



fern

MAKING THE EU WORK
FOR PEOPLE & FORESTS

VGGT: what potential to engage?

**Rapid scoping of the FAO Voluntary
Guidelines on the Responsible Governance
of Tenure**

Contents

Introduction	3
Key findings of the scoping	4
1. Strengths and weakness of the Voluntary Guidelines	6
Box 1: The VGGT development process	6
Box 2: Key positive elements of VGGT guidelines	7
Box 3: Shortcomings in VGGT guidelines	10
2. The principal actors	13
3. Emerging experiences and perspectives on the VGGT	23
4. Key findings, conclusions and recommendations	32

Acknowledgements

This publication has been produced with the assistance of the European Union, and the UK Department for International Development. The contents of this publication are the sole responsibility of the author and can in no way be taken to reflect the views of the funders.

Author: Tom Griffiths

Editor: Roger East

Photo cover and page 3: Indra van Gisbergen; page 31: Emmanuelle Heuse. "Artisanal logging in Kisangani, Democratic Republic of Congo."

Design: Daan van Beek

ISBN number: 978-1-906607-76-0

June 2018



Fern office UK, 1C Fosseway Business Centre, Stratford Road, Moreton in Marsh, GL56 9NQ, UK

Fern office Brussels, Rue d'Edimbourg, 26, 1050 Brussels, Belgium

www.fern.org

Introduction

In June 2015 Fern commissioned a rapid survey of government, donor, civil society and private sector actors working on **FAO Voluntary Guidelines** on the Responsible Governance of Tenure (VGGT or Voluntary Guidelines). The survey sought the views of different organisations, individuals and activists on the usefulness of the guidelines for promoting forest tenure reform in support of secure community land rights. The work aimed to inform and update Fern policy analysis and assess the potential for application of the VGGT standard in Fern's advocacy strategies and campaigns on EU trade and forest policies as well as joint work with Fern partners in West Africa and SE Asia. The main analysis and findings are shared in this document.

The tables of documents have not been updated since 2015.



Key findings of the scoping

The VGGT standard applies general principles anchored in a human-rights based approach and contains progressive standards on community tenure, including recognition of the need for States to respect and protect customary and informal tenure systems (VGGT: Section 9). A major strength of the VGGT as a potential advocacy tool stems from its high level of legitimacy and endorsement by governments, the G7 and G8, EU, OECD, donor agencies and many civil society organisations as well as transnational agribusiness, food and drink companies. Notable limitations are the complex and sometimes optional or contradictory provisions of the VGGT, which make the standard difficult to operationalise. Other drawbacks are that the VGGT standard is not binding and existing monitoring and accountability mechanisms at the global and national levels are weak or entirely absent. Other major flaws are that the standard does not ban large-scale land acquisitions and fails to challenge the industrial land concessions model. Notwithstanding these shortcomings, **there is widespread consensus amongst many (though not all) CSOs and activists, including some IP organisations, that, on balance, the VGGT are a progressive global land tenure standard.**

This survey identifies over thirty different actors or groups actively promoting the Voluntary Guidelines, including donor organisations and international NGOs. Many actors are focusing on the development of technical guidelines to the standard, while others, including the World Bank, USAID, FAO and RRI, are developing land tenure assessment tools that apply the VGGT standard. Major efforts are also underway by international agencies and NGOs to develop land tenure 'indicators' linked to the VGGT as part of the Post 2015 Development Agenda. Local work is also being undertaken by NGOs to apply the VGGT in action research on land rights and forest policies (e.g. in Cambodia). VGGT monitoring tools are also being developed by NGOs and social organisations (e.g. in Latin America).

- Perspectives on the VGGT vary among different organisations and groups. Donors and governments tend to see the VGGT as a technical standard for enabling 'responsible' land investments and mitigating negative impacts, with only limited or indirect attention to rights and equity issues. NGOs and social movements, on the other hand, see the guidelines as an important human rights instrument that can be used to press governments and companies to respect the rights of small farmers, women, indigenous peoples and local communities that lack legal recognition and tenure security in many countries.

Feedback from international NGOs and local organisations on VGGT activities at the country and regional levels indicates that:

About VGGT guides:

- Most technical guides to the VGGT target companies and technicians and are not well-suited for community empowerment or land reform campaigners.

About VGGT processes:

- Official multistakeholder processes on land policy/VGGT have tended to be top-down technical exercises, which have not been inclusive of women and other vulnerable groups
- There is a capacity gap among both governments and CSOs on the VGGT, meaning that early FAO and donor initiatives have been focused on awareness raising and training

- Donors, governments and technical agencies have a tendency to reduce the VGGT to narrow technical approaches, i.e. checklist legal analyses that fail to address flaws in land allocation frameworks (underlying laws, policies and practices).

About interaction of VGGT with other standards or guides:

- The proliferation of guidelines and standards on land tenure (especially in Africa) is leading to some confusion among governments and CSOs: which standards should be met?
- Effective application of the rights-based VGGT is being constrained by use of technical (market-based) land policy tools like the World Bank Land Governance Assessment Framework (LGAF)
- Distorted application of the VGGT and related land policy guidelines by donor initiatives like the New Alliance is leading to perverse outcomes, whereby agribusiness interests are expanding large-scale land acquisition at the expense of local farmers, communities and the environment.

About VGGT as a tool for CSOs and communities:

- VGGT standards are proving most useful for CSOs, activists and communities in countries that are already carrying out or planning a process for national land tenure reform
- CSOs point out that while possibly use in advocacy at the local and global levels, a major drawback of the VGGT is their voluntary nature and lack of effective mechanisms for implementation or compliance
- The **VGGT are not a panacea** or silver bullet and need to be used alongside a set of other campaign tools and advocacy actions to counter land grabbing and promote reform at the law and policy level
- Most NGOs recommend a **selective use** of progressive rights-standards in the VGGT in **existing community land struggles and reform campaigns**: they caution against parallel and specific land tenure initiatives focused only the VGGT.

Certain international agencies are taking steps to address some of these criticisms. The FAO, for example, is forging strategic partnerships with NGOs to help ensure more inclusive country-level local land policy processes. Nonetheless, the need for civil society to counter technical and market-based approaches to land policy development and bias application of the VGGT remains stark. NGOs emphasise that CSOs must avoid technical initiatives, ensure that VGGT rights based principles are respected and challenge the large-scale concession model. Advocacy must promote land laws and policies that recognise and secure communal and customary tenure systems.

The review concludes that, despite serious flaws, the VGGT are on balance a progressive standard that offers potential leverage for global and national-level advocacy for forest tenure reforms. It concludes with some suggestions for strategic approaches to the VGGT.

1. Strengths and weakness of the Voluntary Guidelines

The FAO **Voluntary Guidelines on the Responsible Governance of Tenure** (VGGT) stem from an almost unprecedented best-practice process of multi-stakeholder global standard-setting, conducted in 2009-12 under the auspices of the Committee on World Food Security (CFS). Some NGO activists regard this as "...one of the most democratic institutional frameworks for global decision-making for international agreements ever";¹ with agrarian reform and gender justice organisations taking part alongside human rights and development NGOs, networks and agencies, including the UN Office of the High Commissioner for Human Rights.

Box 1: The VGGT development process²

Several NGOs who had been very active in pressing for the FAO Voluntary Guidelines on the Right to Food (adopted in 2004) began advocating for development of specific FAO guidance on land tenure governance as a necessary follow up. The initiative secured political backing from key donors amidst growing public condemnation of land grabbing and growing concerns about food security, particularly in the context of Africa. Once the FAO decided to take the process forward, civil society and NGOs made their participation conditional on agreed terms of engagement, which helped establish a good faith process for participatory standard-setting process from the outset. The development of the Voluntary Guidelines began in 2009 and ran over three years in a highly participatory process that involved governments, civil society organisations, NGOs, the private sector and academics. Multistakeholder regional consultations were held in 2009-10. The guidelines were adopted by the CFS in May 2012 and included a requirement for the CFS Secretariat to report regularly on progress in implementation to the CFS members. Development of this monitoring system was still ongoing in 2015.

1 Seufert, P (2013) "The FAO Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests" *Globalizations*, 10:1, 181-186, DOI: 10.1080/14747731.2013.764157 at page 184

2 For a detailed account of and CSO participation in the VGGT formulation process, see Duncan, J. (2015) *Global Food Security Governance: Civil society engagement in the reformed Committee on World Food Security* Routledge, London and New York

Box 2: Key positive elements of VGGT guidelines

HUMAN RIGHTS AND INTERNATIONAL OBLIGATIONS: “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.” [VGGT: 1.1]

“Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights. Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others.” [VGGT: 3.2]

GENDER EQUITY: “States should consider the particular obstacles faced by women and girls with regard to tenure and associated tenure rights, and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognise women’s tenure rights are implemented and enforced.” [VGGT: 5.4]

CUSTOMARY TENURE: “Where States own or control land, fisheries and forests, the legitimate tenure rights of individuals and communities, including where applicable those with customary tenure systems, should be recognised, respected and protected, consistent with existing obligations under national and international law... [VGGT: 8.2]

PROTECTION AGAINST FORCED EVICTION: States “should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.” [VGGT: 3A.3.1.2] “Where indigenous peoples and other communities with customary tenure systems have legitimate tenure rights to the ancestral lands on which they live, States should recognise and protect these rights. Indigenous peoples and other communities with customary tenure systems should not be forcibly evicted from such ancestral lands.” [VGGT: 9.5, emphasis added]

TRANSPARENCY: “States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems.” [VGGT: 8.9]

Strengths: Positive aspects of the Guidelines include:

- The approach based on human rights
- The recognition of the diversity of existing land and natural resource tenure systems, and specific attention to communities with customary tenure systems
- Guidance on the responsibilities of states, non-state actors and development agencies, and recognition of extra-territorial obligations of states acting through state-sponsored business enterprises overseas
- Adherence to key global human rights treaties and guidelines, and emphasis on alignment with both national **and** international law obligations
- Recommendation that due diligence include human rights and environmental impact assessments
- Emphasis on need for multistakeholder participation, transparency and community consultation
- Recognition that food security and the right to food depend on secure access to land, fisheries and forests
- Strong emphasis on women's land rights, gender equity and transparency
- Attention to access to justice, and the need for land restitution where lands have been taken in violation of tenure rights
- Inclusion of core FPIC standard for Indigenous Peoples, clear recommendation against forced evictions from ancestral lands, affirmation that all actions affecting indigenous peoples must be consistent with relevant international instruments, and attention to needs of marginalised groups with informal tenure rights
- Expectation of support for the implementation of the VGGT by all UN agencies.

Weaknesses: The Guidelines do also contain notable gaps, ambiguities and contradictions. Discussions on FPIC and on the prohibition of forced evictions were especially sensitive and “difficult”, NGO participants reported. As the intergovernmental negotiations sought consensus, certain states (notably Canada and Brazil) inserted conditional language; some were also reluctant to see the guidelines address issues such as water rights.

Key shortcomings include:

- Lack of enforceability and the voluntary nature of the guidelines
- Derogations that seek to subvert international law to national law
- Ambiguities over the weight of national versus international law
- Failure to define “legitimate tenure rights”

- Little specific attention to collective rights and rights to the commons
- Complexity, making guidelines sometimes hard to interpret
- Some vague language and provisions open to different interpretations
- VG terms and concepts often hard to translate into local languages
- Apparent bias towards the importance and primacy of state decision-making
- Repeated endorsement of state-sponsored resettlement in the public interest
- No prohibition of large land sales nor recommendation against large-scale land acquisition³
- Alternative economic models are mostly confined to smallholder/peasant land use systems FPIC is confined to IPs, with conditional language attached
- Only brief treatment of sustainable land use and environmental protection
- Minimal attention to water rights
- Weak treatment of implementation and monitoring.

Some indigenous organisations have condemned the VGGT text for its derogations in provisions on indigenous peoples that are not found in existing human rights instruments like UNDRIP. The guidelines, some conclude, may undermine certain international law standards.⁴

Process and participation issues: Although the overall process for developing the VGGT was inclusive and seen by many as best practice, NGOs who were closely involved recognise that civil society inputs were dominated by agrarian reform, peasant, gender justice and food security organisations. There was only minimal participation by forest-related NGOs. Although the International Indian Treaty Council (IITC) did engage in the VGGT's development, few indigenous peoples' organisations were closely involved. FAO is now committed to enabling their effective engagement in implementation and awareness activities, and some forest NGOs have become more involved.

3 See, Seufert, P (2013) *supra* note 2 at page 185 on problems with VGGT and CSO disappointment on the failure of the CFS to establish a recommended outright global ban land grabbing.

4 See, especially, Grand Council of the Crees (2012) *FAO Voluntary Guidelines on Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security: Discrimination and Subjugation of Indigenous Peoples and Rights, Joint Submission to Committee on World Food Security (CFS) Secretariat, FAO, 24 April 2012*

Box 3: Shortcomings in VGGT guidelines

DEFERRING TO NATIONAL LAW: In places the Voluntary Guidelines contain derogations and internal contradictions that seek to place national laws and government discretion above the rule of international law and the need to respect customary rights. Once a State has ratified or acceded to an international treaty, it must reform its domestic laws in accordance with the international instrument, not the other way round. Nevertheless, the VGGT provides that “States should ensure that policy, legal and organisational frameworks for tenure governance recognise and respect, **in accordance with national laws**, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights” [VGGT: 5.3, emphasis added]. “...categories of legitimate tenure rights should be clearly defined and publicized, through a transparent process, **and in accordance with national law.**” [VGGT: 8.2, emphasis added]

ENABLING FORCED EVICTION? “**Subject to their national law and legislation and in accordance with national context**, States should expropriate only where rights to land, fisheries or forests are required for a public purpose...” Expropriation requires more than a declaration of public purpose, but also, at a minimum, it must be reasonable and proportionate, authorized by law, and accompanied by provisions for due process, to ensure against rights violations and guarantee full and fair compensation and where appropriate, a right of return. [VGGT: 16.1, emphasis added]

DISCRETIONARY LANGUAGE: “**Where appropriate**, considering their national context, States **should consider** providing restitution for the loss of legitimate tenure rights to land, fisheries and forests...” [VGGT: 14.1, emphasis added] “...**Where possible**, legal recognition and allocation of tenure rights of individuals, families and communities should be done systematically, progressing area by area **in accordance with national priorities** [VGGT: 7.4, emphasis added]

PRIMACY GIVEN TO STATE DECISION-MAKING: “All tenure rights are limited by the rights of others and by the measures taken by States necessary for public purposes” [VGGT: 4.3] “States should determine which of the land, fisheries and forests they will retain and use, and which of these resources will be allocated for use by others and under what conditions...” [VGGT: 8.5] Ideally, even where the State is making public purpose determinations, it should do so with the aim of achieving legitimate objectives in a democratic society.

POTENTIAL LIMITS ON FPIC: “States and other parties should hold good faith consultation with indigenous peoples before initiating any project... in order to obtain their free, prior and informed consent under the United Nations Declaration of Rights of Indigenous Peoples and **with due regard for particular positions and understandings of individual States**” [VGGT: 9.9, emphasis added]

Civil society inputs and achievements: Although NGOs and social organisations called for a moratorium on large-scale land acquisitions in producer countries, an outright ban was not agreed. Notable principles were, however, included in the VGGT to protect against harmful land investments. Major CSO emphasis on the need to uphold human rights and global environmental norms and obligations was also taken on board in the VGGT implementation principles, as were recommendations such as the need to address extra-territorial human rights and the environmental obligations of the countries of origin of TNCs.

Several high-profile NGOs like Action Aid and Oxfam have thus endorsed the guidelines, while also noting their limitations.⁵

“...overall the VGGT have progressive content that was mainly secured through the Civil Society Mechanism (CSM) at the CFS. In the end, almost three quarters of CSO bottom lines were incorporated” [NGO active in VGGT process]

“The VGGT are undoubtedly an important international instrument on land tenure and a valuable human rights standard. They are a good starting point for dialogues with governments about the need for tenure reform. On the other hand, the guideline text is almost incomprehensible in places: you can read anything you want into many provisions...” [NGO active in VGGT process]

But not all NGOs consider the Voluntary Guidelines to be on balance useful. Some CSOs active in food security campaigns and land reform advocacy have chosen not to engage, and consider that this sort of international standard will in the end always benefit powerful interests at the expense of communities (see also 2.2.14):

“...International standards like the FAO guidelines on tenure are used by companies and governments to suit their own agenda. These technical instruments are too complicated for communities to use and they side-line small farmers and local people...” [NGO critical of the VGGT]

Legitimacy and momentum: As an intergovernmental agreement, the VGGT constitute official guidance on good tenure governance, and are a soft law instrument recognised by governments, donor agencies, intergovernmental bodies and a growing number of companies and TNCs.⁶ The inclusive process which led to their adoption has also given them a high level of legitimacy and “political weight” among civil society organisations. NGOs engaging with the VGGT stress that their most positive aspect is not just their content, but how they can open political space to enable farmers and other rights holders and their allies to engage with governments on land rights and tenure reform.

“Perhaps the most important thing about the guidelines is the unusual level of support for this tenure standard among governments, different donor organisations and international development NGOs.... This is the real value of the guidelines: they offer an opportunity for civil society and donors to raise land rights, food security and governance issues in national policy discussions and initiatives on land, forests and fisheries...” [NGO active in VGGT development process]

5 Action Aid, (2012) *A brief introduction to the Voluntary Guidelines on the responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security Action Aid and International Food Security Network* June 2012 http://legacy.landportal.info/sites/default/files/actionaid_voluntaryguidelines_guide.pdf

6 Munro-Faure, P and Palmer D (2012) “An overview of the voluntary guidelines on the governance of tenure” *Land Tenure Journal* 12(1) <http://www.fao.org/nr/tenure/land-tenure-journal/index.php/LTJ/article/view/48/88>

“The intergovernmental status of the guidelines means they can be invoked in country dialogues between international agencies, donors and governments. In certain African countries, the guidelines are opening up dialogue on community tenure and customary rights that would never have been considered feasible even five years ago” [International land tenure specialist, 2015]

“There appears to be a remarkable amount of buy-in to these guidelines.... NGOs and communities need to make the most of it, stressing the human rights and customary tenure elements of the standard to try and get State commitments on tenure reform...” [NGO active in VGGT implementation]

The VGGT have been endorsed by the G7 donor countries, the G8, G20, OECD, the International Bar Association, the Pan-African Parliament and Community of Latin American and Caribbean States (CELAC), and by the World Bank which in 2013 made them a reference in its own procedures and guidance to government borrowers and private sector clients. This wide level of endorsement has generated multiple actors, initiatives and programmes directly or indirectly linked to their application and implementation.

2. The principal actors

In 2015 the chair of the CFS commented that the Voluntary Guidelines have “gone viral” in international networks, research and development initiatives.⁷ Certainly it is true that numerous intergovernmental agencies, donor agencies, civil society organisations, research bodies and commercial companies have pledged to adhere to them, and in many cases taken active steps to promote them. The following section reviews the positions of the most significant of these actors.

2.1 International organisations and initiatives

The UN **Food and Agriculture Organisation** (FAO) has an active funded programme for awareness raising and training on the VGGT in member countries in Latin America, in Asia, and in Africa where this work is largely funded by the EU. It runs projects in over twenty countries, either directly or through other agencies and NGOs. Its implementation plan has five pillars: support to governments + awareness raising + partnerships (including with NGOs) + capacity building and training + monitoring.⁸

FAO VGGT-related activities include:

- Publishing technical implementation guides on different aspects of VGGT, developed with NGOs and research bodies (Annex II)⁹
- Disseminating the guidelines national and locally through different media including local radio¹⁰
- FAO on-line and workshop training modules, including specific materials on forest tenure¹¹
- Support for multistakeholder dialogues and land governance platforms
- Funding and technical support for training workshops for government officials
- Updates and lesson sharing through forums, conferences and webinars¹²
- FAO Newsletter on the VGGT
- Global and regional dialogues with stakeholder groups
- Meetings and initiatives with indigenous peoples.

7 <http://www.fao.org/nr/tenure/whats-new/may-2015-newsletter/en/>

8 FAO (2015) 2015 and Beyond: FAO and partners working together to support implementation of the VGGT https://capacity4dev.ec.europa.eu/.../vsggt_2015_march_report_-_a4.pdf

9 <http://www.fao.org/nr/tenure/information-resources/en/>

10 FAO (2015) *ibid.*

11 http://www.fao.org/nr/tenure/e-learning/en/?no_cache=1

12 See, for example, Cosgrove, H (2015) “Why Land Still Matters: three years of the VGs – where we are and where we are going” USAID-FAO-ILC webinar, May 2015 <http://usaidlandtenure.net/events/panel-discussion-three-years-voluntary-guidelines>

The Committee on World Food Security (CFS)

The CFS was set up in 1974 as an intergovernmental body open to all UN member states to enable the review and implementation of food security policies and programmes. In 2009 it was reformed to allow more direct engagement of non-state actors, and mandated to ensure regular consultation with civil society organisations at global, regional and national level. It was the CFS which hosted the intergovernmental negotiations on the VGGT in 2009-12, formally adopted the Voluntary Guidelines in May 2012.

Once the VGGT had been agreed, the CFS secretariat was tasked with reporting to the full Committee on their implementation, but no system has yet been set up for this, and its modalities are still under discussion among CFS member states and NGOs active in its Civil Society Mechanism (CSM). In October 2014, however, the CFS finally agreed to set up its own monitoring framework to measure the effectiveness of all of its decisions and recommendations (i.e. including the VGGT and RAI guidelines).¹³ It is not clear how long this will take to establish; NGOs report that the discussions are “slow and difficult”.

Besides the VGGT, the CFS has also negotiated the related Principles for Responsible Agricultural Investment (PRAI), in response to general dissatisfaction with the World Bank’s 2010 RAI framework, and to respond to intergovernmental and CSO consensus that Section 12.0 of the VGGT on “Investment” should be expanded. However the PRAI, adopted in October 2014, have proved controversial with CSOs. NGOs report that the negotiations were difficult and it was very hard to retain core elements of the VGGT like FPIC for indigenous peoples. The resulting Principles, recommending the formation of public-private partnerships in agricultural development, tend to give primacy to adherence to national norms, without due reference to international law. Moreover, although they affirm a commitment that responsible investment must respect human rights, the Principles only apply a “do no harm” approach and merely talk of “safety nets” for the most vulnerable. There is no mention of customary tenure systems and the need for their protection. Given these shortcomings, several key international NGOs that had previously endorsed the VGGT chose not to endorse the PRAI (e.g. FIAN), and certain members of the CFS Civil Society Mechanism publicly denounced the PRAI (e.g. Focus on the Global South).¹⁴

An important source of information on VGGT-related activity is the **Global Donor Working Group on Land** (GDWGL), set up by a group of bilateral and multilateral donor agencies in 2013 on the margins of the World Bank Annual Conference on Land and Poverty. The GDWGL meets at least once a year back to back with this conference (held in April) and / or the annual CFS session (in October). Its roadmap for 2014-17 aims to improve information, co-ordination and co-operation, and to establish a global hub for land governance issues. Its web pages feature an interactive on-line land programme map providing information on more than 220 donor projects and programmes in Latin America, Africa and Asia¹⁵. This web tool, inking to VGGT implementation in 103 countries and with a total value of \$2.9 billion, can help identify anything from large programmes of the World Bank Group (like a US\$50 million land administration project in Ghana) to small FAO projects such as the FPP-led work on FPIC and the VGGT in Liberia or the Netherlands Academy on Land Governance (LANDac) applied research in Africa and Asia. Patterns can thus emerge in donor engagement, for example the significant German agency funding for land related projects in Cambodia and Laos. The website also contains links to webinars, video streams of conferences on VGGT topics and donor initiatives.¹⁶

13 <http://www.fao.org/cfs/cfs-home/cfsmon/en/>

14 See http://www.csm4cfs.org/forum.asp?go=topic&topic_id=116&forum_id=1

15 <http://www.donorplatform.org/land-governance/programme-map>

16 See, for example, interview with French government AFD staff on VGGT implementation at: <http://www.donorplatform.org/land-governance/interviews/1335-aurelie-chevrillon-and-mathieu-boche-on-guiding-agribusiness-projects-to-implement-fao-s-vgg>

The **New Alliance for Food Security and Nutrition**¹⁷, established in 2012 under the US G8 Presidency, brings together some 10 African countries with a range of international companies, development agencies and donor organisations to “accelerate” private sector “responsible” investment in the African agricultural sector. Its members publicly committed in 2012 to “take account” of the VGGT in their projects, programmes and investments. Under this Alliance, donors including the EU pledged more than half a billion US dollars for the period 2012-17 for agricultural investment programmes via public-private partnerships. The projects it assists are generally set out in a Framework Document for each country.¹⁸

In 2014, general guidance was developed recommending that countries hold annual reviews of progress that reflect New Alliance principles, and bring together different stakeholders to “... assess overall progress toward and challenges to creating an enabling environment for responsible, inclusive investment, including implementation of the Voluntary Guidelines on the Responsible Governance of Tenure.”¹⁹ The New Alliance admits, however, that country and company commitments to the VGGT only exist on paper and that “greater attention and resources must be spent converting these commitments into practice and assisting investors to better implement approaches for responsible land-based agricultural investment.”²⁰

Scrutiny of New Alliance country programmes and related land ‘targets’ verifies concerns raised by NGOs like Action Aid that the Alliance is not applying the VGGT in a balanced manner and, in several cases, risks violating core VGGT principles. In short, NGOs accuse the New Alliance of promoting large-scale land acquisition and agribusiness development in the name of food security and good land governance without adherence to key social and environmental principles of the VGGT.²¹

The New Alliance is currently developing a composite and comparative due diligence guide to the VGGT standard alongside the Africa Land Policy Initiative guidelines as well as specific guides on responsible agricultural investment, including the AFD guidelines.²² NGOs report that the due diligence guide is looking potentially useful, with early drafts containing a good summary of core elements in different standards, including attention to gender and human rights.²³

In 2013 the G8 meeting in Loche Erne launched its **Land Transparency Initiative** (LTI), under which several African countries signed up to a partnership with donor countries on joint actions to address land governance and investments. Pilot country partnership framework agreements had been agreed by the end of 2013 between seven countries and one or more donors, each such agreement being made available on line via the Donor Working Group web site.²⁴ Some LTI agreements pledge to promote application of the VGGT and related guidelines, including the Africa Union’s *Framework and Guidelines on Land Policy in Africa* (see below).

17 <https://new-alliance.org/>

18 <https://new-alliance.org/countries>

19 <http://www.new-alliance.org/resource/new-alliance-2014-country-level-annual-review-process-guidance>

20 New Alliance (2014) *New Alliance Progress Report 2013-14* <https://new-alliance.org/resource/2013-2014-new-alliance-progress-report>

21 New Alliance (2012) *Cadre de Coopération du G8 Pour l'appui à La « Nouvelle Alliance pour la Sécurité Alimentaire et la Nutrition » au Côte d'Ivoire* https://new-alliance.org/sites/default/files/resources/Ivory%20Coast%20Coop%20Framework%20FR%20FINAL%20w.cover_.pdf

22 Vhugen, D (2015) “The ongoing New Alliance Effort to Harmonize Guidelines for Implementing Responsible Land-based Investments” World Bank Conference on Land and Poverty, Washington DC, March 26, 2015

23 NGO: Fern interview # 1

24 <http://www.donorplatform.org/land-governance/g8-land-partnerships>

2.2 Donor agencies

Like other G7 donor countries, the UK has pledged to mainstream the VGGT in its ODA policies and programmes. Its Department for International Development (DFID) is stepping up targeted support for land governance through the G8 Land Transparency Initiative and the New Alliance, and by funding policy think tanks and NGOs. The DFID **Land: Enhancing Governance for Economic Development** (LEGEND) programme is directly geared towards promotion of VGGT standards in private and public sector land investments.²⁵

The work of the French development cooperation agency Aide au Développement (AFD) on the VGGT has so far mainly been focused on the formulation of operational guidelines for French ODA and French companies.²⁶ The AFD guidelines aim to ensure “development effectiveness” and investments based on sound contracts that uphold labour rights, respect “popular consent” and adhere to VGGT rules on resettlement.

The German development agency BMZ has committed to ensuring that German ODA is aligned with the “spirit and content” of the VGGT. BMZ is funding a comparative study of the VGGT against World Bank standards, and has proposed publishing a practical handbook on VGGT application of the VGG in relation to vulnerable groups.

For the **International Land Coalition** (ILC) the VGGT are a central component of current (2016-21) strategy for promoting land tenure security for communities, legal territorial rights for indigenous peoples, and effective action to stop land grabbing.²⁷ Working jointly with other NGOs, the ILC is active in promoting the VGGT in the UN post-2015 development agenda. The ILC has also produced a comparative guide to the VGGT and standards developed under the Africa Land Policy Initiative.²⁸ The VGGT are also indirectly incorporated into ILC National Engagement Strategies (NES) for certain countries. As well as specific work on the VGGT, the ILC is generally active on anti-land grabbing efforts, and supports a global network of Land Observatories that independently track and document commercial land transactions, posting them on the Land Matrix portal.²⁹ However, this database does not document social risks or environmental impacts, nor assess adherence to international standards.³⁰

The **European Union** (EU), which provided much of the funding for the CFS meetings, now coordinates its own involvement on VGGT issues through the Donor Working Group on Land. EU promotion of the VGGT is primarily linked to funding support. This funding may come under its general programme, the Eleventh European Development Fund (EDF), or more specific land tenure related programmes, notably its thematic support to land governance and VGGT application in 10 African countries (an initiative that started in April 2014 as part of a strategic EU-FAO partnership), its national land tenure programmes providing funding for land administration programmes in several African countries, and its funding for the ILC and the Africa Land Policy Initiative. Although the EU tries

25 DFID (2015) “Why land governance?” *Land Policy Bulletin, June 2015* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/439594/DFID_LEGEND_Land_Policy_Bulletin_-_Iss_1_-_June_2015_-_final.pdf

26 AFD (2014) *Guide to due diligence of agribusiness projects that affect land and property rights: operational guide* Technical Committee on Land Tenure and Development, Paris <http://www.landcoalition.org/sites/default/files/documents/resources/Guide-to-due-diligence.pdf>

27 ILC (2015) *International Land Coalition Strategy 2016-2021*, ILC Rome http://www.landcoalition.org/sites/default/files/draft_strategy_en_3.pdf

28 ILC (2013) *Benchmarks for Land Governance in Africa* ILC Secretariat, Rome <http://www.landcoalition.org/en/resources/benchmarks-land-governance-africa>

29 <http://www.landmatrix.org/en/get-the-detail/by-target-country/> The Land Matrix is a collaborative effort of the ILC along with the Centre de Coopération Internationale en Recherche Agronomique pour le Développement (CIRAD), Centre for Development and Environment (CDE), German Institute of Global and Area Studies (GIGA) and GLZ.

30 http://europa.eu/rapid/press-release_IP-14-397_en.htm

to make sure that direct budget support for rural development does not lead to harm and violation of VGGT principles, NGOs are concerned at its lack of land governance monitoring and compliance tools.

The **OECD** is integrating the VGGT into its guidance to business enterprises on “responsible business conduct” (RBC) alongside a core set of other international best-practice standards for corporate responsibility. Its guide on Responsible Agricultural Supply Chains links directly to the VGGT standards.

The **World Bank** indirectly supports some (but not all) elements of the VGGT through projects and programmes under its Land Governance Assessment Framework (LGAF) initiative, underway or completed in more than 30 countries. It is also active in various multi-donor initiatives linked to the VGGT like the Global Land Tool Network (GLTN) and Global Land Indicators Initiative (GLII).³¹ However, the current draft of the World Bank safeguards policy, under revision since 2012, does not include any reference to the VGGT, despite the longstanding demands for their incorporation (and the adoption of a dedicated new Bank standard on land acquisition incorporation) by FPP and like-minded NGOs such as Oxfam and BIC.

The **Land Governance Assessment Framework** (LGAF), developed by a consortium of agencies including the World Bank, FAO, Africa Union, IFAD and UN Habitat, applies a series of 21 land governance indicators to assess national land policy and laws, including in relation to rights recognition, rights reinforcement, land use restrictions, transparency, equity, non-discrimination and conflict resolution.³² Assessments are meant to be inclusive, involve different sectors and are led by national specialists, mainly academics. The World Bank has characterised the LGAF as “a diagnostic tool that is to be implemented at the local level in a collaborative fashion...that can help countries prioritize reforms and monitor progress over time.” It does have a specific panel of experts on tenure over forest lands and commons. However, a rapid review of some LGAF country reports suggests that the assessments are variable in quality – a robust report for Cameroon, for example, which does address tenure insecurity for forest communities, contrasts with one for Peru which fails to identify shortcomings in State recognition of collective customary rights over forest land.³³

A critical comparison of LGAF and VGGT in 2014 found that there were gaps on several key principles, and concluded that “...LGAF should... put more emphasis on such topics as tenure safeguards with a special focus on women and the vulnerable, climate change, natural disasters and redistributive reforms.”³⁴ In March 2015 the World Bank announced that it would be taking steps to adjust the LGAF tool to address such gaps and bring it into closer alignment with the VGGT. While this harmonisation may be positive, there are currently no guarantees that World Bank loans and credit for land administration and agribusiness development will follow VGGT standards. Meanwhile, Bank programmes for agricultural development and IFC loans to the oil palm sector continue to cause gross violations of community rights.³⁵

31 World Bank (2014) *World Bank Support to VGGT Implementation* Presentation to Donor Working Group on Land, October 17, 2014

32 Deininger, K., Selod, H. and Burns, A. (2012) *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector* World Bank, Washington DC <https://openknowledge.worldbank.org/handle/10986/2376>

33 LGAF country reports are available at: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPROGRAMS/EXTARDR/EXTLGA/0,,contentMDK:23378317~pagePK:64168445~piPK:64168309~theSitePK:7630425,00.html>

34 Tonchovska, R and Egiashvili, D (2014) “Using existing land governance assessment tools for monitoring voluntary guidelines implementation at national level” Paper presented to Annual World Bank Conference on Land and Poverty, Washington DC, March 24–27, 2014

35 See, for example, Martin-Préve, A (2014) *World Bank's Bad Business in Democratic Republic of Congo* (DRC) Country Fact Sheet Series, Our Land Our Business, Oakland Institute, Oakland; Martin-Préve, A (2014) *World Bank's Bad Business in Liberia* Country Fact Sheet Series, Our Land Our Business, Oakland Institute, Oakland http://ourlandourbusiness.org/wp-content/uploads/2014/03/Liberia_factsheet_hirez.pdf

The **Global Land Indicators Initiative** (GLII) is a project of the Global Land Tool Network (GLTN) led by the UN Habitat. The GLII was initiated by the World Bank, IFAD and Millennium Challenge Corporation (MCC) and now involves more than thirty institutions and initiatives on land rights and land governance worldwide. Funders include the Norwegian Ministry of Foreign Affairs, SIDA and the Bill and Melinda Gates Foundation. NGOs are also engaged in GLII meetings and expert groups, including Oxfam, FPP and Landesa as well as farmer organisations, universities and research bodies (including IASS). The GLII aims to enable inclusive development of global land indicators for policy-making and country evaluations, including inputs to the development of land indicators for the post 2015 Sustainable Development Goals (SDGs). While very useful indicators have been put forwards by GLII expert groups,³⁶ the SDG process has yet to take up indicators on indigenous peoples and customary rights and in June 2015 made no specific reference to the VGGT.

The **African Union** (AU) started regional intergovernmental work on land tenure governance through its Land Policy Initiative (LPI) in 2006, and adopted its Framework and Guidelines on Land Policy in Africa (F+G) in 2009. Overlaps with the VGGT are frequent, including recognition of customary or “indigenous” tenure systems as legitimate, and the AU is also developing a land policy monitoring framework that specifically addresses action on customary rights.³⁷ However, the F+G do not apply a human rights-based approach, and fail to specify clearly what kind of land rights should be promoted in tenure and land policy reforms: collective versus individual, customary versus formal, etc.³⁸ Treatment of forest tenure in the F+G is also superficial.

The AU’s 2014 Guiding Principles on Large Scale Land Based Investments in Africa go some way towards remedying the lack of direct links to the VGGT in AU land guidelines, explicitly recognising that they “draw on lessons from related global instruments and initiatives on land governance including seeking to build on and complement such initiatives. These include the VGGT and the Principles for Responsible Agricultural Investments...”³⁹ The AU now plans to develop technical guidelines to these Principles. If done in a balanced manner, these efforts to implement African LPI standards could indirectly enable application of the progressive elements of the VGGT in tenure reform in national policy initiatives on land, forests and development. On the other hand there are genuine risks that they could enable “greenwashing” of agribusiness development, especially if applied without due attention to the rights-based elements of the VGGT.

The **International Fund for Agricultural Development** (IFAD) is a key partner in FAO and World Bank land and agricultural development projects in Africa and Asia. FPP was unable to obtain an interview with the IFAD-lead on the VGGT and found little explicit information on the IFAD web site.

The online **Land Portal** maintained by the University of Groningen in the Netherlands (and now funded under DFID’s LEGEND programme) contains a wide range of information, news and updates on land issues including NGO, IGO and IFI information.⁴⁰ The portal hosts many FAO papers and reports as well as issues papers by donor agencies and diverse government and NGO information, including

36 See, for example, proposed land indicators set out in GLTN (2013) *Expert Group Meeting of the Global Land Indicators Initiative: Communiqué*, GLTN, The Hague, 09 November, 2013 <http://www.gltn.net/index.php/component/jdownloads/finish/3-qltn-documents/132-expert-group-meeting-of-the-global-land-indicators-initiative-eng-2013?Itemid=544>

37 Africa Union (2012) *Tracking Progress In Land Policy Formulation and Implementation in Africa* Africa Union, United Nations Economic Commission for Africa, African Development Bank, Addis Ababa at page 77ff.

38 GRAIN (2015) *Land and Seed Laws Under Attack: who is pushing changes in Africa?* AFSA and GRAIN Reprt, January 2015 <http://www.grain.org/article/entries/5121-land-and-seed-laws-under-attack-who-is-pushing-changes-in-africa>

39 Africa Union (2014) *Guiding Principles on Large Scale Land Based Investments in Africa*, Africa Union, United Nations Economic Commission for Africa, African Development Bank, Addis Ababa at page 4 http://www.uneca.org/sites/default/files/PublicationFiles/guiding_principles_eng_rev_era_size.pdf

40 <http://landportal.info/>

Action Aid reports on land grabbing. Publications and research on collective and customary rights, however, appears to be limited. Map data does give some treatment of gender discrimination in legal frameworks,⁴¹ but not to collective or customary rights nor FPIC nor the VGGT standards.

Several **research bodies** are involved in direct or indirect work on the VGGT and land governance issues. Those in the UK include ODI, the Institute for Development Studies (University of Sussex) and the University of Greenwich, with links to DFID's LEGEND programme. In Germany, the Institute for Advanced Sustainability Studies (IASS) is working on the VGGT and leading the compilation of the FAO Technical Guide on VGGT and the Commons. The German Institute for Human Rights is also closely involved in the right to food in development aid, including specific work on VGGT issues and policy harmonisation among donor agencies and initiatives.⁴² The Netherlands Academy on Land Governance (LANDac) is active on research on land governance in Africa and Asia, and produces country fact sheets on land tenure governance.

CIFOR, which has conducted detailed research on land governance, cautions against hurried use of VGGT in land governance initiatives.⁴³ It is involved in joint conferences on forest tenure in SE Asia with ICRAF and RRI.⁴⁴ CIFOR does not appear to have a dedicated programme on the VGGT, but links to FAO work on this topic.⁴⁵

2.3 Civil Society Organisations

A diverse set of civil society organisations, including those who were key players in securing the VGGT's rights-based framework, continue to engage in VGGT issues. Several are now developing tools for independent monitoring of the VGGT, while VGGT standards are being invoked by NGOs to challenge harmful land grabbing in Africa and elsewhere.

The **Civil Society Mechanism** (CSM) was established by the CFS in 2010 in order to enable direct participation of civil society organisations, and a number of NGOs continue to be highly active in it. As well as making direct interventions in the CFS and written submissions to annual CFS sessions, it also publishes occasional papers, has its own web site (www.cso4cfs.org) and has several working groups active on different themes, including the CSM Land Tenure Working Group and the CSM Working Group on Monitoring.⁴⁶ The CSM is autonomous and self-organised, governed by a Coordination Committee (CC) whose members are drawn from 11 constituencies, and its joint actions are facilitated by a Rome-based secretariat. NGOs in the CSM include:

- FIAN
- Oxfam
- International Indian Treaty Council
- Friends of the Earth (Latin America)
- CONSENT
- World Alliance of Mobile Indigenous Peoples (WAMIP)
- Focus on the Global South

41 <http://landportal.info/book/regions?region=1&indicator=INDFAOAC110&comparing-region=2#>

42 <http://www.institut-fuer-menschenrechte.de/en/publications/>

43 Schoneveld, G C (2014) "The Governance of Large-scale Farm Investments in Sub-Saharan Africa" *CIFOR Infobrief No.72, May 2014* http://www.cifor.org/publications/pdf_files/infobrief/4560-infobrief.pdf

44 <http://www.cifor.org/forestsasia/agenda-item/monday-may-5th/discussion-forums/governance-tenure-governing-access-securing-rights-land-resources/>

45 <http://www.cifor.org/forest-tenure/links/>

46 CSM (2012) *A Guide to the CFS and CSM for Civil Society* http://www.csm4cfs.org/files/Pagine/1/csm_cfsguide_finalapr2012.pdf

The **International Planning Committee for Food Sovereignty** (IPC), according to its website, is “an autonomous and self-organised global platform of small-scale food producers and rural workers organisations and grass root/community based social movements to advance the Food Sovereignty agenda at the global and regional level.” It is closely linked to social and farmer movements in Latin America, and has among its key NGO allies FIAN and FoE International.⁴⁷ The IPC is currently overseeing the production of a popular guide to the VGGT.

Action Aid, an international NGO that is heavily engaged in tracking and denouncing land grabbing,⁴⁸ uses the VGGT as a benchmark standard to assess land acquisition projects and donor land policy programmes.⁴⁹

Oxfam has a major global campaign against land grabbing.⁵⁰ Since the negotiation of the VGGT in 2011-12, in which it was a key participant, Oxfam has continued to promote the VGGT through on line advocacy and blogs calling for greater action on implementation and monitoring.⁵¹ It has a dedicated policy advisor on VGGT issues and campaigns, based in its Brussels office.

Oxfam international and country offices are developing joint VGGT projects with the FAO in Uganda, Nepal, Mali and Niger to improve baseline information on community tenure and land conflicts and to enable direct engagement of communities and farmer organisations in national policy-making.⁵²

Oxfam has also developed a ‘road map’ for companies committed to the VGGT to assist them to adopt measures to prevent illegal land grabs in the supply chain.

Active in the VGGT process since its beginning, **Focus on the Global South** currently works with local activists, small farmers, national NGOs and social movements in India, Cambodia, Laos and Vietnam to promote land and food security and community land claims, including action and advocacy using the VGGT standard (among other tools).

RRI has convened the “**Interlaken Group**”⁵³ to develop guidelines for companies on the VGGT. Early drafts were much criticised by some NGOs for weaknesses on gender and human rights. Later drafts appear to be improved, and key VGGT provisions are duplicated in an annex. RRI is involved in developing a Land Due Diligence Tool and Land Risk Tool,⁵⁴ funded by DFID’s LEGEND, and a community land map platform.

RECOFTC has been directly involved in FAO activities in SE Asia on the VGGT. It has jointly developed a training module on the VGGT and forest tenure with FAO.⁵⁵

47 <http://www.foodsovereignty.org/>

48 <http://www.actionaid.org/what-we-do/food-and-land-rights>

49 Action Aid (2015) Act on It: 4 key steps to prevent land grabs http://www.actionaid.org/sites/files/actionaid/act_on_it_-_four_key_steps_to_stop_land_grabs.pdf

50 <http://www.oxfam.org.uk/get-involved/campaign-with-us/our-campaigns/grow>

51 See, for example, Oxfam (2014) “Two years on: what became of ‘The Guidelines on the responsible governance of tenure of land, fisheries and forests’?” <https://ilcasi.wordpress.com/2014/05/27/oxfam-blogpost-two-years-on-what-became-of-the-guidelines-on-the-responsible-governance-of-tenure-of-land-fisheries-and-forests/>

52 <http://www.behindthebrands.org/en/campaign-news/land-roadmap>

53 Members of the Interlaken Group are: RRI, IFC (World Bank), Nestlé, Coca Cola, Rio Tinto, Rabobank, Unilever, Stora Enso, DFID, Global Witness, Oxfam, Landesa and FPP (J Nelson).

54 Fern NGO interview # 11

55 FAO (2014) *Strengthening Forest Tenure Systems and Governance: training module for facilitators* FAO and RECOFTC, Rome <http://www.fao.org/docrep/019/i3521e/i3521e.pdf>

FIAN, a core member of the CSM and a long-term ally of social and small farmer movements,⁵⁶ is currently developing pilot VGGT monitoring tools for testing with communities and NGOs in Latin America. FIAN also works on multi-stakeholder discussions on tenure reform, using the VGGT to point out legal contradictions on protections for customary land rights.

The US-based NGO **Landesa** works on land rights, land reform and livelihood issues; it has offices in India and China, and also works in six countries in Africa.

IIED is engaged in detailed research and publications on land grabbing. As well as development of the FAO Technical VGGT guide to forest tenure,⁵⁷ IIED has been funded by DFID and the FAO to examine how the VGGT can be used to reform agricultural supply chains.⁵⁸ It has jointly produced a “Topic Guide” on Land⁵⁹ and worked with FAO to develop a new Legal Technical Guide to the VGGT, and is currently researching linkages between trade and investment treaties and legal options for land rights protection.⁶⁰

The **Forest Peoples Programme** (FPP) developed FAO’s VGGT technical guide to FPIC. It now has a partnership with FAO to test implementation of FPIC and develop an FPIC training package. This work is focused in one country, Liberia, but the tools should be adaptable to other countries.

The **Asian NGO Coalition** (ANGOC) and **Land Watch Asia** are active on land reform and VGGT work with small farmer and peasant movements.⁶¹

A number of NGOs, including **GRAIN** and the **Oakland Institute**, have chosen not to promote or invoke the VGGT. GRAIN does acknowledge that the VGGT contain ‘useful’ principles on customary land rights, but maintains that overall these guidelines are not transformational, that they legitimate agro-industrial models and policies for rural development and enable the continued expansion of large-scale monocultures causing the loss of agro-biodiversity, community rights violations and impoverishment.⁶²

2.4 Indigenous peoples’ groups

Several indigenous peoples’ organisations and networks have broadly endorsed the guidelines and are compiling local level guides on the VGGT (e.g. IITC). Others, like the Asian Indigenous Peoples Pact (AIPP), are becoming actively engaged in VG discussions and VGGT application initiatives with the FAO, while calling for greater accountability and compliance mechanisms in general in both CFS and FAO policies and programmes.⁶³ AIPP is currently planning to conduct work on legal gap analysis and application of the VGGT in India, Cambodia and Indonesia through a partnership agreement with FAO.

56 <http://www.fian.org/what-we-do/issues/land-grabbing/>

57 FAO (2013) Improving governance of forest tenure: a practical guide FAO VGGT Technical Guide 2, FAO and IIED, Rome and London

58 Cotula, L. (2014) Understanding Agricultural Investment Chains: Lessons to Improve Governance FAO and IIED, Rome and London <http://pubs.iied.org/pdfs/12574IIED.pdf>

59 Locke, A and Henley G (2014) Topic Guide: Land ODI, London <http://www.evidenceondemand.info/topic-guide-land>

60 <http://www.iied.org/investment-treaties-land-rights-shrinking-planet>

61 Angoc (2014) “Economic land concession as a means for land grabbing in Cambodia” Lok Niti 19(1)(2014):16-21 http://www.angoc.org/wp-content/uploads/2014/12/Final_Lokniti_The-Struggle-Continues.pdf

62 Fern interview #10, July 2015.

63 See detailed IP recommendations to the FAO in FAO (2015) *Indigenous Food Systems, Agroecology and the Voluntary Guidelines on Tenure: a meeting between indigenous peoples and FAO* 2-3 February, 2015, Rome <http://www.fao.org/3/a-i4549e.pdf>

FAO is also supporting training work on the VGGT with indigenous peoples' organisations in Central America. The programme brings together 24 indigenous leaders from Honduras, El Salvador, Costa Rica, Guatemala, Nicaragua and Panama. A workshop in September 2015 will be followed by **research on tenure** in the participants' respective communities.

2.5 Companies and TNCs

In response to sustained campaigns against corporate land grabbing by Oxfam and other NGOs,⁶⁴ global corporations such as the Coca-Cola Company, PepsiCo, Nestlé and Cargill have committed to apply the VGGT in their supply chains.⁶⁵

Coca Cola, for example, states it will "...leverage existing engagement in cross sector platforms and UN bodies to support responsible land rights practices, including the UN VGGTs", that it will publicly advocate endorsement and implementation of the VGGTs and commit to respecting land rights.⁶⁶ and monitor its supply chain through third-party social, environmental and human rights assessments in a series of countries. For its part, Nestle says it will "adopt the VGGTs and other relevant and accepted instruments that codify the rights of communities in relation to their land and natural resources."⁶⁷

Oxfam's Behind the Brands campaign is now monitoring the fulfilment of these companies' commitments according to a mutually agreed 'road map' for VGGT application and due diligence actions to eliminate land grabbing.⁶⁸

In addition to TNCs, some regional and local agribusiness companies in Africa are also committing to the VGGT.⁶⁹ However, this review has not found any VGGT commitments by timber companies or wood processors and furniture makers (although illegal timber concessions issued by states in violation of customary land rights and FPIC undoubtedly constitute land grabbing),⁷⁰ nor by the mining companies, energy firms or oil and gas companies that are grabbing community forest lands in Central and South America, Africa and Asia.

64 See, for example, Oxfam (2013) Sugar Rush: Land rights and the supply chains of the biggest food and beverage companies, Oxfam Briefing <http://www.behindthebrands.org/~media/Download-files/bn-sugar-rush-land-supply-chains-food-beverage-companies-021013-embargo-en.ashx>

65 FAO (2015) 2015 and Beyond: FAO and partners working together to support implementation of the VGGT https://capacity4dev.ec.europa.eu/.../vggt_2015_march_report_-_a4.pdf

66 Ibid.

67 http://www.nestle.com/asset-library/documents/library/documents/corporate_social_responsibility/nestle-commitment-land-rights-agriculture.pdf

68 <http://www.behindthebrands.org/en/campaign-news/land-roadmap>

69 See, for example, <http://www.ilovosugar.co.za/Group-Governance/Group-Guidelines-on-Land-and-Land-Rights>

70 e.g. <http://www.sarawakreport.org/2014/04/sarawaks-wtk-slammed-for-land-grabs-in-papua-new-guinea/>; <http://www.rfa.org/english/news/cambodia/forest-07062015163702.html>

3. Emerging experiences and perspectives on the VGGT

This section summarises how NGOs and intergovernmental bodies view their early experiences of applying the VGGT. It does not contain the views of donor agencies.

Although local community members were not directly questioned in the survey, this section does also incorporate some indirect feedback from local communities and activists, obtained through interviews with international NGOs working at the community level.

3.1 VGGT guides

The VGGT document is difficult to interpret, as both international agencies and NGOs point out, so early efforts by the FAO, donor agencies and civil society have focused on developing guides to its 'operationalisation' or practical application.

Of these guides, seven to date were developed by FAO, working with NGOs, and eight others by donor agencies and private sector-NGO consortiums. Several are explicitly dedicated primarily to private sector investment (the FAO *Private Sector Guide*, the USAID *Operational Guidelines for Responsible Land-Based Investment*, the AFD *Operational guide for due diligence of agribusiness projects that affect land and property rights*, the Interlaken Group Guidance to companies on VGGT and the New Alliance *Operational guide to standards for agricultural investment*) and even in other cases these guides tend to be detailed, very technical and lengthy and not really suited to community use.

NGOs complain that guides led by company policy makers (e.g. the USAID or Interlaken guides) mainly apply a risk-avoidance framework and play down human rights principles. NGOs have made large efforts to push back against this dilution, and the five VGGT guides published by NGOs themselves to date tend to focus instead on rights, equity and gender issues.

"NGOs must be cautious not to get drawn by governments and donors into abstract talk and technicalities of land 'governance'. A lot of the guides appear to reduce the VGGT to a technical standard and the human rights approach is lost or side-lined. Technical discussions are not always helpful and can distract from the core need for land redistribution and equitable access to lands and forests that are the real issue in many countries." [NGO active in VGGT application: interview #3]

Table 4: NGO guides on VGGT and land rights

Authors	Theme/title	Comments
Action Aid and IFSN	Brief introduction to the VGGT (2012) [15pp]	<ul style="list-style-type: none"> • outlines elements on HR, women, corporate responsibility • notes gap: no moratorium on large-scale land transactions • notes main value of VGGT are human rights safeguards
Action Aid	4 key steps to prevent land grabs (May 2015) [40 pp]	<ul style="list-style-type: none"> • targets governments, companies and activists • uses plain English format • excellent summary of VGGT human rights approach • guidance on multi-stakeholder platforms (pp.13-14) • questions usefulness of voluntary commodity standards • supports binding UN treaty on Business and Human Rights
IPC with FIAN	Popular Manual (Draft 03/15) [89 pp]	<ul style="list-style-type: none"> • collectively drafted among NGOs, HR and peasant orgs • targets peasant, smallholder, pastoralist and IP organisations • uses question and answer format and real-world examples • practical guidance on participation, consultation and consent • possibly too dense and too much text for use in communities
IITC	Community training materials	<ul style="list-style-type: none"> • uses comic strips to inform communities • used and tested in Kuna communities in Panama
Landesa	Community, company and government “Playbooks” on land governance	

Activists emphasise that there is a genuine shortage of “community-friendly land tenure training tools for use at the community level” that do not rely on heavy technical written materials. Even when praising the IPC Popular manual on the VGGT, which “draws on concrete examples and emphasises local land struggles”, one NGO commented, “it is still quite long. It is targeting activists more than communities.” Some are even sceptical of NGOs compiling detailed guides themselves. “Simpler tools or training approaches would likely be useful... but as part of a general set of tools on land rights”, one said, concluding: “Just looking at the VGGT is unlikely to be that helpful.”

As regards terminology, some activists regard the VGGT’s use of the term ‘land governance’ as imprecise and weighted towards technical approaches to land tenure. They consider that NGOs should go back to using “land rights”, “land reform” and “land security”.⁷¹

3.2 Using the VGGT in national and global advocacy

Almost all NGOs interviewed for this review agree that there is significant potential to use the positive VGGT standards on human rights and customary tenure in policy advocacy at the national and global levels. The FAO and NGOs report that the VGGT are already being used by civil society and farmers movements in policy dialogues and reform processes in several countries.

“...CSOs need to study the VGGT language, see what we like and use what we think is useful in our advocacy and policy recommendations in national and global processes. This how the VGGT can be used...” [NGO: interview #13]

“With the density of the guidelines and its technical terminology, the VGGT are possibly often best suited for use in national level legal and technical advocacy. It is not as useful at the community level as it stands. In Laos, NGOs used the useful parts of the VGGT to put forward their recommendations for the new national land law. Unfortunately, their proposals were not taken up, but it was a useful tool in putting together CSO proposals for reform” [NGO: interview #13]

NGOs and social movements are already applying the VGGTs effectively by using them in a country context to press for legal reform or implementation of existing useful land laws. One example is the work of Ekta Parishad in India that is using relevant VGGT standards in legal gap analysis and its campaigns for fair and effective implementation of the Forest Rights Act. [NGO: interview #12]

The VGGT have been used effectively by local land holders and anti land grabbing campaigns in Mali to raise the issue of customary land rights and to expose contradictions in the national legal framework. Using the VGGT standard and making linkages to concrete land struggle cases has generated potential for positive change in the new draft land law... [NGO: interview #12]

Most CSOs interviewed feel that the VGGT offer the greatest potential when used in existing land policy or reform processes:

In our view, the Voluntary Guidelines can be most useful where there is already some legal hook – or at least some political will for change. That is why we have opted to work on the VGGT in India using the Forest Rights Act, in Cambodia using the Community Land Law, and in Indonesia using the Constitutional Court ruling on customary rights [Regional IP Organisation in Asia: interview #7]

The VGGT are perhaps most useful where they are linked to existing initiatives for land reform, such as in Senegal. It is very important that the use of the VGGT is tailored to country conditions and opportunities... [NGO: interview #12]

3.3 Implementation or application?

Several NGOs caution that generic calls for national “implementation” of the VGGT may be counter productive. It is suggested that a better strategy is to invoke and integrate VGGT standards on community customary tenure rights, FPIC, gender justice and human rights in existing national processes of land reform, forest policy-making, rural development, environmental conservation and climate protection initiatives:

...asking for blanket VGGT implementation at a national level is not necessarily the wisest option, as governments will always turn it to their advantage.... [NGO: interview #13]

The VGs are not a silver bullet. There are different ways to use the tool according to the country situation, local struggles over land and social movement strategies for promoting tenure reform. [NGO: interview #4]

NGOs thus caution against using the guidelines as a starting point for training or capacity-building work. They advise that the primary focus must remain on local priorities and strategies to secure internal reforms in national laws and policies with respect to land rights recognition, prohibitions on forcible evictions, and land restitution, with the VGGT being viewed as just one potential tool in the box:

What we should NGOs be doing with the VGGT? First, we must be sure we understand and respect local land strategies and communities' own theories of change. We can enable communities to take stock of their situation and identify challenges and opportunities. Then communities can brainstorm strategies. It is only afterwards that the VGGT and other international standards might come into play. Where might they be useful? Can they reinforce the local struggle? If so, how? The point of departure must always be the rights and social agenda of the communities, not external policies or norms like the VGs... [NGO: interview #4]

At the community level in all regions the VGGT are either unknown, or regarded with some scepticism because the FAO has for decades been associated with governments and technical approaches to land, forests and fisheries:

You have to realise that for many communities and activists the FAO is still seen as the 'enemy'. FAO people are seen as technocrats allied to the governments and when push comes to shove, they will always come down on the side of the State. The reality is that the FAO is a technical body. [NGO: interview #13]

Most communities are unaware of the VGGT. A few community organisations have attended FAO regional meetings in Asia. Once informed about the VGGT, local CSOs have been blunt. They cannot see the relevance of this document for their struggles. Groups from Indonesia were scathing. They said, 'what is this Rome book? How can it help us? The government is taking our land and we need to prioritise... How can this help us?'" [NGO: interview #13]

Many interviewees underlined the need for strengthening of social organisations and communities to organise themselves to press for land rights recognition and reform.

We have been working with local activists in the communities in Cambodia on how to use elements of the VGGT in action research on land claims and land conflicts. It is a painstaking process. We go through the useful parts of guidelines line by line with each local researcher. There is no doubt that to use the guidelines effectively, there must be capacity in CSOs to invoke these sorts of standards. It is not workable relying on international NGOs like us... National civil society needs to get informed and learn how to use these tools [NGO: interview #13]

NGOs and activists should use the most radical and rights-based principles in the VGGT and invoke these as standards in their advocacy and campaigns for land reform. States do not want to implement human rights standards, so they need to be pressed and reminded of their commitments... [NGO: interview #13]

One thing is to use the VGGT guidelines in dialogues or proposals to the government... but the villages need to be able to show with confidence where their land is! How is their customary system of tenure organised? They need to be clear in their demands on what lands they own, occupy, use and claim. In places like Liberia, so many communities do not have this capacity. It is vital that their institutions for land governance are strengthened. Their own local evidence base about their land needs to be built up... [Forest NGO: interview #9]

3.4 Concerns over bias in implementation

One NGO concern is that global technical-legal standards like the VGGT do not challenge agro-industrial concession models of land acquisition or industrial-scale resource exploitation. NGOs warn that donors and governments are already starting to apply a narrow technical application of the VGGT,

focusing on land registration alongside new land laws that facilitate large-scale land concessions, enable foreign direct investment in land for agribusiness development, and aid TNC strategies to incorporate small holders into the agribusiness supply chain.

Sustainable and fair international interventions on land allocation policies must also address local institutional issues, in particular corruption and perverse incentives for rent seeking and elite capture of local benefits.⁷²

NGOs warn that biased and self-serving government and company application of the VGGT risks increasing the vulnerability of communities and smallholders, causing massive land use change and driving the wholesale transformation of land use systems and rural economies.⁷³

One problem of the VGGTs is that governments and donor agencies are focusing on a just a few sections of the guidelines (mainly on agricultural investment and land registration). Some are still using World Bank technical tools without applying the rights-based principles in the guidelines. [NGO: interview #4]

...Interventions under the New Alliance are donor-driven, based on technical land policy processes and are largely disconnected from community needs [NGO: interview #4]

... although there are useful parts in the VGGT and donors support them, the trouble is that they do not challenge the current land concession model and do not recognise that the TNC business model is flawed [Forest NGO: interview #9]

There is a tendency for governments, FAO staff and donor agencies to reduce the VGGT to technical issues and abstract legal analyses. NGOs and civil society organisations must keep the VGGT true to their spirit of a right-based approach. [NGO: interview #12]

3.5 Mismatches between different standards and approaches

A key problem in several countries, especially in Africa, is the application of the VGGT on top of already pre-existing land policy initiatives, whose land tenure standards and approaches do not necessarily match up. Consultants employed by the FAO still apply the technical LGAF “bench-marking” approach – which is not used by the VGGT, does not apply a rights based approach, and does not endorse FPIC. Similarly, governments and companies applying the problematic PRAI guidelines (or cherry picking from specific narrow private sector technical guides) can mean that that core rights standards are overlooked and vulnerable groups not respected.

Some NGOs express concerns that G8 is using the VGGT to underpin its own trade and economic development goals:⁷⁴

European donors like the UK and Germany are using the VGGT to promote their own self-interested agenda to mitigate the harmful impacts of foreign direct investment, promote market-based reforms of national land laws and put in place market-friendly land governance regimes [NGO: interview #13]

72 Schoneveld, G C (2014) op. cit.

73 GRAIN (2015) *Land and Seed Laws Under Attack: who is pushing changes in Africa?* AFSA and GRAIN Report, January 2015 <http://www.grain.org/article/entries/5121-land-and-seed-laws-under-attack-who-is-pushing-changes-in-africa>

74 Curtis, M (2015) *New Alliance, New Risk of Land Grabs: evidence from Malawi, Nigeria, Senegal and Tanzania* Action Aid International Secretariat, Johannesburg <http://www.actionaid.org/sites/files/actionaid/new20alliance20new20risks20of20land20grabs.pdf> Tickell, O (2015) “World Bank’s Conference on Land and Poverty is a cruel farce” *The Ecologist* http://www.theecologist.org/News/news_analysis/2796500/world_banks_conference_on_land_poverty_is_a_cruel_farce.html

The local and country FAO staff is pretty bad on land rights stuff. They still apply a technical and agro-industrial bias to land and food production. The approach is not really rights-based. Some of them have little understanding of the VGGT. I know one case in Cambodia where certain FAO staff simply do not know what to with them! [NGO: interview #8]

The local organisations from Indonesia pointed out in a regional meeting on the VGGT that NGOs may negotiate with governments in Rome to get new international standards, but in the end it is governments, the FAO and companies that are quick to use the standard to promote their own agendas at the expense of the communities... [NGO: interview #13]

Scrutiny of the VGGT-related work of DFID and AFD confirms that the primary focus seems to be weighted towards 'responsible' and 'legal' land investment, rather than direct donor attention on vulnerable groups, women and human rights (Sections 2.1.4, 2.1.5 and 2.1.6). NGO warnings about being into narrow technical-legal pathways on land tenure matters may be well founded. A Philippines NGO gap analysis, for example, completed by ANGOC, reveals a superficial checklist and matrix approach to legal assessments, without close scrutiny of deep-seated legal contradictions in land allocation systems. This narrow approach may in part be due to the ANGOC focus on farmer rights, which confirms the need for balanced engagement of different rights holder groups. NGOs also caution that 'standard shopping' or cherry picking from the VGGT needs to be prevented and its human rights components must be applied in a consistent manner. Others point out that while useful, the need for progressive binding international rules on tenure rights setting out clear obligations and commitments for governments, companies and other actors is still needed.

3.6 Need for effective monitoring

Although the CFS is committed in principle to monitoring the implementation of all its decisions, NGOs doubt that it will develop a really robust VGGT monitoring mechanism, given State resistance to any proper scrutiny. NGOs and social movements are accordingly developing their own tools for monitoring the guidelines, to counter bias and potentially harmful application of the VGGT by governments and companies.

There is an awful lot in the VGs on the 'what', but not so much on the 'how'. Also, which core standards are to be applied? What is the bottom line? What are the specific measures for assessing VGGT compliance? [Forest NGO: Interview #6]

3.7 Multistakeholder processes

Multistakeholder initiatives and platforms, with regional and national meetings, have been a primary activity under FAO VGGT awareness and implementation initiatives. One of the main critiques made by NGOs is that, although these meetings have included some national CSOs, they have so far not been very inclusive of vulnerable groups that are supposed to be major beneficiaries of the VGGT standard.⁷⁵

The truth is that land tenure is complex in all countries. The meetings on the VGGT so far held with FAO support have tended to involve consultants, FAO officials, government agencies and city-based NGOs. The 'benchmarking' of tenure issues in the situation analysis has been dominated by government and

75 Oxfam (2014) "Two years on: what became of 'The Guidelines on the responsible governance of tenure of land, fisheries and forests'?" <https://ilcasia.wordpress.com/2014/05/27/oxfam-blogpost-two-years-on-what-became-of-the-guidelines-on-the-responsible-governance-of-tenure-of-land-fisheries-and-forests/>

consultant perspectives. The voice and perspectives of communities and local activists is still not being heard. [Forest NGO: interview #6]

The potential problems with multistakeholder platforms and imbalances in civil society participation are also highlighted by some NGOs:

NGOs have to be cautious with multistakeholder platforms.... How are they organised? Who sets them up? Who is it that participates? What are the rules for engagement? What is the intention of the multi-stakeholder body? If the private sector is at the table, are there potential conflicts of interest? Can local people really speak out safely against land grabbing and rights abuse when companies are sat next to them? [NGO: interview #12]

As noted above, activists caution that NGOs must not rush to call for dedicated MSD spaces on land rights and the VGGT, suggesting that *“it is potentially much more useful to use the best bits of the VGGT standard in existing national and local level processes”*.

The risk with the VGGT is that they get stuck in the Ministry of Land or Agriculture. Yet again, disconnected policy ‘silos’ are being set up at the national level. In so many countries the Ministries of Agriculture do not talk to the Ministry for Forests or to the Environmental Authorities. [NGO: interview #8]

NGOs like Oxfam are seeking to work with FAO to make sure vulnerable groups and women are actively engaged in national land policy forums and VGGT discussions. Even if farmer groups and agrarian reform organisations are involved, there is a need for wider participation by forest peoples, pastoralists, fisher folk and indigenous peoples. They identify a key role here for forest and social justice NGOs:

This is what NGOs are good at: building linkages and trustful relationships with local communities, rights holders and rural constituencies....

3.8 Views and approaches of international organisations and donors

Recent reviews of VGGT take-up conducted by FAO, USAID and IFAD advise that the agencies are struck by the strength of support for the guidelines among NGOs, governments, donors, academics and also transnational corporations.⁷⁶ The FAO and agencies like IFAD are clear in global public statements that a core goal is to prevent the “arbitrary loss of tenure rights”,⁷⁷ by raising the awareness and capacity of government agencies to use the VGGT in their national policies and programmes.

The FAO recognises that much more could be done to integrate the VGGT in forest policy processes, and officials see a direct role here for forest NGOs:

Putting VGGT principles and commitments into the VPA process could be useful and more could be done to promote that. NGOs such as Fern could take up this issue in existing VPAs such as in [FAO: interview #16]

76 Cosgrove, H (2015) “Why Land Still Matters: 3 years of the VGs – where we are and where we are going”, USAID-FAO-ILC Webinar, 7 May 2015

77 <http://www.fao.org/3/a-i3920e/i3920e11.pdf>

The FAO is now developing focused training modules on forest tenure for senior and influential Forest Department officials in Africa, and welcomes NGO and community recommendations on what the VGGT training modules should address for *specific countries*.⁷⁸ Examples where more is being done to involve indigenous peoples and communities include the training now being undertaken in local towns and communities in India, or the local land MSD platforms in the Senegal River Valley where communities have a “prominent role” and where there are plans to involve pastoralist groups.⁷⁹

Some FAO staff also highlighted the need to do land tenure capacity building work with rights holders, without necessarily focusing specifically on the VGGT tool:

There is a need to explore different pathways to positive land tenure change. There are different tools: social mobilisation, litigation, community mapping and generating evidence on local tenure regimes. Engaging with the VGGT and taking part in meetings held by FAO may not necessarily always be the best option for communities.... [FAO Forest and Farm Facility: interview #17]

Big business and Big government will never bring about community-friendly land reform. Companies and TNCs just want clarity and security for their investments. What is needed are well organised and well equipped community organisations who can develop their own clear land rights strategy. The same is needed in relation to FPIC. Many communities are not organised to exercise FPIC effectively. Once they have that consensus and clarity, there may be cases where the VGGT are part of the strategy. [FAO Forest and Farm Facility: interview #17]

FAO officials also share the NGO perception that the VGGT are likely to be most relevant to governments when there is a land reform process already underway or in preparation.

3.9 Need for more cross-cutting donor work on land rights

There is little doubt that donor views appear to be primarily focused on market-based land policies and the use of the VGGT as a mitigation tool (rather than a reform instrument). At the same time, donor agencies are not mainstreaming the VGGT and related commitments across their departments and programmes. “Land governance” initiatives appear to be largely confined to agricultural development and land administration projects.

⁷⁸ FAO: Fern interview # 16

⁷⁹ FAO: Fern interview # 15



4. Key findings, conclusions and recommendations

This review of the VGGT and their current implementation status has involved literature research, 17 interviews with international NGOs, indigenous peoples' organisations and FAO staff as well as internet searches. The assessment finds that the VGGT have positive attributes that offer potential for targeted and strategic NGO advocacy on forests, land rights, good governance and sustainable development, **subject to important caveats** (see 5.1 below).

Progressive elements and opportunities include:

- The VGGT human-rights-based approach, its specific guidance on measures needed to recognise and protect customary tenure systems, its useful guidelines on gender and the inclusion of clear rules against forced evictions and the arbitrary loss of tenure rights
- A high degree of legitimacy of the VGGT standard among both governments and many (though not all) civil society organisations, including agrarian reform movements like Via Campesina
- Official recognition of the VGGT among donors and international agencies that have pledged to mainstream the standard in their ODA and policies
- A potential to invoke VGGT intergovernmental commitments on customary tenure in NGO global, regional and national campaigns promoting community land rights
- Possible use of VGGT rights-based standards in holding donors to account in the design and implementation of bilateral and multilateral funding for forest, agricultural development, land administration and climate projects and programmes [several NGOs already use the VGGT this way, including Action Aid and Global Witness]
- Genuine potential to integrate progressive VGGT standards on customary tenure in forest policy processes, including in the FLEGT-VPA process and EU follow-up plans and initiatives on deforestation (if any emerge).

The review also finds shortcomings in the VGGT on several counts. Major problems are that they:

- do not prohibit large-scale land acquisition
- do not challenge the current industrial land/resource concession model
- apply a conventional mitigation approach to avoid or minimise harm
- restrict the core FPIC standard to Indigenous Peoples without clear application to communities with traditional customary land tenures systems and collective cultural connections to the land
- suffers from ambiguities, contradictions and unhelpful derogations on rights protections

- are not enforceable and lack effective monitoring and compliance mechanisms
- are hard to interpret, apply complex terminology and are “difficult” to operationalise
- can be prone to distorted and biased application by States and companies who may choose to play down the human rights principles embedded in the standard and focus merely on technical exercises and checklists to mitigate future risks (already happening).

A primary conclusion of this evaluation of the VGGT is that NGOs must be aware of these shortcomings and therefore be careful **not** to voice generic endorsements or calls for blanket VGGT ‘implementation’. In short, it is concluded that a **strategic and selective use** of the positive standards and intergovernmental commitments in the VGGT could be effective in NGO and community advocacy for forest tenure reform (see below).

Until recently most of the civil society actors involved in VGGT advocacy have been linked to agrarian reform movements, peasant organisations and international development NGOs, with only limited engagement so far by indigenous peoples’ organisations and forest-related NGOs. This risks a potential “agricultural” and ‘farmer rights’ bias in CSO advocacy.

Actors had differing views on VGGT implementation. Most NGOs expressed concern that vulnerable groups have not so far been closely involved in VGGT initiatives (though this situation is slowly improving through specific efforts of NGOs like Oxfam). NGOs also voice concerns that donors are applying a narrow technical and biased approach to the VGGT by using a limited focus on VGGT land investment standards, without enough attention to human rights, customary tenure and equity issues (e.g. G8 Land Transparency Initiative and New Alliance programme in Africa).

This survey finds that social justice and development NGOs insist that to be useful the VGGT must apply a rights-based approach as intended under the VG implementation principles. They warn that dedicated initiatives on the VGGT may not always be the best approach; mainstreaming the useful VGGT standards into existing land reform and other national land allocation processes (like FLEGT) is likely to be more useful, and enable inter-sectoral coordination on land and governance issues.

Another key finding is that NGOs active on VGGT issues agree that civil society organisations and campaigners need to use the most progressive parts of the guidelines to press for change and promote tenure reforms to secure community land rights. Several NGOs express a general desire for more involvement of forest-related NGOs and campaigns in the land policy, land grabbing and VGGT donor discussions at the global and national levels. Donor organisations hold a similar view and agree that greater involvement of vulnerable groups, including indigenous peoples and forest communities, is needed in national and regional land policy initiatives and projects.

Strategic recommendations

This review has generated a number of core strategic approaches for forest campaign organisations, as follows:

- Promote and enable engagement of vulnerable and marginal forest rights holders and forest activists in national land policy and/or forest reform discussions
- Avoid using VGGT standard as a starting point in land rights and tenure reform work with forest

campaigners, local NGOs and community organisations: start with local views, agendas and priorities on land issues (including an examination of the existing national legal and policy framework)

- Selectively use the progressive parts of the VGGT on human rights, FPIC, gender justice and customary tenure to press for change
- Counter donor, government and company technical bias on VGGT by pressing for attention to the human rights, gender equity, customary tenure and land restitution principles of the Voluntary Guidelines
- Support forest groups to engage directly in **progressive and equitable** multistakeholder platforms on land and VGGT initiatives run by NGOs and/or donors/FAO, including through submission of statements and proposals for action/reform on forest tenure
- Press for transparency in donor-sponsored national multistakeholder dialogues on land tenure/forest tenure, including placement of minutes and reports in the public domain
- Insert positive elements of VGGT in EU level discussions on deforestation stressing the need for policy harmonisation and attention to customary land rights
- Do not add to the burden of dense technical guides: consider options for further development of non-written **generic tools** on land rights and tenure reform for activists/communities (that might reference useful VGGT levers)
- Document best practices in tenure reform in support of collective customary tenure systems in forests (use in policy advocacy)
- **Develop and adopt a strategy to more clearly denounce the failed industrial land concession model**
- Develop new campaign(s) to promote alternative national land allocation and rural/forest development policies that foster local level production in culturally and biologically diverse landscapes (communal tenure and community governance of land and forest ecosystems, multiple land use systems and agroforestry, agroecology, multi-cropping, silvipastoral systems, community conserved forests, cultural heritage, non-monetary values, food security, self-sufficiency, local production for local need, fair trade etc).

NGOs emphasise that civil society organisations must avoid technical initiatives, ensure that VGGT rights based principles are respected and challenge the large-scale concession model. Advocacy must promote land laws and policies that recognise and secure communal and customary tenure systems.



Fern office UK, 1C Fosseway Business Centre, Stratford Road, Moreton in Marsh, GL56 9NQ, UK

Fern office Brussels, Rue d'Edimbourg, 26, 1050 Brussels, Belgium

www.fern.org