: social development, employment and decent work; value chain, post-harvest and trade; gender equality; and disaster risks and climate change.	☐	☐
8	Outputs of an M&E system refer to the results that are expected in the short term for the enabling environment, organizations and individuals through the implementation of programme activities.	☐	☐
9	Outcomes refer to the potential changes in the medium term for the enabling environment, for organizations and for individuals? They lie completely in the scope of project activities.	☐	☐

ii) Self-assessment of knowledge

In this section participants were asked to assess their own level of knowledge per subject dealt with during the Capitalization meeting before and after the meeting.

Overall % increase/decrease of self-assessed knowledge after meeting
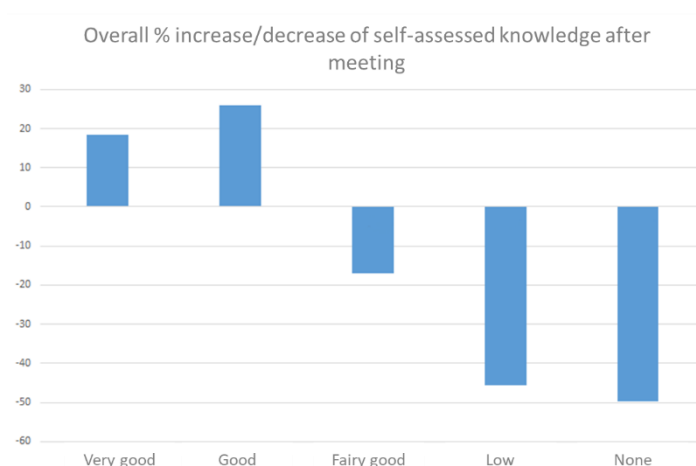
Overall the level of very good self-assessed knowledge for all themes addressed together increased by 18 percent, while the level of self-assessed knowledge categorized as none decreased by 49%.

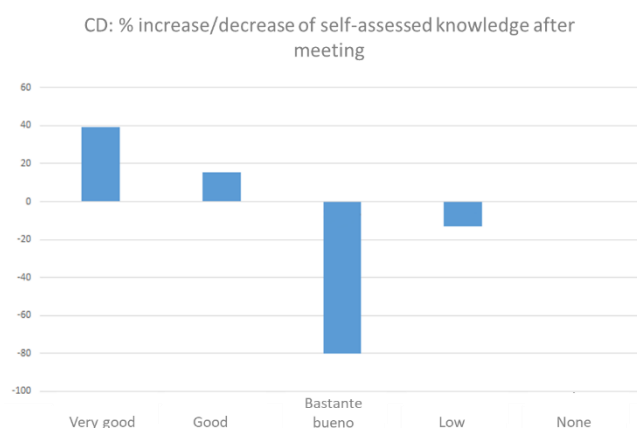Law: % increase/decrease of self-assessed knowledge after meeting
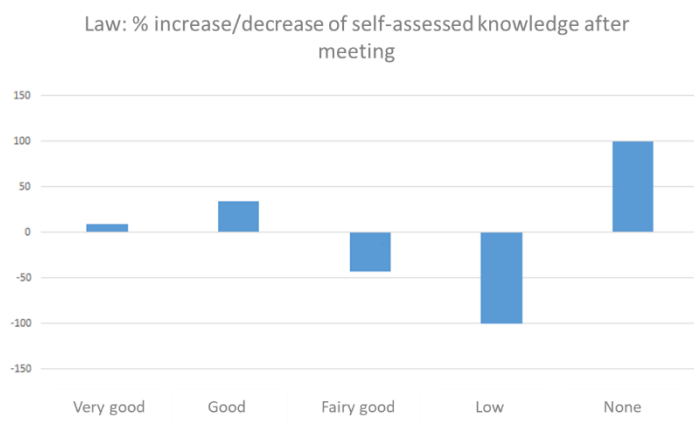
Following the session on the law, participants assessed their knowledge to have increased in the categories very good and good by 8 and 34% respectively. Participants who assessed their knowledge to have been fairly good or low decreased by 43 and 100%, respectively.

Fisheries: % increase/decrease of self-assessed knowledge after meeting
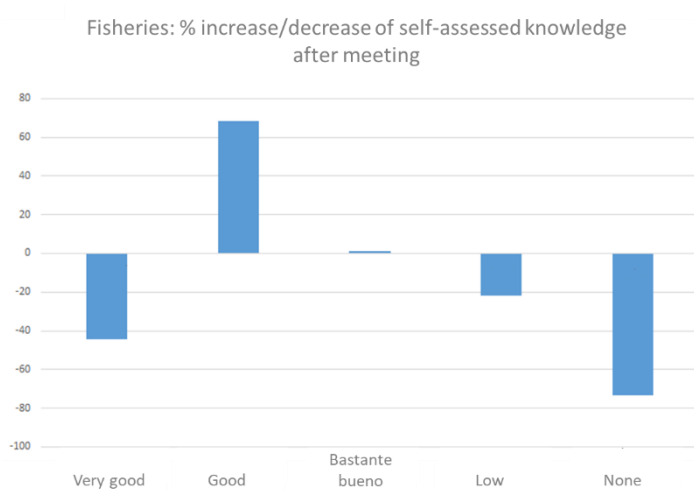
Following the session on fisheries, participants assessed their knowledge to have decreased by 44% in the category very good and increased 68% in the category good. Participants who assessed their knowledge to have been low or none decreased by 22 and 73%, respectively.

Disputes: % increase/decrease of self-assessed knowledge after meeting

Following the session on disputes, participants assessed their knowledge to have increased by 22% and 27% respectively in the categories very good and good. Participants who assessed their knowledge to have been fairly good, low or none decreased by 51, 34 and 100%, respectively.

CD: % increase/decrease of self-assessed knowledge after meeting

Following the session on capacity development, participants assessed their knowledge to have increased by 39% and 15% respectively in the categories very good and good. Participants who assessed their knowledge to have been fairly good and low decreased by 80 and 13%, respectively.

M&E: % increase/decrease of self-assessed knowledge after meeting

Following the session on M&E, participants assessed their knowledge to have increased by 59% in the category very good. Participants who assessed their knowledge to have been good, low and none decreased by 11, 79 and 11 %, respectively.

iii)   Feedback: Usefulness of sessions

On average, 18% found the sessions very useful, 51% useful, 20% moderately useful, 8% less useful and 2% not useful at all. Further, details about the assessment of each session per category can be found in the chart, below.

Feedback: usefulness of sessions
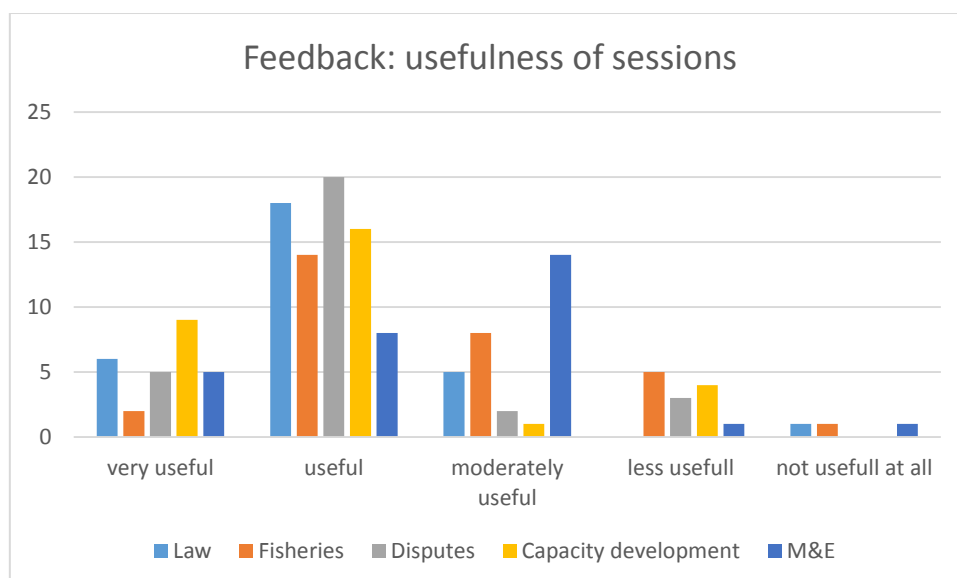
iv) Suggestions for next meeting

The following suggestions were made for improving the meeting.

a.) Length timing and time management:
- I wish that next year the Capitalization meeting is only one week. It is very difficult to leave the country for two weeks.
- Need to improve on time management of different sessions.
- Time for sessions is very limited.
- Lunch time is usually too long.
- Tea time and lunch time should be 2 hours apart.
- Organization and punctuality of participants is much appreciated.

b.) Sessions and themes:
- Need to include a session on political will in context of land governance.
- The issue of land reform in my country has been one of the most crucial moments in Malawi and attending the meeting has greatly helped me.
- Fisheries, because it was nice to know, not need to know for my project.
- More time for M&E – focusing on reporting (EU specific)
- Climate change cross-cutting
- Climate change should be the leading topic
- The capitalization meeting should focus on other countries outside Africa.
- Field visit is recommended.
- Include a field trip
- Presentations on the progress of projects should be foreseen.

c.) Format:
- When communicating on presentation to be made, there is a need to indicate time and format of presentation besides guiding questions. This will allow presenters to prepare thoroughly and be able to manage time when presenting.
- The presenter was not articulate.
- Overall the capitalization meeting was very useful, particularly, experience sharing.
- Africa map should be posted on the wall (get legal one from African Union)
- Change of country host to the other project countries.
- A different venue should be strongly considered.
- The next capitalization should take place in Ghana.
- All sessions at this capitalization meeting were useful, particularly those that spoke about the realities on the ground in countries.