



Evaluation of the regional consultation of Francophone Africa

Voluntary guidelines on the responsible governance of tenure of land and other natural resources

Ouagadougou, 23-25 June 2010

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This regional evaluation is based on discussions and outputs of the consultation meeting of Francophone Africa on the *Voluntary guidelines on the responsible governance of tenure of land and other natural resources* that was held in Ouagadougou, Burkina Faso on 23-25 June 2010. The opinions expressed in this evaluation are those of the participants at the consultation meeting and do not necessarily reflect those of FAO.

GENERAL INTRODUCTION

- **Process of FAO formulation of voluntary guidelines**
- **Organization of the regional consultations**
- **Principal financial partners of the initiative**
 - International Fund for Agricultural Development (IFAD)
 - Ministry of Economic Cooperation and Development, Germany
 - Ministry of Foreign Affairs, Finland
- **Institutions that organized the regional consultation for West and Central Africa (Francophone countries) and Madagascar**
 - Groupe de Recherche et d'Action sur le Foncier (GRAF: *Group for Research and Action on Land Tenure*)
 - SNV- Burkina Faso (Netherlands)
 - Groupe de Recherche et d'Échanges Technologiques (GRET: *Group for Research and Technology Exchanges*)
 - FAO
- **Other bodies which contributed to the organization of the consultation**
 - Ministry of Foreign and European Affairs – France
 - Conseil Supérieur du Notariat, France (*Supreme Council of Notaries*)
- **Participants: 70 participants from 15 countries of the region (Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Gabon, Guinea, Ivory Coast, Madagascar, Mali, Mauritania, Niger, Democratic Republic of Congo, Senegal) and 26 international participants**
 - Representatives from central and local government
 - Civil society organizations
 - Representatives from farmer associations
 - University researchers
 - Land management professionals
 - Representatives from African regional institutions
 - Representatives from international institutions and organizations

1. GOVERNANCE OF TENURE OF LAND AND OTHER NATURAL RESOURCES: THE REGIONAL CONTEXT

1.1. The main factors affecting land tenure

The evolution of land tenure in general, and of the governance of land, in particular, depends principally on three sets of factors: population, the evolution of the natural environment and the economic situation.

In comparison to other regions of the world, the countries of the region have continued to experience demographic growth. Between 1960 and 2010, the total population of the continent increased by a factor of 3.6. In West, Central and East Africa it increased fourfold during the same period. Population growth intensifies pressure on land. It leads to permanent and seasonal intra-regional migratory movement that can sometimes be extensive (pastoralism and labour migration). If combined with reduced availability of land, population growth can exacerbate land-related conflicts, which in turn generate forced migration and the displacement of people.

Extending from the arid zones of the Sahel to the forestlands of Central Africa, the region is characterized by a broad diversity of the natural environment and environmental change. However, it

does show two noticeable trends: a gradual depletion of natural resources, especially soil (fragility, overexploitation, erosion) and a reduction in water resources, especially in West Africa.

In rural areas, pressure on land hastens its scarcity in a pattern that is very similar in the different countries of the region: the growth in rural population aggravates land shortage in a context of already limited land resources. The resulting poverty prevents the use of sustainable land management methods, which further aggravates land degradation and scarcity.

The nature and scale of climate change, whose impact is beginning to be felt (higher temperatures and changes in rainfall), bring an array of uncertainties to bear, especially in the already fragile agricultural zones of sub-Saharan countries.

Finally, the changing global, national and local economic situation which is primarily directed towards economic liberalization throughout the region impacts on land governance. This potentially strong driver for development is not without its dangers. It heightens pressure on land. It attracts investment but can also aggravate land insecurity. It can promote higher standards of living but is characterized by broad inequalities in land access and distribution of resulting wealth.

1.2. Land tenure has an essential social and economic function

In rural areas, land is the cornerstone of agricultural production and a reason why natural resources are depleted. It is also an economic and symbolic heritage that has to be safeguarded or expanded and passed on to future generations. It forges identities, underpins village communities and socio-political status and is the basis for the distribution of rights and associated obligations.

In many regions with high agricultural potential, rural land is a prime target for national and foreign investment, which has an impact on local social and economic balances.

In urban and periurban areas, land is a requisite for capital works, for investment in real estate and for housing, industry and services. A change in status from agricultural land to construction land represents a major rupture in the function and value of land. Land tenure therefore plays a key role in the development strategies of enterprises and financial institutions (security of investment, access to mortgage loans), but also in the savings and investment strategies of high-income groups: investing savings in land is a coherent strategy in countries that have no outlets for small savings and where access to bank credit is difficult.

For States, land has a central regulatory economic function. In urban areas in particular, States view land as a favoured and often inexpensive means of rewarding social groups or political supporters. It therefore represents an important means of control, regulation and social integration. It also permits a levy on income, which makes property tax one of the most stable, if not best exploited, sources of public finance.

1.3. Plurality of systems, tenure regimes and land markets

All the countries of the region, without exception, have a diversity of land tenure and legal pluralism. Customary or communal land management practices prevail in rural areas. Irregular/informal land occupation is very high in urban areas (30 percent to 90 percent of the urban population). In such a context, the recognition and registration of land rights consolidates the unequal value of titles and raises a series of problems for land governance. These are compounded by problems relating to the sometimes conflictive coexistence of agriculture and pastoralism.

1.4. Rapid urbanization of the African population and urban land pressure

The rapid urbanization of West and Central Africa will continue over the next two decades, reaching 56 percent in 2030. Urbanization exerts heavy pressure on demand for land in periurban areas. The

fragility of land governance institutions and regulations generates a spread of irregular/informal settlements and urban sprawl.

Proportion of urban and rural population and rate of growth of urban population 2010-2030

Countries	Total population (thousands)		Urban pop (%)		Rural pop (%)		Growth rate of urban population (%)		
	2010	2030	2010	2030	2010	2030	2000-2010	2010-2020	2020-2030
Africa	1 032 013	1 518 310	39.9	50.0	60.1	60.1	1.1	1.1	1.1
Sub-Saharan Africa	866 948	1 308 461	37.3	48.2	62.7	51.8	1.3	1.3	1.3
East Africa	309 279	480 806	24.6	34.8	75.4	65.2	1.5	1.6	1.8
Southern Africa	139 142	181 605	47.1	57.9	52.9	42.1	1.1	1.1	1.0
West and Central Africa	415 163	641 105	44.1	56.1	55.9	43.9	1.4	1.3	1.1

Source: UN-Habitat, 2008, pp. 170-172

1.5. Land management, land administration and policy framework for land governance

All the countries of the region have experienced a rise in social and political tensions relating to access to rural and urban land. This is accompanied by frequent land insecurity for farmers and urban land users, who do not have land titles recognized by the public authorities. Land insecurity discourages many private operators in the formal sector from investing.

Armed conflicts often lead to populations losing their land rights, following their forced displacement and expropriation, problems relating to the return of refugees, and failure to acknowledge pre-conflict rights.

The countries of the region have a relatively inefficient land administration, characterized by the absence or the incomplete nature of land information, and the failure to update any information that exists. There is also a general absence or inadequacy of land information systems (identification of assets, persons and rights). The procedures for the allocation and registration of land rights are lengthy and complex.

All the countries of the region are engaged in the decentralization of land administration, but its implementation is incomplete and slow. It is often hampered by retention of the principle of public domainality. This principle can be viewed as a means of regulating land management, but it often hampers the development of land and property markets and serves as an instrument of politicization through bias in land allocation.

Recent trends show a growing opening-up of rural land markets to foreign investors (large-scale acquisition of land) and attempts – differing according to town and country – to formalize or control customary tenure and a growing role of civil society in the control and monitoring of public land policy.

Finally, political and/or trade and monetary integration regional organizations are tending to play more prominent roles. All have an impact on the management of land and natural resources: West African Economic and Monetary Union (WAEMU) ; Central African Economic and Monetary Community (CEMAC) ; Permanent Interstate Committee for Drought Control in the Sahel (CILSS); coordination of regional development policies: Sahel and West Africa Club/OECD; Economic Community of West African States (ECOWAS); Economic Community of Central African States (CEEAC); in addition, the African Union, the Organization of African States and the Economic Commission for Africa participate in the formulation of land policy (Land Policy Initiative - LPI). There are also interstate agreements aiming to control migratory flow.

2. OBSERVATIONS AND QUESTIONS

The five following topics (2.1 to 2.5) were addressed at the regional consultation

2.1. Land administration, taxation and markets; diversity of tools; role of land-related professions

Land tenure management is a prerogative of the State, which must put in place mechanisms to ensure the security of acquired rights and mechanisms to consolidate the contribution of land to the national economy. These political, institutional and economic mechanisms constitute land governance. However, land tenure management faces a number of problems which are inherent to land administration and to the mechanisms such administration puts in place.

With regard to *land administration*, the participants noticed a dispersion of responsibilities among several ministries, but they also raised the problems that would be posed by transferring all land responsibilities to a single line ministry. A unitary perception of the land issue is in fact not necessarily appropriate in a regional context of broad diversity.

The following questions were raised: How capable are administrations of delivering land services to the populations? How to bring about integrated land management? How to provide the administrations with necessary resources and how to train their staff ? How to ensure that public records are up-to-date and land institutions abreast of developments?

Land taxation should not impede the formalization of rights nor the application of a land security procedure. Overtaxation risks driving whole sections of the land market into the informal sector, which would heighten land insecurity.

How to help a government determine a reasonable level of taxation and the type of contribution? Is it not more effective to introduce a low annual property tax than to opt for a level of taxation that will discourage transactions?

The regulation of *land markets* raises a host of largely interconnected issues: How to exercise freedom to dispose of land when the State has not issued a title? Should the State renounce the principle of presumption of public domainality? On what conditions? Should a land market be promoted where it does not exist? How to prevent certain groups from taking advantage of asymmetrical information to acquire land under excessively favourable terms? The unchallengeable nature of a land title can obstruct the market; for example land titled to settlers many decades ago can still be unavailable because there is no juridical instrument; in other circumstances, the terms of adjudication of certain land titles are blotted with irregularities. How to regularize such situations?

Discussions on *land security instruments* centred on three questions: Should instruments simpler than land titles be promoted (e.g. the land certificate in Madagascar)? What conditions should such simplified titles meet to satisfy land security requirements? Which administrations should be entrusted with issuing such documents?

The consultation participants addressed issues relating to *land-related professions* on the basis of the following questions: What should be the priority developments for land-related professions? How to get these professions (surveyors, notaries) to work in synergy among themselves and with the administrations? How to determine which professions are necessary according to each category of land need? What requisites must these professions meet to perform their social function and not constitute an obstacle to the land security process? What training should be given to actors responsible for implementing participatory procedures or conducting land mediation? Should the status of land market intermediaries, such as estate agents, be regulated?

2.2. Management and rights concerning common natural resources (forests, fisheries, water, pasture), access and rights of herders, fishers and users of forest products

Land tenure management can have a significant impact on equitable access to natural resources, especially for the most vulnerable populations. It is therefore essential that the authorities take the interests of these populations into account when determining policy, legal and institutional frameworks. The proliferation of large-scale acquisitions substantially compromises the security of land access of the most vulnerable members of society.

Management and rights concerning common natural resources raise a series of *administrative, institutional and legislative problems*. Some are due to the absence or inadequacy of land policies, to the absence of land-use plans/blueprints, and to the weakness of the agencies charged with overseeing, monitoring and analysing the resources. The situation is aggravated by the fact that States are unaware of the extent and actual composition of their public and private domains, and by the ineffectiveness of forest legislation.

Further compounding the incoherence and abundance of legal texts is the mushrooming of institutions responsible for natural resources and the absence of a subregional structure to monitor and control community provisions. The situation is exacerbated by the inadequate human, material and financial resources allocated to structures responsible for the management of common resources.

These problems have an impact on *conditions of access to resources*. The population's widespread ignorance of legal texts and their unawareness of opportunities made available by the law facilitate the unequal treatment given by administrations to different resource users (corruption, favouritism) and the incoherent issue of licences to exploit the natural resources (hunting, fishing, forests, mining, ...). There are also problems of access of non-residents to forest, fishery and pasture resources, as well as water. Competition of several producers over the same area is frequent, often exacerbated by locally prevailing forms of land tenure and by the complex status of water and its association with land tenure (restricted right to sink boreholes, fish, access livestock watering wells and water bodies).

The environmental consequences of such a situation are manifold: degradation of the environment due to uncontrolled urbanization; grabbing of water resources by minority groups and difficulties relating to dwindling water supply, obstruction, fencing and fragilization of pastoral land, and the confirmed and accelerating degradation of natural resources.

2.3. Access of specific social groups to land and natural resources: women, young people and indigenous groups

The *specific problems for women* stem mainly from the existence of unequal customary and religious rules and/or practices, to the inappropriate or absent enforcement of the legal and regulatory framework, to its often unequal nature and to the weakness of institutions. The cultural inhibition of women and their level of education often restrict their access to information while their low economic and/or financial capacity limit their ability to assert their rights. Such a situation raises the issue of formally securing women's rights and ensuring their meaningful participation in the design of policies, programmes and legislation relating to land tenure. It also raises the issue of schooling for girls.

The *specific problems for young people* regarding access to land and natural resources often take the form of conflict between generations. These problems are inherent in the failure to recognize the land rights of young people, who are in fact often been kept in the dark or misinformed about their land rights. The central issue here is the effective participation of young people in land and natural resource management and in land-use planning that takes the needs of future generations into account.

The problems for *indigenous and minority peoples* relate to the failure to recognize their rights to land and natural resources and to the discrimination they receive from neighbouring peoples. The difficulties of integration are aggravated by an absence of schooling. The destruction of their living habitat (resulting from forestry and mining) erodes their cultural identity, livelihoods, knowledge and know-how. They are marginalized from the process of forest concessions planning.

This situation suggests the potential importance of the State considering the condition of indigenous and minority peoples, recognizing their specific rights, notably by applying international conventions on the rights of indigenous and minority peoples, and adapting their education to their way of life.

2.4. Urban and periurban land: urban planning and development and related land policy

In all the towns and cities of the region, the rapid growth of the urban population (average annual population growth rate of 1.4% between 2000 and 2010 in West and Central Africa, 1.1% in Madagascar) and the liberalization of property markets have caused land prices to soar. The context of limited cash-backed demand for urban land has fuelled the expansion irregular/informal settlements. The legal and regulatory framework, land tenure policies, land-use planning policies and administrative practices only serve to cover a proportion of land requirements for housing.

There is strong interconnectivity between *informal occupancy, security of land tenure and land markets*. Dwelling areas in urban and periurban settings are notably irregular/informal. Land has also been allocated by administrations on a precarious and revocable basis. Most urban inhabitants do not therefore enjoy formal security of land tenure. Land insecurity is a factor behind social instability. The plurality of tenure systems and occupancy regimes is reflected in the existence of multiple land markets (irregular, customary, informal, public). Each operates according to its own rules and price systems. Land insecurity is also an impediment to investment.

The *legal, regulatory and institutional framework* is not suited to the needs of land management. In most of the countries of the region, the principle of public domainality hampers the development of land markets. The reluctance of central administrations to transfer land-related responsibilities to local authorities exacerbates inequalities in land access. The situation is aggravated by an absence of synergy between administrations responsible for land management and by administrative inertia in applying legislative and regulatory texts relating to land management and administration.

Land, land-use planning and management policies do not respond to needs for formal recognition of land tenure. Urban development and planning instruments are nonexistent or largely ineffective and the populations are not involved in their design or implementation. Urban planning documents do not reflect the needs of cities whose population lives overwhelmingly in informal settlements. Nor are they even-handed in their consideration of the environmental constraints. Finally, policies for large-scale land regulation and restructuring have so far failed to materialize.

Administrative procedures relating to the recognition and registration of rights are long, complex and costly. Procedures for the settlement of disputes are inappropriate. Administrative practices reveal a politicization of land management (allocation of land for political purposes or favouritism) and the frequent corruption of officials, fostered by their impunity: malpractice in the sale and allocation of land, falsification of documents, concealment of information, dual allocation of land.

Land taxation, which could be used to support urban land tenure regularization and integration policies, is often inappropriate, either because insufficient or nonexistent or, on the contrary, by reason of acting like a disincentive.

2.5. Agricultural investment, medium- and large-scale land acquisition and land policy

When compared to other regions, sub-Saharan Africa attracts the highest demand of foreign investors for agricultural land. Some 190 massive projects involving the purchase of agricultural land by foreign investors were identified in 2010, essentially for cash, food and biofuel crops. In French-speaking West and Central Africa, the preferred countries are Mali, Benin, Republic of Congo and Madagascar. Investors are attracted by countries whose agriculture sector is largely unmechanized and where local land rights are poorly recognized.

This trend – in response to world demand for agricultural products – raises concerns over the absence of transparency in land allocation procedures, their impact on local smallholders (privatization of land, erosion of communities), their capacity to generate wealth and employment at national and local levels, and the risks of market distortion which a concentration of capital in agribusiness could accentuate. It could prove detrimental to the development of sustainable smallholder farming directed towards local and domestic markets, and could accelerate the destruction of ecosystems and the climate crisis.

It also raises a series of questions: can investment in agriculture be carried out by the farmers themselves, by national or foreign enterprises, or by the State? What are the priority areas for investment in the agricultural sector? How to align land policy with other sectoral policies, especially agricultural policy and land-use planning policy? How to align land policy with the development and diversification of agricultural production systems? What impact does investment in agricultural land have on regional and national land policies? What land strategies and policies help promote investment in the agricultural sector, without compromising the interests of family farms? How can States allocate agricultural land under terms and conditions that take into account the national interest and the needs of present and future generations?

3. ACTIONS PROPOSED BY THE PARTICIPANTS AT THE REGIONAL CONSULTATION

The actions proposed apply to measures likely to be implemented at regional and national levels in West and Central Africa (Francophone zone) and Madagascar.

3.1. Land administration, taxation and markets; diversity of instruments; roles of land-related professions

Actions relating to *land administration and taxation* should aim primarily to apportion some of the tax revenue to the functioning and capacity-building of administrations charged with issuing land tenure instruments in order to ensure the continuity of land security systems. This objective requires a taxation regime that does not discourage users from seeking to formalize their land rights, as well as mechanisms that guarantee transparency in the collection and use of land taxes and registration fees. Periodic publication of activity reports by the land administration should help ensure such transparency of information.

It is also important that taxpayers see the potential benefits of paying their land and property taxes.

Regulation of the land markets is considered a priority in the fight against speculation. Taxation can play a role here (taxation on idle land).

Land regularization programmes and policies need to be undertaken or relaunched. A national fund to finance land security actions could be established for that purpose. It is recommended that *land tenure instruments* be adopted and put in place to permit accessible and inexpensive recognition and registration of rights (legal documents), and legal and social validation of rights and local transparency, and that there be consistency between the different instruments of land management and administration. Land-related documentation should be kept and managed by local administrations.

The geographical location and identification of assets should be effected by means that are not costly and that do not therefore deter the implementation of large-scale land security policy.

Finally, it would seem essential to clarify or formulate a principle of adverse possession or prescription to deal with land titles that remain escheated or inactive.

Support to *land-related professions* should draw upon a staff recruitment policy that concentrates on technical and interpersonal skills, and on ongoing technical and ethical training of agents and professionals. Legal professionals (especially notaries) could assist the training of land administrative staff. The number of professionals needs to be increased and their scale of fees needs to be adapted to social demand.

3.2. Management and rights concerning common natural resources (forests, fisheries, water, pasture), access and rights of herders, fishers and users of forest products

Enhanced natural resource management requires interventions on the administrative, institutional, legislative and regulatory levels, and appropriate planning procedures.

On the legislative level, the first objective is to review legal texts on natural resource management, taking into account local practices and concerns, and ensuring their coherence. Actions should also seek to improve transparency and accountability in the issue of operating licences. They should aim to strengthen the capacity of agencies responsible for the management of common resources and that of the actors involved.

Particular attention should be paid to the *local management of natural resources*. Within the framework of decentralization policy, a *system of concerted management* of natural resources should be set up involving the different users (local consensus agreements, with legal validity). *Land-use plans* could also be developed and implemented at different levels to catalogue areas and identify their potential usage, together with country action plans to monitor the implementation of natural resource management provisions. The means to achieve these objectives must be mobilized. A general recommendation is that *impact studies* be systematically carried out and that environmental aspects be taken into account in order to achieve “sustainable” urbanization.

With regard to *information*, the priority objectives are to vitalize agencies responsible for monitoring the potential and availability of natural resources, particularly water resources, to make them more accessible for information and to involve the media in the dissemination of information on shared resources. The promotion of local citizen control could play a role in this connection. Positive discrimination measures should also be envisaged to facilitate the access of marginalized groups to natural resources.

3.3. Access of specific social groups to land and natural resources: women, young people and indigenous groups

Legislative and regulatory actions on the *status of women* should focus on the registration of women’s rights under the same conditions as the registration of men’s rights, on the application of conventions on women’s rights and on recognition of women’s customary rights to land and natural resources. Priority should be given to harmonizing and adapting legislation to sectoral natural resource management policies. Finally, land legislation should envisage the introduction of positive discrimination measures for the benefit of women (e.g. introduction of land parcel allocation quotas or registration of the names of both husband and wife on the land certificate).

On the institutional level, actions should prioritize to the integration of women in bodies responsible for the management and control of land services, capacity-building for women (especially rural women) and their organizations, and the establishment of monitoring and enforcement institutions as well as platforms of dialogue and coordination at all levels.

Actions concerning the *situation of young people* should aim to ensure their protection, to implement support projects for rural youth (agricultural projects, artisanal crafts, integration), to provide arenas for discussion and decision-making that involve the young, and to build their capacity (organization and training), mainly through incentives (tax exemptions, loans,...). The educational system should better integrate environmental concerns to raise awareness among young people. In this connection, appropriate and flexible programmes of schooling for youths and literacy for adults should be designed (study grants, boarding facilities, educational assistance).

Actions on the status of *indigenous and minority peoples* should reconcile legislation protecting their rights with legislation protecting the environment. They should seek to apply international conventions on the protection of indigenous and minority peoples (human rights, ILO conventions, ...), to protect indigenous communities through adapted legal texts (rights of access to land and natural resources) and easier access to justice, and to reinforce organizations defending indigenous peoples' rights (financial, advocacy and other capacities). Civic education programmes should be organized to inform indigenous peoples of their rights.

Indigenous and minority peoples should be assured fair and peaceful access to land and natural resources. They should be involved in major projects concerning land and natural resource use and in related decision-making processes and the resulting benefits.

3.4. Urban and periurban land, urban planning and development and related land policy

Priority actions should focus on establishing a system that aims to ensure the formal security of land tenure, by providing for a better linkage of land policies with other sectoral policies (land-use planning, decentralization) and by simplifying and easing procedures and related costs. They should also aim to develop and regulate land markets, to ensure their transparency and to curb speculative behaviour.

The formulation and implementation of land policies in urban and periurban areas should involve the different stakeholders (administrations, local authorities, civil society and populations). These policies should seek to improve methods for the settlement of land disputes and to facilitate the access of occupants without legal documentation to cities and urban services and amenities. They should also inform populations of their rights (legal and policy texts, ...).

Reform of the legal framework should highlight certain innovatory principles: redefining the principle of public domainality and restricting the principle of incontestability of land title. The right to property is recognized in the Constitution, but not the principle of incontestability of land title. This latter relates to land law. The aim here is not to undermine land titling but to permit the questioning of a title when its issue was dotted with irregularities (failure to follow due procedure, malfeasance) or when it leads to the stoppage of land-use and development projects.

The adoption of a law on co-ownership would serve to promote access to housing and ensure the densification of residential areas.

Such actions call for the reform of land administration, in particular a strengthening of the technical and financial capacity of land administrations and actors involved, and the introduction of a one-stop-shop for land affairs. The centralization of urban land data would simplify procedures, reduce costs and time, and facilitate tax collection.

Action against corruption in land management and administration should be viewed as a priority. This calls for the design and enforcement of a system of sanctions. It can be supported by the transfer of responsibilities and resources to local authorities, by citizen oversight (monitoring of policies, regulatory texts and actions on the ground), by computerizing data on land management (enumeration, vectorization,...) and by installing a land observatory to assess the impact of land reform. The

installation of a system of identification of assets, persons and rights (spatially referenced data model, land information system) can enhance the transparency of land administration.

A last set of actions should put in place land-use planning tools designed to facilitate access to housing. Emphasis should be laid on the creation of cluster communities to ensure the management of land reserves, and local land-use planning committees, involving peoples' representative organizations, and the establishment of reference and local urbanization plans, with the aim of controlling land occupancy and safeguarding the environment. The design of strategies and policies to regularize temporary/irregular settlements requires a mechanism to provide socio-economic and land-related support to populations living in those settlements and a mechanism to finance the regularization operations.

3.5. Agricultural investment, medium- and large-scale land acquisition and land policy

Actions at national or local level should aim principally at better understanding the mechanisms of medium- and large-scale land acquisition and their socio-economic consequences.

Such actions mainly comprise studies on the diversity of land rights and their vulnerability to market pressures, on processes and mechanisms of land acquisition, on the impact of introduced plant and seed varieties on local agricultural production, and on the contribution of different agricultural stakeholders to food security. This latter type of study should be carried out systematically before any decision is taken on large-scale projects of investment in agricultural land.

Another type of action should aim to strengthen the capacity of communities to enforce the principle of prior, informed and free consent.

Other actions should ensure that national or local elected bodies are informed of large-scale land acquisition projects.

4. RECOMMENDATIONS FOR THE VOLUNTARY GUIDELINES

The recommendations concern strategic and policy measures that could be integrated into the voluntary guidelines on the responsible governance of tenure of land and other natural resources.

4.1. Land administration, taxation and markets

With regard to *land administration*, States need to draw up coherent national land policies and to specify the conditions for their implementation, which should involve participatory processes that include all stakeholders.

Amendments to land legislation and/or the adoption of new land legislative provisions should reflect strategies of access to agricultural land, urban property and natural resources that have been defined at local/municipal, national or regional level. They should take into account land development and pre-existing forms of tenure. They should also consider available financial resources and the competences and capacities that are likely to be mobilized. The level of *land taxation* that title holders are willing to accept needs to be assessed through studies and public debate.

The public authorities need to recognize the *plurality of existing land rights* so that they can respond to the security needs of different actors. They also need to recognize the *diversity of land markets*, to regulate their functioning and to promote their smooth co-existence. In particular, they should take steps to limit the impact of speculative land strategies, and assure transparency and equality of access of all actors to land-related information (legislation, procedures, prices). While rural land market issues need to be differentiated from urban land market issues, the determination of land strategies must take the rural-urban continuum into account.

The *land-related professions* must receive special attention. For each type of requirement, thought will need to be given as to which professions or administrations best fulfil the mission of land security. The tasks, missions and intervention procedures of the different categories of professionals will need to be specified to avoid further complicating land administration. Platforms for information exchange and coordination between land professionals will need to be created to facilitate complementarity of their activities. The introduction of a system of monitoring, control and evaluation of such professionals and agents will help to combat corruption that exists in parts of land administration. There should be initial and then ongoing training for professionals and agents. Land professionals (notaries, surveyors) should be involved in consultations preceding land reform.

4.2. Management and rights concerning common natural resources: access and rights of herders, fishers and users of forest products

National strategies for the promotion of good governance of natural resources need to be put in place at all levels.

Local populations need to benefit from tax revenues generated by the use and conservation of natural resources, for example by establishing local development funds.

All actors, including local actors, must be involved in the process of design, implementation and monitoring of policies and legislation relating to natural resource management.

Special attention should be paid to access to strategic resources and to the issue of internal mobility within and between countries.

Positive discrimination measures should be adopted to facilitate the access of marginal groups to natural resources.

Agreements between local actors should be encouraged to ensure natural resource management.

Grazing lands should be classified within the public domain and their management entrusted to local authorities.

4.3. Access of specific social groups to land and natural resources

The State should make sure that laws and conventions guaranteeing the *access of women to land and natural resources* are observed. It must put mechanisms in place for the monitoring, evaluation and adaptation of laws on women's access to land and natural resources, facilitate and simplify access procedures, and see that social and religious rules and practices do not discriminate against women.

The State should draw up policies and programmes on land and natural resource management that take into account the needs of future generations, and implement mechanisms to encourage the participation of *young people in decision-making processes* relating to land and natural resource management.

It must ensure the enforcement of laws and conventions guaranteeing the access of *indigenous and minority populations* to land and natural resources, and put in place mechanisms for the monitoring, evaluation and adaptation of laws on the access of these populations to land and natural resources. It must also see that social and religious rules and practices do not discriminate against indigenous and minority populations.

4.4. Urban and periurban land, urban planning and development and land policy

The governance of urban and periurban land needs to be improved. Land policies applied in urban areas need to be adapted to the challenges of urban development (security of rights, access to housing, access to core services, access to basic infrastructure).

The cost and time needed to obtain administrative land occupancy authorizations and land titles must be reduced. Similarly, a simple and effective system of registration and security of land right needs to be put in place, together with a simplified rolling system of identification of assets, persons and rights that is easier to manage and update than a cadastral information system.

Urban land speculation needs to be regulated to limit the exclusion of more vulnerable populations by market mechanisms. Land-use planning programmes need to integrate urban and periurban areas. The process of formulating and implementing urban and periurban land policies needs to involve all stakeholders.

Appropriate land-use planning and development tools adapted to local realities need to be adopted, for example documents replacing the often ineffective Master Plans for Urban Planning and Development (major capital works, infrastructure plans).

The content of land reforms and the resulting rights and obligations for the different actors must be made known to the population. This requires a specific information and communication mechanism.

Finally, the means and resources needed to implement urban land policies need to be identified and mobilized (system of tax redistribution, taxation...).

4.5. Agricultural investment, medium- and large-scale land acquisition and land policy

A legal framework that guarantees the security of investment in agricultural land, both family farm investment and investment by private operator must be adopted.

It is important to make sure that such investment does not jeopardize local and national food security. It needs to be undertaken in the framework of transparent procedures. Existing communal and individual rights need to be identified, delimited and formally recognized.

The population must be informed and consulted, and must give its consent to projects of investment in agricultural land. Expropriation should not be employed to transfer land to the private sector and transfers should not take place without the “informed” consent of populations. Participatory and transparent procedures should be adopted for the acquisition of land, adhering to local laws. Multi-stakeholder initiatives for transparency in decisions on medium- and large-scale land allocation should be supported.

Transparent and inclusive mechanisms should be put in place to regulate transactions, with due consideration of land value and the assurance of effective payment.

Agricultural investment that does not necessarily entail land acquisition (for example support to contract farming) should be encouraged. Local communities must be made aware that they do not systematically have to sell their land, but can make it available under other forms of transaction, including leasing.

Land use must be preceded by participatory planning that takes the imperatives of land-use planning into account.

When titles or concessions are transferred, the transfers should be done under a specific “cahier des charges”(terms and conditions), and the investors should comply with the provisions of the “cahier des charges”.

Public investment and public policy that support smallholder farming, pastoralism and artisanal fisheries must be promoted (access to credit, infrastructure, conservation agriculture, training, markets...).

The environmental and social dimensions of medium- and large-scale investment in agricultural land must be taken into account.

THE NEXT STEPS OF THE INITIATIVE

The regional evaluation will be taken into account when evaluating the voluntary guidelines.

An initial draft will be produced at the end of 2010 for subsequent electronic consultation.

A second draft, taking into account the comments and suggestions received during the e-consultation, will be produced towards March 2010 and then submitted for a second electronic consultation.

Following this second electronic consultation, a final draft of the guidelines will be produced and submitted for adoption by an FAO governing body representing all Member States.