

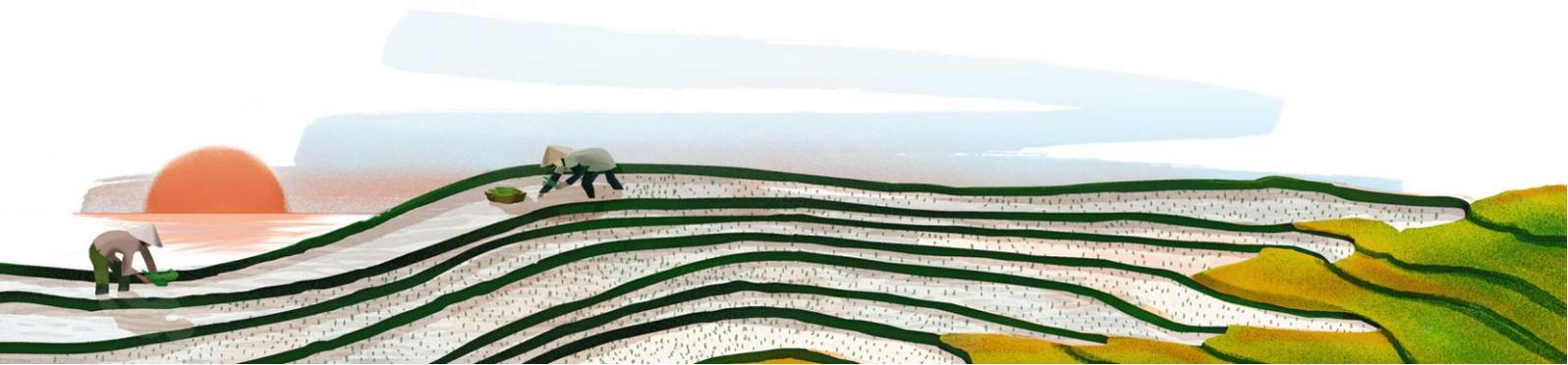


Food and Agriculture  
Organization of the  
United Nations

**Regional Multi-Stakeholder Consultation on Land Governance in the Asia-Pacific Region**

14-16 December 2015  
Bangkok, Thailand

Report



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## I. The context

Access to land is fundamental for the food security and well-being of rural people who rely on agriculture for their livelihoods. Recognizing and securing rights over this key resource is a fundamental condition of household food security and equitable economic development. Secure land tenure also provides a valuable safety net as a source of shelter, food and income, especially in times of hardship.

However, worldwide and in many countries in Asia land tenure rights are in fact not so secure. Tenure systems increasingly face stress as the world's growing population requires food security, and as environmental degradation and climate change reduce the availability of land, fisheries and forests. Inadequate and insecure tenure rights increase vulnerability and can lead to conflict and environmental degradation when competing users fight for control of these resources. Weak governance, inadequate regulatory frameworks and limited institutional capacity are some of the major factors leading to inequity, evictions and ultimately hunger and food insecurity. At the same time, national and increasing numbers of foreign large-scale land investments are on the rise. If carried out responsibly, these investments can contribute to food and energy security of both home and host countries, and generate other tangible benefits for rural communities. However, some forms of large-scale investment carry risks for host countries. In countries where local land rights are not clearly defined and governance is weak, large-scale land acquisition raises particularly high risks for communities. The reaction to this trend by Governments, the private sector, academia and civil society organizations and groups has been varied, moving between the extremes of seeing it as a major threat to the lives and livelihoods of rural people, to seeing it as an economic opportunity for the rural poor worldwide.

In this context of challenges, it is critical to discuss alternatives and furnish ways to improve land governance<sup>1</sup>, promoting a different model of rural development, in which economic development challenges are met while human rights are respected. How can we promote successful land investments and business models while continuing to foster the socio-economic advancement of the most disadvantaged people in rural and peri-urban areas? How can different instruments, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of Food Security (VGGT) and the Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI), both endorsed by the Committee on World Food Security<sup>2</sup> (CFS) in 2012 and 2014 respectively, be utilized in the Asia-Pacific region?

In order to provide in-depth and systematic discussions leading to deeper, meaningful and productive debates around land-related issues, FAO has organized a 3-day Consultation/expert meeting, with the overall aim of promoting the exchange of knowledge on land governance, highlighting new challenges and opportunities to foster improved land governance in the Asia-Pacific region. FAO is fostering international cooperation with interested countries and organizations throughout the region and beyond on this important topic. As a neutral specialized UN organization, FAO is appropriately positioned to successfully bring all stakeholders together in the quest for improving the governance of tenure.

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<sup>1</sup> The following definition for land governance is proposed: *“Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed.”* (...) Land governance encompasses statutory, customary and religious institutions, as well as informal institutions. It includes state structures such as land agencies, courts, and ministries and municipalities responsible for land. It also includes informal land developers and traditional bodies. It covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution. In short, it includes all relevant institutions from the state, civil society and private sectors. Land governance is fundamentally about power and the political economy of land. (<http://www.fao.org/3/a-ak999e.pdf>)

<sup>2</sup> The Committee on World Food Security (CFS) is the UN Governing Body that reviews and follows up on food security and nutrition policies. CFS is the foremost inclusive international and intergovernmental platform for all stakeholders to work together to ensure food security and nutrition for all. Using a multi-stakeholder, consultative approach, CFS endorses policy recommendations and guidelines on a wide range of food security and nutrition topics. ([www.fao.org/cfs](http://www.fao.org/cfs))

## II. Introduction to the regional workshop

The specific objectives of the Consultation were to promote the exchange of knowledge and experiences among member countries in Asia and the Pacific on land governance issues, and to discuss and identify priority areas for action that can support improved governance of land.

The workshop involved a total of 62 people including participants from 11 countries, namely: Afghanistan, Cambodia, India, Indonesia, Laos, Myanmar, Mongolia, Philippines, Thailand, Timor-Leste and Vietnam. The participants were representatives from governmental institutions at national levels dealing with land issues, members of civil society organizations as well as representatives of academia and other UN agencies.

The workshop was divided in five sessions on three thematic areas:

1. *Land Governance in Asia and Pacific - Challenges and Opportunities;*
2. *Securing customary tenure systems (hereafter also referred as CTS);*
3. *Fostering responsible agricultural land-based investment.*

The methodology chosen for the workshop included a combination of brief presentations and working groups in which participants identified key issues regarding land governance in their countries, and possible measures to address them. The working group sessions were followed by plenary discussions. The objective of such approach was twofold: not only provide space for discussion among countries' participants and between countries, but also bring together civil society and state actors. In this way, participants received similar messages about what are sometimes quite controversial issues, and had the opportunity to brainstorm on how they can work together to address these issues.

The regional workshop was organized by the FAO Regional Office for Asia and the Pacific (RAP) with the support of the Climate, Energy and Tenure Division - Tenure team-, the Office of Partnerships, Advocacy and Capacity Development (OPC) –Advocacy (Indigenous Peoples Team) and Capacity Development Units - and the Land and Water Division (AGL).

This report summarizes the main insights and key messages that emerged during the discussions, and the priority areas for action identified by the working groups and agreed on in the plenary. Each participant received a flash disk (USB stick) with relevant technical documents and copies of the presentations made by the participants and organizers, where all the details of the workshop can be found. A webpage <http://faolandgovernance.wix.com/regionalconsultation> was also set, in which all workshop's materials can be accessed.

## III. Meeting Sessions

### Session 1: Land Governance in Asia-Pacific- Challenges and Opportunities (day 1)

The objective of the session was to identify issues related to land governance in the AP region, and explore opportunities to overcome these issues through the exchange of information on experiences and good practices with a special focus on VGGT.

The session began with a presentation setting the scene by Ms Marianna Bicchieri, Land Tenure Officer (FAO), focused on enhancing land governance in the region, as a way to promote equitable access to land, sustainable rural development and food security. The presentation started with an analysis of current issues related to tenure security. It was pointed out that worldwide, more than two billion people access natural

resources/land through customary tenure systems (CTS)<sup>3</sup>. That people may have socially legitimate tenure rights<sup>4</sup> over land, but not necessarily a formal document proving ownership. At the same time, as the global demand for food, fuel, fiber, forestry and horticultural products rises, private sector companies are investing in land in developing countries. But with the potential benefits of such investment come several risks, including land tenure related risks: the risks associated with acquiring rights to land in an environment where land governance is weak, rights are often undocumented, or there may be pre-existing claims to the land that is offered (often by governments) for sale or lease. Failing to account for these land tenure risks can lead to displacements or loss of livelihoods for local people and communities, and can create significant financial, operational, legal, or reputational risks for the investor, for instance, increased media attention for “land grabbing” and protests by local communities against a project’s development. The presentation concluded referring that the international community, civil society organizations, UN agencies and also private investors recognize the need to ensure that land-based investments are made in a responsible and inclusive manner, in compliance with international best practices. The need to enhance land governance was highlighted, therefore, as a way to foster responsible investment while protecting CTS of the rural poor who rely on their land and associated natural resources for their the livelihoods.

Following the presentation, participants were divided into country groups in order to fill out posters on perceived strengths and weaknesses, challenges and opportunities, gaps and needs, policies, current and potential partners, and key actions to move forward. The objective of such an exercise was identifying land related issues and ways to address them from a country perspective; and fostering the exchange of ideas and experiences among the participating countries. Participants then gave short presentations on their country posters, focusing on the key points from a country-specific viewpoint. The presentations were followed by a question and answer session, allowing presenters to further discuss the main points raised.

The main issues that emerged during the working groups and subsequent plenary discussions included:

<b>Key challenges identified:</b>	<b>Key actions to move forward:</b>
<ul style="list-style-type: none"> <li>• Capacity gaps at decentralized levels</li> <li>• Incomplete cadastral databases</li> <li>• Lack of institution coordination</li> <li>• Lack of legal recognition of customary tenure</li> <li>• Land conflicts</li> <li>• Land grabbing</li> <li>• Limitation of funds to improve land administration institutions and its services</li> <li>• Limited implementation of existing legislation</li> <li>• Land degradation</li> <li>• Land speculation</li> <li>• Natural resources becoming scarcer</li> <li>• Rural land mostly unregistered</li> </ul>	<ul style="list-style-type: none"> <li>• Legal reforms, development of legislation</li> <li>• Implementation of existing legal and policy frameworks</li> <li>• Implementation of the VGGT to improve land governance</li> <li>• Accelerated land registration</li> <li>• Awareness raising and capacity building activities on land issues for all stakeholders</li> <li>• Protection of customary tenure systems</li> <li>• Foster and enhance multi-stakeholder platforms for land policy dialogue</li> </ul>

<sup>3</sup> USAID. 2011. *The Future of Customary Tenure: Options for Policymakers. Property Rights and Resource Governance Briefing Paper #8*. Washington DC, USAID.

<sup>4</sup> Land rights legitimate through broad social acceptance but without legal recognition. More information available at: <http://www.fao.org/3/a-ak999e.pdf>.

After the initial part of the session, in which the countries pointed out major issues on land governance, the session continued with multi-stakeholder presentations (FAO, CSO, Government and Academia) on different experiences and approaches already ongoing to address such issues. A summary of each presentation<sup>5</sup> is provided below:

- *VGGT: From Principles to Action* by Ms Bicchieri: the presentation elaborated on key futures of the VGGT. It also highlighted country level experiences in which the VGGT principles have been applied to address land governance issues.
- *Myanmar: Use of the VGGT in a Policy Development Process (CSO perspective)* by Mr U Shwe Thein, Land Core Group (LCG): The presentation focused on Myanmar's experience using the VGGT as a supporting tool in the development of the National Land Use Policy (NLUP). The LCG supported a series of meetings among Government departments, CSOs networks and private sector representatives to discuss key features of the future NLUP. Specifically, the presentation stressed the usefulness of the VGGT's general principles related to the recognition and respect of all legitimate tenure rights holders and their rights during the policy dialogue. The VGGT served as a reference of internationally accepted good practices during that process and as result, the '*recognition and protection of customary land tenure rights and procedures of the ethnic nationalities*' is among the NLUP objectives. This experience highlighted the importance of multi-stakeholder dialogue and the relevant role of civil society in such forums.
- *Philippines: Using the VGGT to Improved Land Governance (Government perspective)* by Atty. Emelyne V. Talabis, Director Land Management Bureau: The presentation described key features of land administration in the Philippines, and how the Government has been using the VGGT to further enhance it. Since 1900 the country has been working on land titling and land registration. The legal framework on land is comprehensive, and customary tenure rights are recognized by the Indigenous Peoples' Rights Act (1997). Despite that, around 68% of land remains untitled, and the multiplicity of land administration institutions, laws, regulations and titling processes pose as major issues for an efficient land governance system. Providing security of tenure for all remains a challenge for the government as the current fragmented institutional set up fails to adequately respond to the country's needs. The presentation pointed out that to address these issues, the Government is currently updating its Land Sector Development Framework (LSDF), aligning it with the provisions of the VGGT.
- *Chiang Mai University: Building Knowledge for Improved Land Governance (Academic perspective): Mekong Land Research Forum (MLRF) and the Political Economy of Land Governance in the Mekong Region* by Daniel Hayward, Chiang Mai University and Professor Philip Hirsch, University of Sydney: The first part of the presentation described the Mekong Land Research Forum, which is a website<sup>6</sup> that gathers research on key subjects around land governance in the Mekong Region. It aims at making high quality research available and accessible for progressive policy reform and dialogue. It also connects researchers and educational institutions and facilitates exchanges between academia and the policy world. In the framework of MRLF, a series of learning activities on land governance will be organized such as seminars and summer schools based at the Chiang Mai University. The second part of the presentation illustrated a political-economic analysis of land governance on the Mekong Region, with primarily emphasis on Cambodia, Laos, Myanmar and Vietnam. The initiative was driven by concerns about tenure security of smallholder farmers, ethnic minorities and women, against a background of land dispossessions as result of

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<sup>5</sup> Presentations are available at: <http://faolandgovernance.wix.com/regionalconsultation>

<sup>6</sup> Available at: <http://rcsd.soc.cmu.ac.th/mlrf/?q=node/4>

large-scale land investments. The presentation stressed that the four country reports and the regional report provide an analysis of root causes and drivers of land tenure insecurity, including country contexts, dynamics (e.g. power dynamics, land dispossession, land concentration) and constraints (e.g. agendas and interests behind land governance reforms).

- *South-South Cooperation: A framework to exchange experiences and lessons learned for improved land governance* by Aziz Arya, South-South Cooperation Officer (FAO): The presentation provided information about the usefulness of south-south cooperation as a platform for collaboration between nations and mutual exchange and sharing of development solutions, knowledge, experiences and good practices, policies, technology and know-how between and among countries and institutions in the global south. The presentation stressed that south-south cooperation and the exchange of experiences among countries in the region can be especially useful while addressing land governance issues.

A question and answer session followed the presentations to allow broadening and explanation on the presented topics and themes.

## **Session 2: Securing Customary Tenure Systems (day 2)**

The objective of the session was to provide an overview of customary tenure systems and its importance; share information on experiences to secure CTS and identify challenges, opportunities and ways forward.

The session began with a presentation setting the scene by Mr Paolo Groppo, Territorial Development Officer (FAO), focused on CTS<sup>7</sup>. The presentation highlighted that CTS are historical institutional arrangements, sometimes known as ‘indigenous’ or ‘traditional law’ that have shown a high capacity of adaptation/resilience to different cultural and spatial conditions. It was pointed out that with more than two billion people worldwide accessing resources through customary tenure regimes, it is fundamental to look into opportunities and best practices to protect these systems. In the past, many countries considered that with “modernization” customary tenure systems could be erased and replaced with statutory systems based on titled private property. Experience has shown that this is not realistic (at least in the short term) and not desirable since customary tenure systems have attributes and strengths that respond to real needs in many countries. For instance, customary governance systems are currently fulfilling a gap in state administration; in many countries, the customary leaders are the only ‘local authorities’ that the rural poor living in remote areas have genuine access to. While state institutions have little presence or are absent, many traditional leaders may fulfill the roles of community administrator, judge, land allocator and property registrar. The presentation also pointed out the importance of customary land management practices for environmental conservation, and FAO experiences promoting the recognition of CTS in different countries. The links between customary tenure systems, access to land and food security have also been explored. The introductory presentation concluded stressing the importance of finding alternatives to secure customary tenure systems, especially in the context of large scale land based investments.

This was followed by presentations on good practices recognizing, supporting, and securing customary tenure systems in different countries throughout the region. A summary of each presentation is provided below:

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<sup>7</sup> Customary tenure may be defined as the local rules, institutions and practices governing land, fisheries and forests that have, over time and use, gained social legitimacy and become embedded in the fabric of a society. Although customary rules are not often written down, they may enjoy widespread social sanction and may be generally adhered to by members of a local population (FAO. 2016. *Responsible governance of tenure and the law: A technical guide for lawyers and other legal service providers*. Rome.)

- *Securing Customary Tenure Systems: Towards a Communitised Resource Governance Regime* by C.R. Bijoy, Campaign for Survival and Dignity: The presentation started with a brief on customary tenure systems, which was followed by India's experience recognizing customary systems on its legislation. Namely, the statutory recognition on customary rights of forest dwellers was accomplished through provisions in the India's Forest Rights Act of 2006. Such experience, the presentation stressed, was a remarkable attempt to decolonize and democratize forest governance, ending a colonial legacy of exclusion of forest dwellers. This experience highlighted the importance of harmonization of customary and statutory legal systems for the effective protection of the basic rights of those living under customary tenure systems, frequently the most poor and vulnerable in rural areas.
  
- *Supporting Customary Tenure security in the Mekong region* by Jeremy Ironside, Mekong Region Land Governance project (SDC/GIZ): The presentation was based on a study on customary tenure systems in Cambodia, Laos, Myanmar and Viet Nam. It pointed out that these systems are fundamental, as the great variety and diversity of customary tenure arrangements in those countries allows for multiple livelihood strategies for the rural poor. The presentation stressed, however, that the lack of recognition of customary rights has led to widespread conflicts between communities and private large scale land investors. To overcome these issues, recommendations were made including: i) decentralization of land institutions and legal empowerment of rural communities; iii) establishment of grievance mechanisms in case of land disputes; iv) multi-stakeholder dialogue on swidden agriculture and customary individual/communal land registration. This experience has emphasized the need of immediate and concrete actions to address the issues of scarce recognition and protection of CTS, to avoid further land conflicts and the aggravation of food insecurity among the rural poor.
  
- *Recognizing Customary Tenure in India* by Ramesh Sharma, Ekta Parishad: The presentation started with a historical analysis on the evolution of land related legislation since the colonial period, stressing that CTS were overlooked and negatively impacted by colonial policy. Such issues have not been immediately addressed after the end of the British mandate. Indigenous peoples' groups and social movements employed efforts to raise awareness about these issues and voiced their concerns in relation to the lack of recognition of their customary rights. Finally, from the 90's legislation started being passed taking into account the socially legitimized land tenure rights of those groups. This experience stressed the importance of alliances and the positive role that social cohesion, awareness raising and advocacy can play to foster the recognition of CTS.

A question and answer period followed the presentations to allow expansion and explanation on the presented topics and themes. Session two continued with another poster session, this time focusing on the strengths and weaknesses, challenges and opportunities, gaps and needs, policies, actors, and key actions required regarding customary tenure. Country groups then presented their perspectives to the rest of the meeting participants, who were given the opportunity to further explore ideas during a question and answer period.

The main points emerged during the working groups and plenary discussions included:

<b>Key challenges identified:</b>	<b>Key actions to move forward:</b>
<ul style="list-style-type: none"><li>• Lack of recognition of customary tenure</li><li>• Most rural land is unregistered</li><li>• Commoditization of land putting customary tenure systems at risk</li><li>• Insufficient legislation on CTS (and when existent scarce implementation)</li><li>• Legal and police frameworks not always harmonized (e.g. land, forest, water)</li><li>• Weak institutional frameworks and lack of institutional coordination</li><li>• Limitations of budget, human resources and technical expertise among land institutions</li><li>• Isolation of rural people in remote areas</li><li>• Land conflicts involving State actors and ethnic minorities</li></ul>	<ul style="list-style-type: none"><li>• Statutory recognition of customary tenure</li><li>• Awareness raising about existent legislation (also among public sector)</li><li>• Overall land registration at country level/participatory mapping</li><li>• Registration of land under customary tenure systems</li><li>• Legal empowerment of communities</li><li>• Capacity building on land management for improved livelihoods among communities</li><li>• Allocation of budget and expert support</li><li>• Establishment of grievance mechanisms for the case of land disputes</li></ul>

### **Session 3: Fostering Responsible Agricultural Land-Based Investment (day 2)**

The objective of the session was to identify issues related to agricultural land-based investments, and explore opportunities to overcome these issues through the exchange of information on good practices and tools, with a special focus on VGGT and CFS-RAI.

Session three began with a presentation setting the scene by Ms Louisa Jansen, Land Tenure Officer (FAO), on how to safeguard tenure in the promotion of responsible (land-based) agricultural investments in line with principles of the VGGT. The presentation stressed that responsible governance of tenure is at the heart of addressing the challenges and opportunities associated with responsible (land-based) agricultural investments. In this context, principles encompassed in the VGGT and CFS-RAI can guide and contribute to investment policies established by governments; and also provide investors with good practices to be considered while preparing their investment plans. The presentation also pointed out that investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights. Such investments should be made working in partnership with relevant levels of government and local holders of tenure rights to land, fisheries and forests, respecting their legitimate tenure rights.

This was followed by presentations on CFS-RAI and gender issues in the context of investments. A summary of each presentation is provided below:

- *Principles for Responsible Investments in Agriculture and Food Systems* by Michael Riggs, FAO: The presentation started providing background information on the formulation process of CFS-RAI. It was explained that an open ended working group developed the CFS-RAI, which were lately approved by the CFS in October 2014. Its objective is to promote responsible investment in agriculture and food systems that contribute to food security and nutrition, thus supporting the progressive realization of the right to adequate food in the context of national food security. The CFS-RAI ten principles aim at built on and add value to existing initiatives and can be applied to all

kind agriculture investments, addressing all stakeholders that are involved in, may benefit or be affected by the investments. In relation to land governance, principle 5 establishes that investments should “respect tenure of land, fisheries, and forests, and access to water”. The presentation also informed about current FAO activities related to the CFS-RAI including outreach and advocacy. Specifically, highlights of a recent high level workshop targeted to governments<sup>8</sup>, aimed to discuss the challenges and ways to translate the CFS-RAI into action, have been shared. The workshop was carried out at FAO headquarters in December 2016 and attended by approximately 50 countries. One of the core messages of the workshop was that land is central for the work that is done on responsible investment in agriculture and food systems. In this regard, the protection of customary rights should be kept in mind.

- *Gender Implications of Land Based Investments: insights from the field* by Clara Park, FAO: The presentation started providing background information on gender issues, including data and statistics about women’s representation in agricultural labor force and issues related to it. For instance, despite the fact that women represent 50% of agricultural labor force in East and Southeast Asia, they continue to face serious discrimination in many areas including access to assets, inputs, technology and decision making. That hinders the achievement of reduction of hunger and poverty. Drawing lessons from experiences in Laos and in the Philippines, the presentation pointed out that gender inequality can be exacerbated by large scale land investments if specific attention is not placed on gender differentiated benefits, opportunities and impacts during the planning phase. The presentation concluded that investments can be ‘responsible’ thru consultation, participation and respect of land rights of affected communities, and by addressing gender issues since its initial stages.

Participants had another round of discussions focusing on the best practices and case examples of agricultural investment in the region.

#### **Session 4: Crossing Borders: Exchanging Country Experiences and Lessons Learned for Improved Land Governance in the Asia-Pacific Region (day 3)**

The objective of the session was to identify case examples and best practices on land governance, customary tenure, and responsible agricultural investment by countries in the Asia-Pacific region; share and discuss how these examples can be replicated among the countries in the region to foster mutually beneficial relationships.

Country participants divided into the same groups in order to map out instances of good practices, projects, and programs identified in the three previous sessions. Countries were asked to identify specific examples of good land governance, protection of customary tenure and responsible investment on a blank country map. Following the identification process, countries presented examples they considered were the most appropriate to the rest of the workshop. Countries then discussed the replicability and scale-up potential of many of the case examples during an extended question and answer session. The filled countries’ map can be found in the workshop’s webpage.

Before moving forward into the last session, a final presentation was given by Jawad Peikar, Chief Executive Officer of the Afghanistan Independent Land Authority (Arazi), and a summary of key points is provided below:

- The presentation provided an overview on the historic and current institutional developments in Afghanistan’s land sector. It was stressed that the current land policy developed by Arazi aims at

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<sup>8</sup> Similar events will be carried out targeting private sector and CSOs.

providing access to land for different groups (including individuals and communities with customary tenure systems), ensuring land tenure security for all. At the same time, the Afghan's land policy encourages the optimal use of land resources and promotes the efficiency of land markets as a way to improve productivity and alleviate poverty. This experience highlighted the importance of political will for effective land administration. The presentation argued that incentive packages can be used to foster this political will. For instance, government technical departments can influence decision makers at higher levels arguing the importance of recognizing customary tenure not only as a matter of social justice, but as a way to encourage economic development, since clearly defined land rights are indispensable to attract and promote responsible land based investment.

## Session 5: Identifying Priority Actions and Next Steps to Improve Land Governance in the Asia-Pacific Region

The objective of this final session was to identify priority actions and next steps to address land governance challenges in the AP region in the context of the three thematic areas. Participants split into six groups, with government and CSO stakeholders divided by regional country groupings. The groups were then asked to identify the main priority areas and actions/activities for each of the three thematic areas discussed over the course of the workshop. In addition, the participant groups were asked to provide their overall recommendations at both policy and operational levels. Each group then presented their priority areas and next steps to the other workshop participants. This was followed by another extended question and answer period, where participants agreed on a synthesis of priority actions and areas to foster improved land governance at country and regional level.

The main findings are listed below:

<b>Session 01 – Strengthening Land Governance in the Asia-Pacific Region</b>
<b>PRIORITY AREAS</b>
<p><b>LEGAL AND POLICY FRAMEWORKS</b></p> <ul style="list-style-type: none"> <li>- Clear land related legislation and policies</li> <li>- Legal reforms</li> <li>- Implementation</li> </ul> <p><b>INSTITUTIONAL STRENGTHENING</b></p> <ul style="list-style-type: none"> <li>- Independent land institutions and democratization of land governance</li> <li>- Institutional development</li> </ul> <p><b>RECORDS OF TENURE RIGHTS</b></p> <ul style="list-style-type: none"> <li>- Land registration (to improve security of tenure rights)</li> <li>- Update of land information systems</li> </ul> <p><b>CAPACITY DEVELOPMENT AND PARTNERSHIPS</b></p> <ul style="list-style-type: none"> <li>- Capacity building especially at base level</li> <li>- Straightening community based organizations</li> </ul>
<b>NEEDED ACTION</b>
<ul style="list-style-type: none"> <li>- Review, amend and align land legislation and policies, and promote its implementation</li> <li>- Promote multi-stakeholder dialogue on land policy and legislation</li> <li>- Foster decentralization and communities participation on decisions related to their land</li> <li>- Implement systematic land registration</li> <li>- Accelerate registration of indigenous peoples/ rural communities land rights</li> <li>- Gender mainstreaming in the registration process</li> <li>- Develop sound capacity development plans</li> <li>- Promote capacity building activities to all stakeholders</li> </ul>

- Strengthening engagements with ASEAN (advocate creation of ASEAN Land Commission)
- Foster the establishment of networks and platforms

## Session 02 – Securing Customary Tenure Systems

### PRIORITY AREAS

#### RECOGNITION AND RESPECT TO CUSTOMARY TENURE RIGHT HOLDERS AND THEIR RIGHTS

- Recognition of customary tenure systems and related rights/legal recognition
- Recognition of customary land management
- Accountability (duty bearers) in relation to land issues

#### RECORDS OF TENURE RIGHTS

- Cadastral mapping of indigenous peoples/ rural communities lands

#### CAPACITY DEVELOPMENT

- Community strengthening and empowerment
- Legal education for local authorities, communities, CSOs and private sector

### NEEDED ACTION

- Enact and/or further review law and regulations to ensure statutory recognition of customary rights; promote its implementation
- Implement community driven based approaches for recognition of CTS
- Promote cadastral surveying and land registration/ participatory mapping of indigenous peoples/ rural communities lands
- Create mechanism for government support to community institutions
- Foster awareness raising activities on CTS (e.g. community theatre/legal education)
- CSO training in local languages
- Documentation (studies, research) of customary law and practices
- Promote the engagement with ASEAN Human Rights Commission

## Session 03 – Encouraging Responsible Agricultural Investment

### PRIORITY AREAS

#### INVESTMENT'S LEGAL AND POLICY FRAMEWORKS

- Adequate government regulations for investments
- Investments aligned with land use policies
- Prior and informed consent of those affected by the investment
- Transparency
- Mutual benefits for investors and affected communities

#### RESPECT CUSTOMARY TENURE RIGHT HOLDERS AND THEIR RIGHTS

- Recognition and protection of customary tenure systems in the context of land based investments

#### MARKETS AND INPUTS

- Facilitated access to finance, credit, inputs and technology
- Market for agriculture products

#### AWARENESS RAISING AND PARTNERSHIPS

- Raise awareness about responsible investment practices
- Strengthen relationships/partnership between different stakeholders (e.g. public, private, farmers and media)

### NEEDED ACTION

- Develop land use planning prior to investments

- Develop investment policy
- Review and amend law and regulations related to investments (ensure its implementation)
- Assess investment's environmental and social costs
- Support the development of value chain
- Showcase examples of transparency in practices related to investment
- Promote partnerships

In terms of overall recommendations, participants also indicated that the VGGT, CFS-RAI and other instruments such as the UN Guiding Principles on Business and Human Rights can have a pivotal role while addressing the issues identified above. It is important that these materials are translated in in local languages and used by the different stakeholders including Governments, individuals and communities, CSOs, investors and tenure professionals. They can be used to provide space for inclusive discussions, assess reality on the ground, assess laws and systems, to develop new strategies, to find guidance or direction when the laws and practices of a country are not clear, to advocate and educate on tenure rights, to define processes for developing responsible governance and to monitor and evaluate the improvement of governance of tenure.

Participants also suggested that further country level multi-stakeholder workshops are organized to raise awareness and build capacities on the VGGT and CFS-RAI.

#### **IV. Conclusions and next steps**

As it was said by one participant, “*customary tenure rights and large scale land investments are the two sides of the same coin*”. During the three-day’ workshop the links between these two subjects emerged recurrently. While countries strive to promote economic development through different means, including large scale land based investments, indigenous peoples, individuals and rural communities with customary tenure systems may be negatively affected by these investments if they lose their land and ultimately, their livelihoods. If carried out responsibly, investments can generate tangible benefits for the investors, the host countries and affected communities. However, through experiences shared during the workshop, it became clear that some of the practices currently in place are not ideal and, in many cases, have been leading to land disputes. As discussed during the workshop, weak land governance is at the core of this issue. As it was pointed out during the discussions, in different countries legal and policy frameworks may be limited or inadequate, and even when comprehensive frameworks are in place, implementation is often a challenge. Limited institutional capacities and inadequate systems (such as registration, cadaster and licensing systems) to record individual and collective legitimate tenure rights are also considerable matters to be addressed. Finally, the lack of awareness and information on land rights/legal and policy frameworks, not only among rights holders but also officials (local levels), was pointed out by participants as a key challenge.

Throughout the workshop, many positive examples of good practices to tackle these problems have been shared by the participants. Country experiences on policy and legal reforms demonstrated that despite the inherent difficulties of dealing with complex and sensitive issues such as land tenure and governance, there are good experiences in the region that can be replicated. Participants have agreed that to overcome these challenges, land governance needs to be strengthened throughout the region. Main priority areas and needed actions have been identified for that purpose, and are available in the boxes under Session 5. Some examples that emerged frequently throughout the workshop on technical improvements to governance included efforts for land registration, establishment of land use planning and enhancement of management of customary lands by, for instance, improving record-keeping.

Participants indicated that instruments like the VGGT and CFS-RAI can provide useful information and guidance on actions and policy reforms to improve the governance of land and natural resources. It was

suggested that multi-stakeholder national level workshops are organized to provide more detailed and country tailored information about them. Such workshops would also be an opportunity to foster the collaboration and dialogue among different stakeholders (e.g. government, civil society, private sector and academia).

The participants agreed that projects and programs, to continue brainstorming and planning concrete activities to tackle the current land governance issues, would be of interest to most countries. Furthermore, the inputs from the regional consultation (list of priority areas and needed action) will inform the drafting of FAO's work plan on land tenure and responsible governance in the AP region.

## Annex 1: Programme

### PROGRAMME

**Dates:** 14-16 December (3 days)

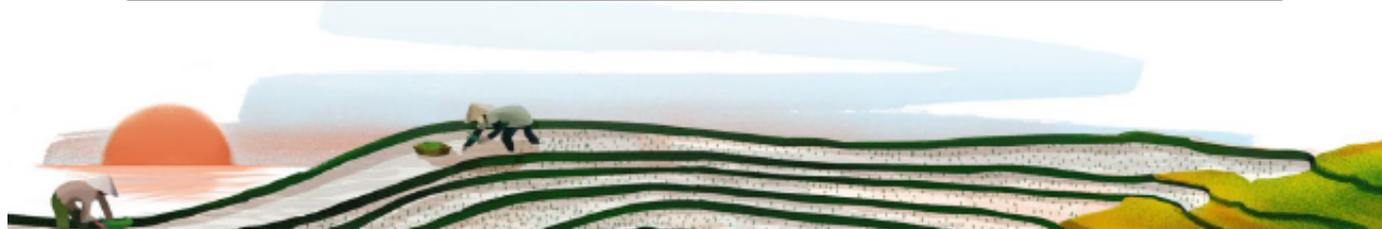
**Venue:** Anantara Sathorn Hotel - Bangkok, Thailand

Time	Session	Lead
<b>DAY 1 - MONDAY 14 DECEMBER</b>		
08:00-09:00	Registration	
09:00-09:15	Welcome Remarks	FAO
09:15-09:45	<b>Introduction</b> <ul style="list-style-type: none"> <li>Participant introductions and expectations</li> <li>Meeting objectives and agenda</li> </ul>	Facilitator
9:45-10:15	<i>Group photo</i> <i>Coffee Break</i>	
<u><b>SESSION 1: LAND GOVERNANCE IN ASIA AND PACIFIC - CHALLENGES AND OPPORTUNITIES</b></u>  <u><b>OBJECTIVES: IDENTIFY ISSUES RELATED TO LAND GOVERNANCE IN THE AP REGION, AND EXPLORE OPPORTUNITIES TO OVERCOME THESE ISSUES THROUGH THE EXCHANGE OF INFORMATION ON EXPERIENCES AND GOOD PRACTICES WITH A SPECIAL FOCUS ON THE VGGT.</b></u>		
10:15-10:25	<b>Setting the Scene – Introductory Presentation</b> <ul style="list-style-type: none"> <li>Enhancing land governance for equitable access to land, sustainable rural development and food security</li> </ul>	Marianna Bicchieri, FAO
10:25-11:25	<b>Working Groups</b> Participants will split into country groups to identify challenges and opportunities related to land governance at country level	All participants
11:25-12:00	<b>Working groups presentations</b>	All participants
12:00-13:00	<i>Lunch</i>	
13:00-14:00	<b>Working groups presentations (continuation)</b>  <b>Questions and Answers (Q&amp;A) and discussion</b>	All participants
14:00-15:30	<b>Addressing Land Governance issues</b> <ul style="list-style-type: none"> <li>VGGT: From Principles to Action</li> <li>Myanmar: Use of the VGGT in a Policy Development Process (CSO perspective)</li> <li>Philippines: Using the VGGT to Improved Land Governance (Government perspective)</li> </ul> <b>Q&amp;A and discussion</b>	Marianna Bicchieri, FAO  U Shwe Thein, Land Core Group  Atty. Emelyne V. Talabis, Director Land Management Bureau

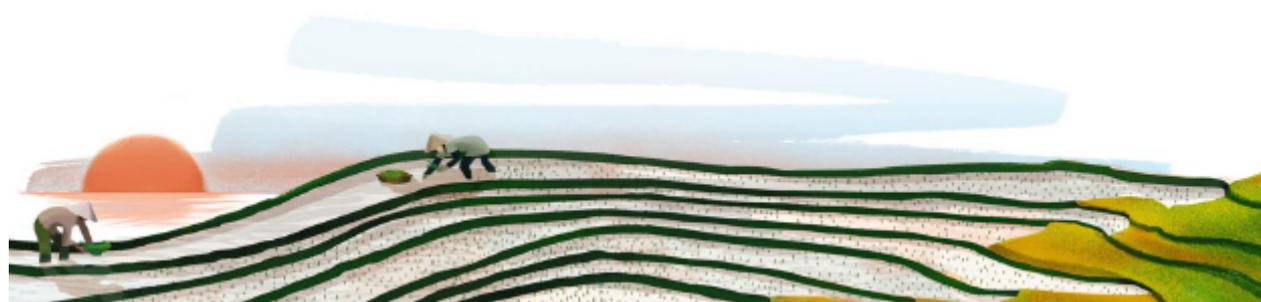


15:30-16:00	Coffee Break	
16:00-17:10	<p><b>Addressing Land Governance issues</b> (continuation)</p> <ul style="list-style-type: none"> <li>Chiang Mai University: Building Knowledge for Improved Land Governance (Academic perspective) <ul style="list-style-type: none"> <li>Mekong Land Research Forum</li> <li>Political Economy of Land Governance in the Mekong Region</li> </ul> </li> <li>South-South Cooperation: A framework to exchange experiences and lessons learned for improved land governance</li> </ul> <p>Q&amp;A and discussion</p>	<p>Dr Chayan Vaddhanaphuti and Daniel Hayward, Chiang Mai University Professor Philip Hirsch, University of Sydney</p> <p>Aziz Arya, FAO</p>
17:10-17:30	Recap and closing	Facilitator
18.00-20.00	Cocktail reception hosted by FAORAP	

Time	Session	Lead
<b>DAY 2 - TUESDAY 15 DECEMBER</b>		
09:00-09:15	Recap of day 1	Facilitator
<p><u><a href="#">SESSION 2: SECURING CUSTOMARY TENURE SYSTEMS</a></u></p> <p><u><a href="#">OBJECTIVES: PROVIDE AN OVERVIEW OF CUSTOMARY TENURE SYSTEMS (CTS) AND ITS IMPORTANCE; SHARE INFORMATION ON EXPERIENCES TO SECURE CTS AND IDENTIFY CHALLENGES, OPPORTUNITIES AND WAYS FORWARD.</a></u></p>		
09:15-09:30	<p><b>Setting the Scene – Introductory Presentation</b></p> <ul style="list-style-type: none"> <li>Securing customary tenure systems and supporting traditional governance of communal lands and resources for equitable and sustainable economic development</li> </ul>	Paolo Groppo, FAO
09:30-10:20	<p><b>Customary Tenure Systems: good practices, challenges and opportunities</b></p> <ul style="list-style-type: none"> <li>Recognizing Customary Tenure in India</li> <li>Supporting Customary Tenure security in the Mekong region</li> <li>Securing Customary Tenure Systems: Towards a Communitised Resource Governance Regime</li> </ul> <p>Q&amp;A and discussion (following coffee break)</p>	<p>Ramesh Sharma, Ekta Panishad</p> <p>Jeromy Ironside, MRLG</p> <p>C.R. Bijoy, Campaign for Survival and Dignity</p>



10:20-10:50	Coffee Break	
10:50-11:30	Q&A and discussion	All participants
11:30-12:30	<b>Working groups</b>  Participants will split into country groups to work on 1) key challenges related to recognition of customary tenure; 2) priority actions to promote tenure security regarding customary systems	All participants
12:30-13:30	Lunch	
13:30-15:15	<b>Working groups presentations</b>  Q&A and discussion	All participants
15:15-15:45	Coffee Break	
<b><u>SESSION 3: FOSTERING RESPONSIBLE AGRICULTURAL LAND-BASED INVESTMENT</u></b>  <b><u>OBJECTIVES: IDENTIFY ISSUES RELATED TO AGRICULTURAL LAND-BASED INVESTMENTS, AND EXPLORE OPPORTUNITIES TO OVERCOME THESE ISSUES THROUGH THE EXCHANGE OF INFORMATION ON GOOD PRACTICES AND TOOLS, WITH A SPECIAL FOCUS ON VGGT AND RAI.</u></b>		
15:45-16:00	<b>Setting the Scene – Introductory Presentation</b> <ul style="list-style-type: none"> <li>• Creating and enabling environment for responsible investment in agriculture</li> </ul>	Louisa Jansen, FAO
16:00-17:20	<b>Fostering Responsible Agricultural Investment</b> <ul style="list-style-type: none"> <li>• Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI): Potentialities and Good Practices</li> <li>• Gender implications of large scale land investments: Insights from the Philippines and Laos</li> </ul> Q&A and discussion	Michael Riggs, FAO  Clara Park, FAO
17:20-17:30	Recap and closing	Facilitator



Time	Session	Lead
<b>DAY 3 - WEDNESDAY 16 DECEMBER</b>		
09:00-09:15	Recap of day 2	Facilitator
<p><b><u>SESSION 4: CROSSING BORDERS: EXCHANGING COUNTRY EXPERIENCES AND LESSONS LEARNED FOR IMPROVED LAND GOVERNANCE IN THE ASIA-PACIFIC REGION</u></b></p> <p><b><u>OBJECTIVES: IDENTIFY CASE EXAMPLES AND BEST PRACTICES ON LAND GOVERNANCE, CUSTOMARY TENURE, AND RESPONSIBLE AGRICULTURAL INVESTMENT BY COUNTRIES IN THE ASIA-PACIFIC REGION; SHARE AND DISCUSS HOW THESE EXAMPLES CAN BE REPLICATED AMONG THE COUNTRIES IN THE REGION TO FOSTER MUTUALLY BENEFICIAL RELATIONSHIPS.</u></b></p>		
9:15-10:15	<b>Working groups</b> Participants will split into country groups and map out instances of good practices / projects / programmes identified in their countries related to each thematic area from the previous sessions.	All participants
10:15-10:45	<i>Coffee Break</i>	
10:45-12:00	<b>Working groups presentations</b>  <b>Q&amp;A and discussion</b>	All participants
12:00-13:00	<i>Lunch</i>	
<p><b><u>SESSION 5: IDENTIFYING PRIORITY ACTION AND NEXT STEPS TO IMPROVE LAND GOVERNANCE IN THE ASIA AND PACIFIC REGION</u></b></p> <p><b><u>OBJECTIVES: IDENTIFY PRIORITY ACTIONS AND NEXT STEPS TO ADDRESS LAND GOVERNANCE CHALLENGES IN THE AP REGION IN THE CONTEXT OF THE THREE THEMATIC AREAS.</u></b></p>		
13:00-14:00	<b>Working groups</b>  Participants will be split into groups to work on 1) identification of priority actions and next steps to address land governance challenges in the AP region in the context of the three thematic areas.	All participants
14:00-15:00	<b>Working groups presentations</b>  <b>Q&amp;A and discussion</b>	All participants
15:00-15:30	<b>Synthesis of priority actions/area</b>	Facilitator
15:30-15:45	<b>Closing remarks</b>	



## Annex 2: Concept note

### Regional Multi-Stakeholder Consultation on Land Governance<sup>9</sup> in the Asia-Pacific Region Bangkok, 14-16 December 2015

#### Background:

Access to land is fundamental for the food security and well-being of rural people who rely on agriculture for their livelihoods. Securing rights over this key resource is a fundamental condition of household food security and equitable economic development. Secure land tenure also provides a valuable safety net as a source of shelter, food and income, especially in times of hardship.

Unfortunately, in many countries in Asia, these rights are in fact not so secure. Weak governance, inadequate regulatory frameworks and limited institutional capacity are some of the major factors leading to inequity, evictions, conflicts and ultimately food insecurity. At the same time, national and increasing numbers of foreign large-scale land investments are on the rise. If carried out responsibly, these investments can contribute to food and energy security of both home and host countries and generate other tangible benefits for communities. However, some forms of large-scale investment carry risks for host countries. In countries where local land rights are not clearly defined and governance is weak, large-scale land acquisition raises particularly high risks for local communities. The reaction to this trend by Governments, the private sector, academia and civil society organizations and groups has been varied, moving between the extremes of seeing it as a major threat to the lives and livelihoods of rural people, to seeing it as an economic opportunity for rural poor worldwide.

In this context of challenges, it is critical to discuss alternatives and furnish ways to improve land governance, promoting a different model of rural development, in which economic development challenges are met while human rights are respected. How can we promote successful land investments and business models while continuing to foster the socio-economic advancement of the most disadvantaged people in rural and peri-urban areas? How can different instruments, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of Food Security (VGGT) and the Principles for Responsible Investment in Agriculture and Food Systems (RAI), both endorsed by the Committee on World Food Security (CFS) in 2012 and 2014 respectively, be utilized in the Asia-Pacific region?

In order to provide in-depth and systematic discussions leading to deeper, meaningful and productive debates around land-related issues, FAO is organizing a 3-day **Consultation/expert meeting**, with the overall aim of promoting the exchange of knowledge on land governance, highlighting new challenges and opportunities to foster improved land governance in the Asia-Pacific region. FAO is fostering international cooperation with interested countries and organizations throughout the region and beyond on this important topic. As a neutral specialized UN organization, FAO is appropriately

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<sup>9</sup> The following definition for land governance is proposed: *“Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed.”* (...) Land governance encompasses statutory, customary and religious institutions, as well as informal institutions. It includes state structures such as land agencies, courts, and ministries and municipalities responsible for land. It also includes informal land developers and traditional bodies. It covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution. In short, it includes all relevant institutions from the state, civil society and private sectors. Land governance is fundamentally about power and the political economy of land. (<http://www.fao.org/3/a-ak999e.pdf>)

positioned to successfully bring all stakeholders together in the quest for improving the governance of tenure.

### **Objectives:**

The specific objectives of the Consultation are to foster the exchange of knowledge and experiences among member countries in Asia and the Pacific on land governance issues, and to discuss and identify priority areas for action that can support improved governance of land.

### **Targeted audience:**

*Influence and technical understanding:* Aiming at promoting analysis and action, a balance shall be sought between political and technical levels, providing a sound basis of technically knowledgeable people and those who have the political influence to foster change.

*Stakeholder group distribution:* The participants will be representatives from governmental institutions at national and local levels dealing with land issues, and members of civil society organizations (75%). Representatives of academia, private sector and development agencies will also be invited (25%).

### **Targeted countries:**

Afghanistan, Cambodia, India, Indonesia, Laos, Myanmar, Mongolia, Philippines, Thailand, Timor-Leste and Vietnam

### **Outputs:**

1) Thematic panels with related supporting documents prepared, presented and shared in three main areas:

*a. Land Governance in Asia and Pacific - Challenges and Opportunities*

*b. Securing customary tenure systems*

*c. Fostering responsible agricultural land-based investment*

2) Knowledge and experiences sharing among participating countries fostered.

3) Key constraints and issues identified and discussed.

4) Set of priority actions for improved land governance identified and agreed.

5) Meeting report outlining the outcomes and recommendations produced.

## Annex 3: List of participants



### Regional Multi-Stakeholder Consultation on Land Governance in the Asia-Pacific Region Bangkok, 14-16 December 2015

#### Participants List

Country	Institution/Organization	Name	E-mail	Sector
Afghanistan	Afghanistan Independent Land Authority (Arazi)	Mr. Jawad Peikar, Chief Executive Officer	<a href="mailto:jawad.peikar@arazi.gov.af">jawad.peikar@arazi.gov.af</a>	GOV
	Afghanistan Independent Land Authority (Arazi)	Mr. Abdul Hamid Arya, Director (Chief of Staff)	<a href="mailto:abdulhameed.aria@arazi.gov.af">abdulhameed.aria@arazi.gov.af</a>	GOV
	Afghan Land Consulting Organization (ALCO)	Mr. Ziaullah Astana, Executive Director	<a href="mailto:zia.astana@afghan-land.org">zia.astana@afghan-land.org</a>	CSO/NGO
Cambodia	Ministry of Land Management, Urban Planning and Construction	H.E. Sar Sovann, Secretary of State	<a href="mailto:sar.sovann.66@gmail.com">sar.sovann.66@gmail.com</a>	GOV
	Ministry of Land Management, Urban Planning and Construction	Mr. Bunna Te, Deputy Bureau Chief	<a href="mailto:bunna_te10@yahoo.com">bunna_te10@yahoo.com</a>	GOV
	Ministry of Environment	H. E. Mey Boutwithya, Secretary of State	<a href="mailto:mengkheang.khin@gmail.com">mengkheang.khin@gmail.com</a>	GOV
	Ministry of Environment	Mr. Khin Mengkheang, Director	<a href="mailto:mengkheang.khin@gmail.com">mengkheang.khin@gmail.com</a>	GOV
	Minister of Ministry of Agriculture, Forestry and Fisheries - Department of Agricultural Land Resource Management, General Directorate of Agriculture	Mr. Tim Thon, Chief of Agricultural Soil Survey and Classification Office	<a href="mailto:tim_thon@yahoo.com">tim_thon@yahoo.com</a>	GOV
	Cambodia Indigenous Youth Association	Mr. Lay Chantha	<a href="mailto:laychanthaciva@gmail.com">laychanthaciva@gmail.com</a>	CSO/NGO

Cambodia	The McKnight Foundation	Mr. Jeremy Ironside	<a href="mailto:ironsidejeremy@gmail.com">ironsidejeremy@gmail.com</a>	CSO/NGO
	Star Kampuchea	Mr. Sor Sontheary	<a href="mailto:sorsontheary@gmail.com">sorsontheary@gmail.com</a>	CSO/NGO
India	Campaign for Survival and Dignity	Mr. C.R. Bijoy	<a href="mailto:cr.bijoy@gmail.com">cr.bijoy@gmail.com</a>	CSO/NGO
	ANGNA (Adivasi Navjeevan Gathan Navjyoti Agua)	Mr. Remish Ekka, Secretary cum Executive Director	<a href="mailto:remish@rediffmail.com">remish@rediffmail.com</a>	CSO/NGO
	Ekta Parishad	Mr. Ramesh Chandra Sharma	<a href="mailto:ektaparishad@gmail.com">ektaparishad@gmail.com</a>	CSO/NGO
Indonesia	National Land Agency (BPN)	Mr. Sudarman Harjasaputra, Head of Survey, Measure and Mapping Section	<a href="mailto:shariasaputra@gmail.com">shariasaputra@gmail.com</a>	GOV
	National Land Agency (BPN)	Mr. Rochmad Darmawan, Head of Inventory and Land Reform Basic Data	<a href="mailto:rochmatd@gmail.com">rochmatd@gmail.com</a>	GOV
	Ministry of Agriculture - Land Extension of Agriculture, Estate Farming and Livestock	Ms. Geloria Merry Karolina	<a href="mailto:gmginting@gmail.com">gmginting@gmail.com</a>	GOV
	Ministry of Agriculture – Directorate of Expansion and Land Management	Ms. Andi Halu Hamid	<a href="mailto:kerjasama.psp@gmail.com">kerjasama.psp@gmail.com</a>	GOV
	International Land Coalition (ILC) - Asia Regional Coordination Unit	Mr. Erpan Faryadi	<a href="mailto:e.faryadi@landcoalition.info">e.faryadi@landcoalition.info</a>	CSO/NGO
Laos	Ministry of Natural Resources and Environment - Department of Land Management	Mr. Keuankeo Chanthala, Deputy Director of Survey Division	<a href="mailto:kkea_cha@hotmail.com">kkea_cha@hotmail.com</a>	GOV
	Global Association for People and the Environment (GAPE)	Mr. Darren J. Daley	<a href="mailto:darrenjdaley@gmail.com">darrenjdaley@gmail.com</a>	CSO/NGO
	Mekong Region Land Governance (MRLG)	Ms. Marita Cisneros	<a href="mailto:maritacisneros.mrlg@gmail.com">maritacisneros.mrlg@gmail.com</a>	CSO/NGO

Mongolia	Governmental Implementation Agency of Mongolia – Administration of Land Affairs, Geodesy and Cartography	Mr. Khurelshagai Ayurzana, Director General	<a href="mailto:khurelshagai@gazar.gov.mn">khurelshagai@gazar.gov.mn</a>	GOV
	Ministry of Food and Agriculture - Department of Policy & Planning	Ms. Altantsetseg Balgan, Senior Expert	<a href="mailto:altaa_2002@yahoo.com">altaa_2002@yahoo.com</a>	GOV
	Mongolian Alliance of Nomadic and Indigenous Peoples (MANIP)	Mr. Atai Ayatkhaan, Chairman	<a href="mailto:atai_undp@yahoo.com">atai_undp@yahoo.com</a>	CSO/NGO
	FAO Mongolia	Mr. Hijaba Ykhanbai	<a href="mailto:Ykhanbai.Hijaba@fao.org">Ykhanbai.Hijaba@fao.org</a>	UN
Myanmar	Ministry of Agriculture and Irrigation - Department of Land Management and Statistics	Mr. Kyaw Thet	<a href="mailto:kokyawthetagri02@gmail.com">kokyawthetagri02@gmail.com</a>	GOV
	Ministry of Environmental Conservation and Forestry – Forest Department - Planning and Statistics Division	Mr. Than Naing Win, Staff Officer	<a href="mailto:tnwin39@gmail.com">tnwin39@gmail.com</a>	GOV
	Land Core Group	Mr. U Shwe Thein	<a href="mailto:usthein@gmail.com">usthein@gmail.com</a>	CSO/NGO
	Land Core Group	Mr. Glenn Hunt	<a href="mailto:fswg.lcglandadviser@gmail.com">fswg.lcglandadviser@gmail.com</a>	CSO/NGO
Philippines	Department of Environment and Natural Resources - Land Management Bureau	Ms. Maria Gina Pascua	<a href="mailto:geena2k1@yahoo.com">geena2k1@yahoo.com</a>	GOV
	Department of Environment and Natural Resources - Land Management Bureau	Atty. (Ms.) Emelyne Villanueva-Talabis, Director	<a href="mailto:emvvtalabis@yahoo.com.ph">emvvtalabis@yahoo.com.ph</a>	GOV
	Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)	Fr. (Mr.) Francis Lucas, Chair Emeritus	<a href="mailto:angoc@angoc.org">angoc@angoc.org</a> <a href="mailto:fblucas49@gmail.com">fblucas49@gmail.com</a>	CSO/NGO

Timor-Leste	Ministry of Justice – National Directorate of Land, Property and Cadastre Services	Mr. Rodrigo De Mendonça, National Director of Land and Property Timor	<a href="mailto:rodrigo.mendonca@mj.gov.tl">rodrigo.mendonca@mj.gov.tl</a>	GOV
	Ministry of Agriculture and Fisheries - National Directorate of Forestry and Nature Conservation	Mr. Pascoal Barros do Carmo, Head of Department for Forest Protection and Forest Awareness	<a href="mailto:pascoaldbc@yahoo.com">pascoaldbc@yahoo.com</a>	GOV
Thailand	Ministry of Agriculture and Cooperatives - Land Reform Office (ALRO)	Ms. Samorn Soseepa, Foreign Relation Officer	<a href="mailto:samorn.oseepa@gmail.com">samorn.oseepa@gmail.com</a>	GOV
	Ministry of Agriculture and Cooperatives - Land Reform Office (ALRO)	Ms. Prae-ravee K-hasuwan, Land Reform Technical Officer	<a href="mailto:alro@alro.go.th">alro@alro.go.th</a>	GOV
	Oxfam	Mr. Pongsagorn Satjipanon, Private Sector Specialist	<a href="mailto:psatiipanon@oxfam.org.uk">psatiipanon@oxfam.org.uk</a>	CSO/NGO
	Oxfam	Mr. Komkrit Onsrithong, Advocacy Coordinator	<a href="mailto:KOnsrithong@oxfam.org.uk">KOnsrithong@oxfam.org.uk</a>	CSO/NGO
	RECOFTC - The Center for People and Forests	Ms. Alessandra Deguio	<a href="mailto:alessandra.deguio@recoftc.org">alessandra.deguio@recoftc.org</a>	CSO/NGO
	RECOFTC - The Center for People and Forests	Ms. Ratchada Arpornsilp	<a href="mailto:ratchada.arpornsilp@recoftc.org">ratchada.arpornsilp@recoftc.org</a>	CSO/NGO
	UNDP	Ms. Uyanga Gankhuyag	<a href="mailto:uyanga.gankhuyag@undp.org">uyanga.gankhuyag@undp.org</a>	UN
	Chiang Mai University	Dr. (Ms.) Tubtim Tubtim	<a href="mailto:2tubtim@gmail.com">2tubtim@gmail.com</a>	Academia
	University of Sidney	Prof. (Mr.) Philip Hirsch	<a href="mailto:philip.hirsch@sydney.edu.au">philip.hirsch@sydney.edu.au</a>	Academia
Chiang Mai University	Mr. Daniel Hayward	<a href="mailto:duventrekken@yahoo.co.uk">duventrekken@yahoo.co.uk</a>	Academia	
Viet Nam	Ministry of Natural Resources and Environment - General Department of Land Administration	Mr. Le Van Lich, Deputy Director General	<a href="mailto:lichtnmt@yahoo.com">lichtnmt@yahoo.com</a>	GOV

Viet Nam	Ministry of Natural Resources and Environment - General Department of Land Administration – Department of International Cooperation, Science and Technology	Mr. Luu Van Nang, Deputy Director	<a href="mailto:lvnang@gdla.gov.vn">lvnang@gdla.gov.vn</a>	GOV
	FORLAND	Mr. Le Van Lan, Coordinator	<a href="mailto:lanlv@crdvietaam.org">lanlv@crdvietaam.org</a>	CSO/NGO
	RECOFTC - The Center for People and Forests	Mr. Luong Quang Hung	<a href="mailto:hung.luong@recoftc.org">hung.luong@recoftc.org</a>	CSO/NGO
FAO	FAO Regional Office for Asia and the Pacific	Mr. Adam Gerrand, Forest Officer UN REDD	<a href="mailto:Adam.Gerrand@fao.org">Adam.Gerrand@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Mr. Aziz Arya, South-South Cooperation Officer	<a href="mailto:Aziz.Arya@fao.org">Aziz.Arya@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Mr. Ben Vickers	<a href="mailto:Ben.Vickers@fao.org">Ben.Vickers@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Ms. Clara Park, Gender Officer	<a href="mailto:Clara.Park@fao.org">Clara.Park@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Ms. Kaori Abe, Partnership Officer	<a href="mailto:Kaori.Abe@fao.org">Kaori.Abe@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Ms. Marianna Bicchieri, Land Tenure Officer	<a href="mailto:Marianna.Bicchieri@fao.org">Marianna.Bicchieri@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Mr. Matthew Leete	<a href="mailto:Matthew.Leete@fao.org">Matthew.Leete@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Mr. Patri Aung	<a href="mailto:Jhongsathit.Aungvitayatorn@fao.org">Jhongsathit.Aungvitayatorn@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Ms. Soojin Kim, Junior Professional Officer	<a href="mailto:Soojin.Kim@fao.org">Soojin.Kim@fao.org</a>	UN
	FAO Regional Office for Asia and the Pacific	Ms. Yoshiko Ishihara, Investment Support Officer	<a href="mailto:Yoshiko.Ishihara@fao.org">Yoshiko.Ishihara@fao.org</a>	UN
FAO	FAO Headquarters	Ms. Louisa Jansen, Land Tenure Officer	<a href="mailto:Louisa.Jansen@fao.org">Louisa.Jansen@fao.org</a>	UN
	FAO Headquarters	Mr. Michael Riggs, Capacity Development Officer	<a href="mailto:Michael.Riggs@fao.org">Michael.Riggs@fao.org</a>	UN
	FAO Headquarters	Mr. Paolo Groppo, Territorial Development Officer	<a href="mailto:Paolo.Groppo@fao.org">Paolo.Groppo@fao.org</a>	UN

\*FAO Secretariat: Marianna Bicchieri, Matthew Leete and Jhongsathit Aungvitayatorn

**Annex 4: Workshop group photo**

