



Central America and the Caribbean Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources

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This assessment is based on the discussions and outputs of the Central America and the Caribbean regional consultation meeting on the *Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources* held in Panama 6-8 September 2010. The views expressed in this assessment are those of the participants of the consultation meeting and do not necessarily reflect the views of FAO.



A. BACKGROUND

1. Context

Concentration of land ownership, lack of access, insecurity of tenure and lack of efficiency and transparency in land administration services, are among the obstacles towards responsible governance of tenure of land and other natural resources in Latin America. These issues have been the subject of discussions and policy recommendations during many international forums, such as the International Conference on Agrarian Reform and Rural Development (ICARRD) held in Porto Alegre, Brazil, in March 2006.

In this regard, FAO, together with other development organizations, is preparing Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources. The process towards the Voluntary Guidelines is carried out in collaboration with governments, civil society, private sector, and international organizations, and will be adopted by the FAO Member States. The Voluntary Guidelines are intended to provide practical guidance on responsible governance of tenure as a means of responding to global challenges of our time. These guidelines will be consistent with the wide range of international instruments, and will adopt a human rights-based approach. They will be a further elaboration of the Right to Food Guidelines and will be a follow up to the recommendations from ICARRD.

The content of the Voluntary Guidelines will draw on multi-stakeholder regional consultation meetings, civil society consultations, private sector consultation and expert group meetings. Once drafted, the Voluntary Guidelines will be submitted for FAO member countries' approval. Upon adoption of the Voluntary Guidelines, FAO and its partners will support their implementation through national action plans, through the Organization's extensive partnership networks and through related project activities.

2. Central America and the Caribbean Region

Land governance issues in the region are characterized by the diverse history of its two large groups of countries:

- The Central American subregion is characterized by the dual latifundio-minifundio tenure systems, which date back to the colonial period, and by the presence of a number of indigenous people groups. In some countries, these systems have been subjected to agrarian reform programs in '60s and '70s. Currently rural areas in such countries are targeted by intense modernization processes that focus on attractive quality soil and well-located areas. In the most isolated areas, the agricultural frontier has been occupied by rural landless populations consisting of peasants and indigenous peoples with diverse backgrounds. They normally possess very little capital and their access to land is in many cases not protected by law.

This has fragmented the rural property structure and resulted in a very uneven distribution of land resources, with thousands of poor minifundista peasants¹ and landless people contributing to the

¹ minifundista is a peasant that farms a very small landholding

growing pressures over the natural resources. In addition, the region is still characterized by large areas with little human intervention, many of which have been declared to be natural reserves with growing local, national and global interests.

In parallel, indigenous peoples communities have been gradually obtaining recognition to their tenure and management arrangements over land and natural resources, as well as to their cosmovision derived from their ancestral traditions.

- The countries in the Caribbean subregion share a common colonial heritage, marked by the establishment of large export-oriented plantations, along with small peasant holders and afro-descendent groups that have established settlements in isolated areas of agricultural frontier. In the coastal areas of this subregion, there are important fishing communities living on artisanal fishing.

Agrarian reforms were carried out in the `60s and `70s in order to transform the unequal agrarian structure of the region. Land titling programs aimed at promoting agricultural development, started in the 80s and have continued until today. In the context of rapid urbanization in most countries, the focus of the 90s shifted to the regularization of urban land rights. After many programs and reforms, disparities in land ownership continue, which are the reason for the governments to encourage the creation of more efficient autonomous public land administration agencies. This regularization task is important when considering the impacts of climate change and the foreseeable increase in sea levels, which will create considerable challenges for the Caribbean countries, especially to small densely populated environmentally fragile islands that have very few natural resources that can be exploited for economic gains.

The subregions share in common the existence of weak administrative institutions, which struggle to carry out their stipulated tasks. The diverse legal systems of the countries in both subregions are commonly unable to adequately regulate their tenure arrangements. The situation is worsened by increasing demands on natural resources that increase land prices and hamper access to resources by the poorest rural population. The key issues on tenure of land and natural resources, common to the entire region, are: inequality in access to land, informal and insecure tenure of land, squatting, exploitative use of land and the resulted environmental degradation and land conflicts, which are worsened by overloaded, inconsistent and outdated judicial systems and bureaucratic and inefficient government agencies, and inadequate systems of information over land and other natural resources. All these create great disparity in access to land information, which skews legal land regularization and encourages corrupt practices.

3. Regional Consultation Meeting

The Regional Consultation Meeting for the Central America and the Caribbean was the eighth in a series of consultations organized by FAO in various regions of the world. This meeting was held in the Ciudad del Saber in Panama on 6-8 September in collaboration with the United Nations Development Program (UNDP), the United Nations Program for Human Settlements (UN-HABITAT), the Centro Internacional para el Desarrollo Sostenible (CIDES, Panama), the Ciudad del Saber (Panama), and the Conseil Supérieur du Notariat (France). The meeting was attended by 78 participants, from countries in Central America and the Caribbean, namely El Salvador, Panama,

Guatemala, Costa Rica, Belize, Nicaragua, Honduras, Trinidad and Tobago, Suriname, the Dominican Republic, Grenada, St. Vincent & Grenadines, St. Kitts, Jamaica, Haiti, Barbados and Cuba, as well as from some countries from other subregions such as Chile, Mexico and Ecuador.

The conclusions of this event are the results of the work of the 78 participants representing different countries of the region, government agencies, small farmer organizations, indigenous peoples, NGOs and academic institutions. In addition to thematic presentations on different experiences in the region a vast variety of topics were discussed in a participatory manner in Working Group sessions thematically divided as follows:

- Land tenure and land administration (Group 1)
- Forest Tenure (Group 2)
- Fisheries and coastal resources (Group 3)
- Land use planning, land management and rural-urban conversion (Group 4-5)
- Indigenous Peoples (Group 6)

The Regional Consultation Meeting has produced the following assessment. It has been reviewed in detail in the final Plenary session. The outcomes reflect in an integrated way the diverse views of participants in this Regional Consultation Meeting.

4. General Framework

In order to address the regional challenges, participants emphasized the need to clearly define what is meant by “governance”. Consequently, *Governance* was defined as the system of values, policies and institutions used by a society to manage its financial, political and social affairs, through interactions within the state and between it and civil society and the private sector. Governance concerns the rules, processes and organizations through which decisions are made about access and use of land, water, marine and forest resources, and the way those decisions are implemented and how interests in these competing resources are handled.

The discussion during the Regional Consultation Meeting identified a number of elements and factors, that when aiming for good governance are common to all issues analyzed:

- Acknowledgement of the different roles that land and other natural resources have in the preservation of the cultural, economic, environmental and social balance, so as to ensure the right to food and life.
- Acknowledgement of the need for well defined and clear state participation in the administration and regulation of access to land and other natural resources.
- Recognition of the Indigenous Peoples and Communities rights, which implies that FAO Guidelines must be consistent with the international standards on the rights of Indigenous Peoples, including those established in the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention 169, among others.
- Recognition of the necessity for administration systems to ensure: transparency in the management of land and natural resources, accessibility to information and avenues for citizen participation, giving greater legitimacy to decisions taken by public authorities.

- Recognition of the need for public programs that promote education and development of a culture on land tenure.
- Recognition of the necessity for systematic and territorial approaches to ensure complementarity and coherence of policies aimed at managing land and natural resources.
- Recognition of the necessity to develop social auditing mechanisms to increase levels of public confidence on land and natural resources authorities.
- Recognition of the necessity to develop sanctions systems that respond to the level of shortcomings, offences and damages, along with incentives for law implementation that promote trust between parties.
- Recognition of necessity to develop laws, regulations and national institutions that comply with the international laws on human rights and natural resources conservation.
- Recognition of the need to strengthen local institutions, private and public, which interact in the governance of tenure of land.

B. ISSUES AND CORRESPONDING ACTIONS

1. LAND TENURE AND ADMINISTRATION (GROUP 1)

- 1.1. There are large sectors of rural dwellers, small farmers and indigenous peoples, who have no land (or who have small land holdings), and therefore live in poverty. This situation creates serious social and environmental problems and prevents these groups of people from using their skills and resources to make a positive contribution to the local economy and to the rest of society.**

Actions:

- Implement programs to facilitate access to land using in each country all mechanisms and approaches available; land reforms, specific programs for young people in rural areas, credit schemes for the purchase of rural lands, public-private partnerships among others.

- 1.2. Insufficient legal security of tenure of land and of other natural resources, especially for the poorest parts of the society.**

Actions:

- Harmonize the national legislation with international standards and guidelines related to access to land and security of tenure. (International Agreement on Economic, Social and Cultural Rights and International Agreement on Civil and Political Rights, Declaration on the Rights of Indigenous Peoples of the United Nations, ILO Convention 169, Convention on Biological Diversity, among others).
- Strengthen national and local capacities in responsible public entities including registration and cadastre programs and projects that focus on rural areas with major concentration of poverty.
- Promote land certification and regularization processes (collective, private, etc.) that benefit the poorest communities.
- Promote legal protection of communal lands as inalienable, and indefeasible, property, when such a social agreement exists.

- 1.3. Insufficient access to land information (cadastres, information systems). There is a strong asymmetry in access to land information, which hinders land certification and regularization and encourages corrupt practices.**

Actions:

- Develop the capacities of public land administration services to generate reliable information and develop unified systems that are easily accessible.
- Facilitate local access to information instead of a centralized approach (promote deconcentration) in order to reduce the costs for the poorest populations for accessing such information
- Build national and local human resources in law and land administration. For example, in El Salvador the national land registry (CNR) had signed an agreement with municipalities

responsible for updating information on the registered objects (cadastral data) and on registered land rights (land register data).

1.4. Lack of a strategy to regulate land market functions, which should be based on clear rules and appropriate values, appraisal systems and mechanisms as well as transparent progressive taxation systems.

Actions:

- Strengthen the legal framework for different tenure systems in order to promote the security of tenure.
- Strengthen property registration and cadastral systems including accessible and unified information systems.
- Establish guarantee prices for agricultural commodities ensuring access to markets for these products.
- Ensure food security and food sovereignty through state subsidies in the financing system of production.
- Establish among other policy objectives, progressive taxation on land in a way that idle lands are highly taxed while tax exemptions are made for small producers or to promote reforestation of pre-identified areas.
- Facilitate public-private co-financing schemes to develop financing products for access to land and land management, as well as develop guarantee and insurance schemes.
- Strengthen capacities in the field of land valuation.
- Develop State interventions that regulate the agricultural-commercial activities in compliance with social and environmental standards.
- Limit the scale of concentration of land by setting thresholds for agriculture and forest holdings.
- Establish dialogue and coordination mechanisms between civil society (peasant and indigenous peoples organizations, NGOs, others), governments and private sector.
- Ensure prior, free and informed consent based consultation processes.
- Create peoples' whistle blowing monitoring systems on governance of land tenure.

1.5. The existence of agro-production chains, based on monoculture, generate processes of land re-concentration causing exclusion of the poorest rural populations.

Actions:

- Encourage state intervention in agricultural markets, forestry and fisheries, under the terms stated in the previous section.
- Strengthen indigenous and peasant agriculture and its participation in product-systems or agro-industrial chains.
- Promote productive linkages between agro-industrial and forestry chains' companies on need of products supply and those small producers, who can provide them. The relationship between these companies and these providers must be carried out in an inclusive way, ensuring the establishment of fair prices and other contractual conditions (deadlines, quality standards, etc.) that explicitly favor the producers.

- Promote the creation of peasant and indigenous peoples local community enterprises including services in processing and marketing based on community initiatives.
- Promote an inclusive territorial development approach, enhancing the comparative advantages of regions and their links with peoples' culture and traditions.

1.6. Lack of efficient legal mechanisms for resolving land tenure conflicts that ensure affordable costs for the poorest sectors, transparency and equity

Actions:

- Encourage the establishment of alternative conflict resolution systems (mediation and arbitration, intra-community systems and others) to resolve conflicts in an expeditious manner, ensuring affordable fees for the poorest population as well as transparency and fairness.
- Modernize judicial systems and build their capacities to deal with land tenure cases in order to solve the most complex conflicts for these resources.
- Build communication campaigns and other communication initiatives to prevent the criminalization of claims regarding land and other natural resources access.
- Creation of regional agrarian courts and review of Agricultural Codes.

1.7. There is a great weakness of the institutions responsible for land administration, which is expressed in inefficient and highly centralized public services that lack financial autonomy and there is also a cadastral coverage deficiency and inefficient mechanisms to carry out land regularization.

Actions:

- Promote processes that strengthen and decentralize public services.
- Promote the linking of information between the cadastres and land registers.
- Ensure financial sustainability of land agencies (cadastres, land registers) so that they can provide efficient services and invest in their modernization.

1.8. Lack of a culture for using land administration services among the local population.

Actions:

- Promote education, dissemination and training programs on land tenure issues (in schools, continuous awareness rising campaigns, exchange of experiences programs, technical cooperation programs, community research centers).
- Build local capacities to deal with land administration processes and their linkages to local development.

1.9. Lack of recognition, learning and strengthening of local forms of governance over the territories (indigenous lands, traditional fisher folks and pickers, others).

Actions:

- Recognize the regulatory systems and customary institutions of indigenous peoples and local communities.
- Promote programs that strengthen support to indigenous organizations, fisherfolks and small scale farmers.

1.10. Lack of a systemic approach in the treatment of land, natural resources and associated environmental services (water, carbon, other environmental services). The land is the beginning of everything, but it is not the end.

Actions:

- To promote integrated development programs that provide credit, technical assistance, infrastructure and other governmental assistance to complement the processes of access to land and land regularization.
- Promote and implement participatory territorial planning.

2. FOREST TENURE (GROUP 2)

2.1. There is not enough security and clarity of tenure in forest state lands. Who owns the land and who owns the forest? In addition there are many conflicting interests and rights on these lands.

Actions:

- Investigate, analyze and register all state lands in the name of a responsible State or Public authority.
- Create and/or implement mechanisms to help resolve conflicts of tenure and land rights in state forests that occur between various public authorities.
- Guarantee access to information concerning actions related to security of tenure.
- Recognize the collective ownership of indigenous peoples lands and their forest resources.

2.2. The vast extent of forests and their public legal nature makes the monitoring of their proper use difficult for authorities.

Actions:

- Define and implement standards and mechanisms to transfer or delegate the management and control of these territories to local communities and / or private entities duly accredited, such as NGOs, owners associations and other entities interested in the conservation of these resources. In

this respect, we recommend the implementation of pilot schemes to test the validity of this approach.

- Deconcentrate and decentralize the management (permitting, licensing, development incentives, supervision and monitoring) of forests and protected areas to local governments, local communities and to other relevant institutions.

2.3. Agriculture and other economic activities (mining, tourism, energy, construction, etc.) affect forest use, creating a need for a regional and cross-sectoral approach that is not normally used by government authorities.

Actions:

- Review and harmonize public and sector policies (laws, institutions, regulations, rules) that positively or negatively affect the security of tenure of forest lands.
- Promote territorial and cross-sectoral linkages (at the policy level) between forest tenure policies and other development policies.

2.4. The absence of a territorial planning policy (landscapes, native forests and plantations, agroforestry, and water use management) and/or a lack of implementation of existing policies hinder decision-making over the tenure and use of (forest) land.

Actions:

- Implement an integrated management approach to territorial landscape planning.
- Promote mechanisms to improve the use of tailored production systems, conservation and service mechanisms reflecting territorial differences.
- Provide specified tenure actions for each component of the tenure concept; land, forest, ecosystem services (carbon, biodiversity, water and others), products (timber and non-timber) and the intellectual property of traditional knowledge.

2.5. The forest and land tenure typology is complex and the solutions do not always correspond with the needs of stakeholders. There are multiple problems and solutions, which are not always recognized by the laws and institutions.

Actions:

- Promote the design and improvement of laws and regulations resulting in broad and flexible norms.
- Rely on technical requirements and administrative procedures, which can be easily implemented.
- Strengthen local and national institutions associated with the governance of tenure, conservation and the use of forests.

2.6. In zones with prevalence of large forest areas there is usually a concentration of population with the most low income generation and unfulfilled basic needs including rare access to formal education. These areas are also rarely targeted by public policies to stimulate economic, social and environmental development.

Actions:

- Solve tenure problems within the framework of comprehensive development programs in these territories
- Strengthen indigenous people and peasant institutions and organizations.

2.7. There is limited and insecure recognition and/or implementation of tenure rights for indigenous peoples, small holder farmers and communities that live in forests.

Actions:

- Ratify international conventions on environment and implement mechanisms for monitoring compliance with those agreements.
- Facilitate access to national and international mechanisms that help to defend indigenous and peasant communities' rights.

2.8. Information, cadastral and land registration systems are insufficient to support actions for improving the security of forest tenure and the costs of forest land titling are high. In many cases there is no coherence between land records and the records of forest ownership, which creates confusion and legal insecurity.

Actions:

- Include into existing land registration systems, cadastral and forest ownership records creating coherent and compatible information.
- Simplify and reduce costs and processing time for the regularization of forest lands.

2.9. The emergence of new phenomena was noted. These phenomena are increasing pressures on forest lands (drug trafficking, buying land for money laundering, smuggling of forest products, land grabbing, biofuels, mining, hydropower, tourism, etc) that affect not only the tenure, but control, administration and management of these territories.

Actions:

- Analyze and report to authorities and to money laundering control mechanisms the increase and impacts of these actions relating to possession and occupation of forest lands.
- Discuss and analyze the appropriateness of applying penalty schemes over administrative and technical decision makings in the context of land transfers and land use changes, which relate to these new pressures.
- Regulate land purchases, especially purchases of forest lands (area, location, investment pattern, etc.) by foreign and international companies.

3. FISHERIES AND COASTAL RESOURCES (GROUP 3)

3.1. In Fisheries the Voluntary Guidelines should focus on the access to natural resources and should take into consideration the following:

- Access is used as a proxy for tenure which is not as applicable to marine areas as to land. Dealing more with common pool resources in fisheries and coastal cases. But acknowledge that ownership under different access arrangements is an issue.
- Acknowledge issues of access relating to the exclusive economic zone (EEZ) and the High Seas, but because tenure is focused more on the land/coastal zone area we decided to focus more on the Territorial Sea, internal aquatic systems (rivers, lakes, lagoons) and coastal management.
- Focus on small-scale fisheries which are the predominant fisheries along the Caribbean coasts and both the Atlantic and Pacific coasts of Central American countries.

Actions:

- Need to reconcile the concepts of tenure and access that apply to land as they apply to aquatic systems from inland waters to high sea.

3.2. Governance for fisheries and aquatic management do not adequately address the threats due to spatial and other conflicts or the opportunities presented by possible synergies.

Actions:

- Reduce the displacement of small-scale fishers by tourism, agriculture or pressure from the coast guard, where the local benefits are small unless the displaced persons are adequately compensated with due process.
- Strengthen the capacity of governance arrangements for marine spatial planning and management for all stakeholders, especially those that are most vulnerable.
- Reduce, through ecosystem-based management (EBM) and integrated coastal management (ICM), the extent to which small-scale fisheries are being marginalised by tourism and other coastal developments, particularly in small islands and in the coastal wetlands of continental countries.
- Establish a marine cadastre that would acknowledge and record existing use, access, capture and occupation rights, responsibilities and restrictions in spatial extent (horizontally and vertically) and in legal extent.
- Develop integrated coastal zone management projects bringing together fishing and ecotourism interests.

3.3. Capacity development among fisherfolk organizations and their support networks require greater support from regional and national organizations (not just governmental) in activities such as communication, literacy, livelihood skills and disaster risk preparedness

Actions:

- Strengthen collaboration amongst agencies undertaking initiatives that address all aspects of adaptation to climate change and disaster risk reduction.

- Empower local communities in order for them to apply strategies for climate change adaptation and disaster risk management to reduce their own vulnerability.
- Address the special needs and culture of the afro-Caribbean communities in the Caribbean coast of Central America e.g. language (creole vs Spanish) and similar groups elsewhere.
- Develop and incorporate more participatory governance arrangements at the local, national and regional levels, including enhancing fisherfolk organization networks.
- Update inventories on fish stocks and promote their sustainable exploitation.

3.4. Many governance arrangements do not take into account the benefits of fisheries and the people involved to the economy and society and as such do not afford them rights, claims and incentives given to other sectors.

Actions:

- Improve governance arrangements for access to infrastructure, credit, and other services at the community level e.g. fish quality assurance and safety, social insurance arrangements.
- Ensure equity in management measures applied to industrial and small-scale fishing for sustainable use.
- Recognize and promote incorporation of traditional systems of customary tenure into formal governance arrangements e.g. community based sanctuaries into protected areas.
- Resolve issues of tenure and other regulatory constraints in relation to small-scale and subsistence level aquaculture development e.g. reforming environmental regulations.
- Provide means for alternative livelihoods for coastal communities that co-exist with endangered species conservation initiatives.
- Create awareness within coastal communities about their rights and responsibilities.
- Promote the valuation of the marine and other aquatic ecosystem goods and services including the benefits to coastal and inland communities.

3.5. Current governance arrangements do not adequately incorporate ecosystem approaches and this negatively impacts on coastal fisheries and area management.

- Strengthen trans-boundary and watershed governance arrangements, including those for reducing the impacts of pollution on aquatic systems.
- Improve coastal planning, coordination and management as provided for under the Code of Conduct for Responsible Fisheries and under other FAO processes e.g. harmonize marine laws for marine protected areas (MPA) and non-MPA areas.
- Promote sustainable management of coastal wetlands through the implementation of effective governance arrangements e.g. restrict quarrying.
- Request that individual governments of the region share at all levels, including with FAO, periodic reports regarding progress with implementing the voluntary guidelines, with public participation in the preparation of such reports.

3.6. Additional recommendations that should be contained in the Guidelines:

- Actions should focus on the short and medium term, given the uncertainty of the longer term.

- It is recommended to use existing mechanisms and institutions where possible, rather than create new ones, and at the same time reduce/avoid overlapping of functions.
- Voluntary Guidelines should build upon existing formal and informal instruments from international to local level e.g Code of Conduct for Responsible Fisheries.
- It is recommended that FAO continues keeping and strengthening leadership in fisheries and coastal planning.
- All of the actions should be developed in the framework of an ecosystem approach to fisheries and resilience and adaptive capacities of the sector.
- Principles of good governance should apply to all actions recommended in the guidelines.

4. LAND USE PLANNING, LAND MANAGEMENT AND RURAL – URBAN CONVERSION (GROUP 4-5)

4.1. Planning

- 4.1.1. Government policies based on short term approaches are predominant in the region. They do not consider emerging trends that will have a strong impact on the future status of land and natural resources, such as rural-urban migration, the ruralization of cities or the aging of rural population.**

Actions:

- Develop planning processes with long-term strategies, considering future generations and taking into account cross-cutting factors such as environmental and risk management, equitable access to land as well as the entrepreneurial management of land.
- These planning processes should aim for an optimal and equitable use of land considering the transition between rural and urban sectors. In this light, it is necessary to develop planning policies for peri-urban areas.

4.2. Land economics, markets and land valuation.

- 4.2.1. Once land is registered, there is a lack of technical guidance. The value of land has increased, but not the personal economy of the owner.**

Actions:

Accompany the access to land and/or land titling processes with development programs (technical assistance, credit, infrastructure upgrades, marketing support, etc.) that improve production methodologies (technology, costs) of small holder farms.

4.2.2. The particular economic values of the products by indigenous peoples, peasant and Afro-descendant communities have not been recognized.

Actions:

- Promote development programs that classify products by these communities through certification schemes/quality standards (for organic products, place of origin, good practice, ethnic origin, etc.) as well as programs that appreciate and value the scenic beauty of their territories and traditional knowledge.
- Develop programs and projects to support recognition of aggregated values, quality and general appropriateness of artisanal products in the competitive markets.

4.2.3. Some governments lack production development policies targeting specifically indigenous peoples. The development policies are drafted without the participation of indigenous communities and vulnerable groups.

Actions:

- Apply Territorial Rural Development approaches to implement support programs, which seek to upgrade territories in the economical, social and environmental points of view and in this way also encourage the participation of producers.
- Promote participatory rural development policy approaches in order to generate positive results. The value of land will increase and young people will have greater opportunities for development.
- Facilitate comprehensive territorial development processes with indigenous peoples in policies as well as in programs and projects targeting them.

4.2.4. There are initiatives under development in Central America and in the Caribbean that involve the concepts of gender and equity, but they are not integrated.

Actions:

- Mainstream the gender sensitive initiatives to land reform and land titling projects as part of broader development programs.
- Systematize lessons learned and disseminate them as elements of the gender equity issue.

4.2.5. There is a high prevalence of vulnerability in government institutions towards incentives of corruption created by individuals, institutions and companies. Corruption benefits those with economical power and those with access to control and manipulate land markets. Bad practices promote corruption. The adoption of good governance practices should be mandatory. In addition, transaction costs and time during the exchange of land have increased, promoting informal trading as well as tax evasion.

Actions:

- Develop cadastres and information systems to generate reliable information which contribute to the elimination of corruption and allow for the provision of more affordable and accessible services.

4.3. Territorial Planning, Use and Conversion of Rural and Urban Lands: Issues and Challenges

4.3.1. Neither the citizens nor the state respond to non-compliance of laws. The State is not held responsible for breaching its own laws for territorial planning. The culture of non-compliance undermines the rule of law.

Actions:

- Promote territorial planning processes based on participatory approaches, starting from the most vulnerable classes (bottom-up) to encourage participation. These processes must involve all stakeholders and must include indigenous peoples communities in the development of plans, decision making, information dissemination, implementation plans, monitoring and evaluation. There should be joint responsibility in planning and in decision-making processes, monitoring and evaluation of impacts of the territorial development plans.

4.3.2. Land titling increases land values, but it also means that banks enter the game as intermediaries and accept the land as collateral. Additionally, the remittances from overseas have increased the cost of land, promoting changes in land use (from agricultural use to housing or investment.) Thus land is seen as a commodity and not as a factor in production.

Actions:

- Strengthen planning and support it by other mechanisms such as the taxation, tariffs, planning regulations, licensing of foreign actors and policies to discourage speculation.

4.3.3. Aging sector involved in agriculture.

Actions:

- Quality of life in the rural areas must be improved and incentives for agricultural productions should be provided to encourage youth to stay. Education in rural areas should be taken into account and should meet the needs of communities, allowing them to contribute to areas such as tourism.

4.3.4. Pressure on agricultural land for other alternative uses affects food security.

Actions:

- Right of first refusal by State Authority will assist in releasing this pressure on conversion of agricultural lands; in order for this to be effective there should be a national planning authority working in coordination with traditional authorities of indigenous peoples communities.
- 4.3.5. In the Caribbean countries there is strong competition between different economic activities (agriculture, fisheries, tourism, etc.) due to the limited land space. There is also a trend towards uncontrolled land fragmentation, which generates smallholdings of uneconomic sizes.**

Actions:

- Encourage development and use of condominiums and other new use-intensive modalities for development; appropriate and clear land use policies to guide the process; national policy to encourage development of idle lands, such as taxation on land
- Adopt measures to prevent the privatization of family land in the Caribbean (Caribbean customary institution) and to prevent that these lands can be traded.
- Create consistent policies and regulations, as well as greater coordination of the functions of the institutions involved.

5. INDIGENOUS PEOPLES (GROUP 6)

5.1. Nature of the FAO Consultation

5.1.1. Guidelines developed in the process of consultation of the FAO are voluntary. Not all countries ratify international conventions, let alone if they are voluntary.

Actions:

- Work closely with FAO to make the Voluntary Guidelines binding.
 - Seek for complementary mechanisms, which create incentives for producers and companies (agriculture, forest and fisheries) to comply with these guidelines. For example, include land tenure in the private sector certification systems, as it is currently done with the FSC forestry labeling system (i.e. experience of concessions in Guatemala).
 - Promote States to adopt structures that ensure that the recommendations of this consultation are put into practice. Many States have not created structures to promote themes relevant to indigenous peoples.
- 5.1.2 The group that worked on indigenous peoples wanted to express its own view on the issue on access and/or tenure of land and other natural resources, as well as on the management of the ancestral territories. This statement is considered as an integral part of this document (see box).**

5.2. Strategic topics

5.2.1. A central issue is the indigenous peoples' rights: it is a must to recognize the concept of indigenous populations as such. One cannot speak about governance without first talking about rights. It is a matter of rights, indigenous peoples have rights, they are rights-holders and they should not be considered only as 'stakeholders'.

- The ILO Convention 169 is the legal framework for this recognition. It is necessary that this Agreement is signed by Panama, El Salvador and other countries in the region that have not yet ratified it.
- Create national laws that recognize indigenous peoples in each country. In Guatemala and other countries there are movements aiming for a law on indigenous peoples, as well as for an integrated rural development law.
- Respect and implement the right of indigenous peoples to free, prior and informed consent.
- Acknowledge indigenous peoples and give recognition to their territorial rights. It is limiting to hold this consultation meeting only on land tenure. One must speak of territories, which include other resources such as water and biodiversity.
- Territoriality is an important theme, which requires its own institutions in order to manage and maintain the control of natural resources. In some countries there are local congresses and other indigenous institutions. These have to be strengthened. For example, in Panama a number of indigenous territories enjoy autonomous statuses, such as in the protected areas under the control of the Kuna people. These imply the recognition of indigenous peoples.

5.2.2. Governments of countries and public programs aimed at improving the management of land and resources do not adequately consider the views of indigenous peoples.

Actions:

- Full and effective participation of indigenous peoples in decision-making policies for the management of land tenure and natural resources should be a mainstreamed aim.
- Governance schemes must be consistent with international conventions. It is crucial that indigenous peoples can participate in decision-making processes.

5.2.3. Another major problem is that uncritically public programs often do not recognize the traditional vision of indigenous peoples and apply western standards in the design of projects and initiatives.

Actions:

- Recognize and respect the traditional vision of indigenous peoples. There is an indigenous cosmovision associated with the rights of the mother land, forms of land management, the technology used, the role of youth and women, in the form of organization and resolution of internal conflicts that arise sometimes in the communities. It is necessary to know the history of each indigenous peoples in order to understand their cosmovision.

- Recognize the use of collective land rights (rather than individual rights), as an important aspect in achieving good governance in their territories. The issue of collective ownership is key to the indigenous world and it is linked to their cosmovision.

5.2.4. Indigenous peoples have a great need to improve levels of education of both the youth and adults. This is a strategic issue that will have great impact on the evolution of the future status of these people.

Actions:

- Prioritize the training of young people and indigenous leaders, in order to strengthen indigenous leadership for the legal protection of their territories and for the formulation and implementation of plans and projects.

STATEMENT OF THE WORKING GROUP ON INDIGENOUS PEOPLES AT THE CONSULTATION MEETING FOR THE DEVELOPMENT OF THE VOLUNTARY GUIDELINES ON RESPONSIBLE GOVERNANCE ON TENURE OF LAND AND OTHER NATURAL RESOURCES

Ciudad del Saber, Panama, 6, 7, 8 September 2010

We would like to thank the FAO Regional Office, the Ciudad del Saber, and the CIDES for giving hospitality, carrying out these consultations on Voluntary Guidelines and giving us the opportunity to express our voice and views on Land, Territory, and Natural Resources.

The representatives of the Indigenous Peoples Organizations (IP), gathered at the consultation meeting in Panama, would like to reaffirm the support and solidarity with Indigenous Peoples who are facing the expropriation of their lands, territories and natural resources throughout Latin America, especially the Pueblo Mapuche, the Indigenous Peoples of Guatemala the Pueblo Naso, Ngábe Buglé, because of the difficult situation they are experiencing in the region of Bocas del Toro in Panama. The same recognition of is demanded for the Indigenous Peoples of El Salvador.

Whereas,

1. The rights of Indigenous Peoples to self-determination and rights over their lands, territories, and resources are recognized in many international treaties and agreements, such as: The United Nations Declaration on the Rights of Indigenous Peoples, the ILO Convention 169, the Convention on Biological Diversity, the Inter-American Human Rights System, including the Inter-American Court of Human Rights.
2. FAO and its partners in this initiative will also have to respect this international framework.
3. In order to be sustainable, the Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources must be consistent with international norms and standards on the rights of Indigenous Peoples, such as: The United Nations Declaration on the Rights of Indigenous Peoples, the ILO Convention 169, and the Convention on Biological Diversity.
4. No responsible governance can exist without the recognition of Indigenous Peoples Rights, in line with the international framework on the rights of Indigenous Peoples.
5. The Guidelines should be more than voluntary; the voluntary nature is not enough. New mechanisms must be found, in order to make binding the implementation by Member States.
6. The Guidelines should include principles and priorities, as following:
 - a. self-determination of the Indigenous Peoples
 - b. use of the term "Territory" and not just Land
 - c. respect and implement the right of Indigenous Peoples to free, prior and informed consent on issues concerning their territories
 - d. the meeting must apply and implement the principle of free, prior and informed consent
 - e. the full and effective participation of indigenous peoples in decision-making policies for the management of land tenure and natural resources should be a clear position
 - f. strengthen the capabilities of Indigenous Peoples through their own institutions and organizations
 - g. national legislations must recognize and protect the human rights of Indigenous Peoples and put into practice efficient mechanisms for their implementation
 - h. harmonize the role of international cooperation as a mechanism for the implementation of the Guidelines
 - i. promote and support the decentralization of states to strengthen the structures and institutions of Indigenous Peoples
 - j. develop safeguard mechanisms to respect and implement the Human Rights of Indigenous Peoples

We stress, as fundamental in the FAO Guidelines, the following:

1. Self-determination of Indigenous Peoples.
 - 1.1 Review all FAO documents, in order to be consistent with international rules on Human Rights of Indigenous Peoples.
- 1.2 FAO must ensure a fair, full and effective participation of Indigenous Peoples throughout the process of elaboration and implementation of the Guidelines.
2. Use of the term "Territory" and not just Land.
 - 2.1 Respect and implement the right of Indigenous Peoples to free, prior and informed consent on issues concerning their territories.
- 2.2 Create and identify mechanisms, together with Indigenous Peoples -through forums, workshops, working groups - for the full application of the free, prior and informed consent.
3. The full and effective participation of indigenous peoples in decision-making policies for the management of land tenure and natural resources should be a clear position.
4. Strengthen the capabilities of Indigenous Peoples through their own institutions and organizations. Ensure and guarantee that the Guidelines include this principle.
5. Support programs and projects aimed at strengthening institutions and organizations of Indigenous Peoples
- 5.2 Promote the exchange of experience and knowledge among Indigenous Peoples.
6. National legislations must recognize and protect the human rights of Indigenous Peoples and put into practice efficient mechanisms for their implementation.
 - 6.1 Promote awareness campaigns to decision-makers for the creation of these laws.
 - 6.2 Promote the incorporation of the United Nations Declaration on the Rights of Indigenous Peoples in national legislations and the ratification of the ILO Convention 169.
7. Harmonize the role of international cooperation as a mechanism for the implementation of the Guidelines.
 - 7.1 Projects and programs to be financed by international cooperation funds must incorporate special safeguards norms for the protection for rights of Indigenous Peoples.

C. NEXT STEPS

This regional consultation is the eighth in a series of consultations that are taking place worldwide, in Africa, Asia, Pacific, South America, Middle East, Europe and the Commonwealth of Independent States, with the participation of government agencies and civil society. Consultations with the private sector have also been held. The results of these meetings, along with those of a global electronic consultation, will be essential to the development of the Voluntary Guidelines.

The draft version of the Voluntary Guidelines will be revised through a broad participatory process. Participants in the Regional Consultation meetings wishing to monitor this process are invited to review this draft and suggest improvements to make these Voluntary Guidelines more effective.

A final draft version of the Voluntary Guidelines will be submitted for consideration by member countries of FAO and other stakeholders during 2011, for review and approval.

The participants of this meeting will be informed about the schedule for the preparation of the Voluntary Guidelines.

Information on the Voluntary Guidelines and their preparation process is available on the website: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/> .