Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

Relevance for sustainable bioenergy
THE CHALLENGE

Increasing competition for land and natural resources

- Increasing demand for land, fisheries and forests
- Decreasing supply of land, fisheries and forests
- Lack of financial and human capacity in the administration and management of resources
- Inefficient / not adopted approaches and technologies in the administration and management of resources
- Bureaucratic and political corruption in the administration and management of resources

Unsecure access to land and other natural resources

Resource degradation, hunger, poverty...
VOLUNTARY GUIDELINES ON THE

Responsible Governance of Tenure
OF LAND, FISHERIES AND FORESTS IN
THE CONTEXT OF NATIONAL FOOD SECURITY

The first global soft law instrument on tenure

Negotiated by governments, with participation of civil society and private sector
• Voluntary
• Set out principles and practices
• Do not replace laws and treaties
• Do not reduce existing obligations
General principles

- **RECOGNIZE AND RESPECT** legitimate holders of tenure rights, and their rights.

- **SAFEGUARD** legitimate tenure rights against threats.

- **PROMOTE AND FACILITATE** the enjoyment of legitimate tenure rights.

- **PROVIDE** access to justice to deal with infringements.

- **PREVENT** tenure disputes, conflicts, and opportunities for corruption.
Principles of implementation

- Human dignity
- Non-discrimination
- Equity and justice
- Gender equality
- Holistic and sustainable approach
- Consultation and participation
- Rule of law
- Transparency
- Accountability
- Continuous improvement
Guidance which applies to all sections

**Part 1: Preliminary**
Sets the direction:
- Objectives.
- Nature and scope.

**Part 2: General Matters**
Provides overall guidance:
- Guiding principles.
- Tenure rights.
- Policy, legal and organizational frameworks.
- Delivery of services.
Part 3: Legal recognition and allocation of tenure rights

- Safeguards.
- Public lands, fisheries and forests.
- Indigenous peoples and others with customary tenure.
- Informal tenure.

Part 4: Transfers and other changes to tenure rights

- Markets.
- Investments.
- Readjustments.
- Restitution.
- Redistributive reforms.
- Expropriation.
Part 5: Administration of tenure

- Records of tenure rights.
- Valuation.
- Taxation.
- Regulated spatial planning.
- Resolution of disputes.
- Transboundary matters.
Part 6: Responses to climate change and emergencies

- Climate change.
- Natural disasters.
- Conflicts.

Part 7: Promotion, implementation, monitoring and evaluation
Preliminary

1. Objectives

1.1 These Voluntary Guidelines seek to improve governance of tenure of land*, fisheries and forests. They seek to do so for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development. All programmes, policies and technical assistance to improve governance of tenure through the implementation of these Guidelines should be consistent with States’ existing obligations under international law, including the Universal Declaration of Human Rights and other international human rights instruments.

1.2 These Guidelines seek to:

1. improve tenure governance by providing guidance and information on internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests.

2. contribute to the improvement and development of the policy, legal and organizational frameworks regulating the range of tenure rights that exist over these resources.

3. enhance the transparency and improve the functioning of tenure systems.

4. strengthen the capacities and operations of implementing agencies, judicial authorities, local governments, organizations of farmers and small-scale producers, of fishers, and of forest users: pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

* There is no international definition of land within the context of tenure. The meaning of the word may be defined within the national context.
15 consultation meetings 2009-10

1000 people from 133 countries
Public sector, civil society, private sector and academia
Initial drafting
2011

Comments received from public and private sectors, civil society, and academia

Zero Draft → E-consultation → First Draft

Assessments from the consultations
3 rounds of negotiations 2011-12

98 countries represented in intergovernmental negotiations. Participation of civil society and the private sector.
Executive Summary
At its 38th (Special) Session, the Committee endorsed the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), which was the only substantive item on the agenda.

Suggested action by the Council and the Conference
The Council and the Conference are requested to acknowledge the decisions and recommendations of the Committee.
Milestone achievement

- Globally relevant, appropriate and accepted text
- Dialogue between global, regional and national actors
- Awareness raising, capacity development, advocacy
- Networks and partnerships
- Momentum

The Guidelines on Responsible Governance of Tenure are now the framework within which tenure challenges are being addressed
Endorsed by the FAO Council as a priority, the Guidelines have already achieved further global recognition.
• Paragraph 3.2
  General principles for non-state actors including business enterprises

• Section 12
  Tenure related provisions for state and non-state actors on responsible investments

• 3B6 and 9.9
  Recommendations on consultation and participation

• 3B
  Principles of implementation such as human dignity, non-discrimination, equity and justice, rule of law, transparency and accountability
• respect human rights and legitimate tenure rights when getting involved in any form of transaction in tenure rights
• ensure transparency on tenure issues and provide comprehensive information,
• assess potential impacts on legitimate tenure rights and their holders,
• work in partnership with relevant levels of government and local holders of tenure rights,
• monitor the impacts of transactions in tenure rights,
• provide remedy where it has caused or contributed to adverse impacts on human rights and legitimate tenure rights.
Reasons for private business to ensure responsible access to land and land use:

• Minimizing risks and preventing conflicts with previous land users and the local community which can delay projects or even result in abounding them;

• Promoting its good reputation, improving its reputation or avoiding negative reputation;

• Applying corporate social responsibility.
Questions:

1. What kind of mechanism should be used to mainstream the Guideline’s application, e.g.  
   - Benchmarking / Rating System  
   - Voluntary Standard Systems / Certification Systems  
   - Transparency Initiative  
   - other

2. Should this be a new and independent mechanism or should the Guideline’s mainstreaming be linked to existing mechanisms? Which mechanisms could be used?  
   [Example: Global Compact, Voluntary Business Principles for Sustainable Agriculture]
MAINSTREAMING THE APPLICATION OF THE GUIDELINES

Possible reporting areas:

1. Required assessments
   
   *(VG-Tenure paragraphs 3.2 and 12.10):*
   
   - Environmental and Social Impact Assessment,
   - Tenure assessment to prevent and address adverse impacts on legitimate tenure rights

2. Documentation of meaningful participation of tenure right holders in decision-making
   
   *(VG-Tenure paragraphs 3B6, 9.9, 12.4 and 12.8)*

3. Contractual information
   
   *(VG-Tenure paragraphs 12.3 and 12.11)*

4. Performance Monitoring / Reporting
   
   *(VG-Tenure paragraph 12.14)*

5. Conflicts and Remedy
   
   *(VG-Tenure paragraph 3.2)*
MORE INFORMATION

VG Newsletter
Subscribe at: VG-tenure@fao.org

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www.fao.org/nr/tenure
THANK YOU!

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security
Role & Responsibilities of Private Sector

Relevant sections within the Guidelines for private sector:

Paragraph 3.2:
“Non-state actors including private enterprises have a responsibility to respect human rights and legitimate tenure rights…
They should include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights…
Business enterprises should provide remedy…
Business enterprises should identify and assess any actual or potential impacts on human rights and legitimate tenure rights…”
Section 12 on Investments (extracts):
• “All forms of transactions in tenure rights should be done transparently.”
• “Investments should be made working in partnership with relevant levels of government and local holders of tenure rights.”
• “States should strive to make provisions for different parties to conduct prior independent assessments on the potential positive and negative impacts that those investments could have on tenure rights…”
• “Contracting parties should provide comprehensive information.”
• “States and affected parties should contribute to the effective monitoring of the implementation and impacts of agreements involving large-scale transactions in tenure rights.”