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GOVERNANCE AND THE LAW

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FAO's technical guides to the VGGT

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Overview

- VGGT and large scale land based investments
- Principles for Responsible Investment in Agriculture and Food Systems
- FAO's technical guides
- Key messages regarding LSLBIs

VGGT – some key points

- Non legally binding (soft law) instrument
- Important links with legally binding instruments, in particular human rights (right to enjoy property, right to housing right to food, ILO 169)
- Endorsed by Committee on World Food Security – member states, civil society and the private sector participated
- Followed by endorsement by GA, Rio+20, G20, G8, Francophone assembly of parliamentarians etc.
- Commitments by the private sector
- Two years of multistakeholder consultations and research preceded formal negotiations of the instrument
- Not an FAO-owned instrument

VGGT and investment

- Investment is an important but not the only issue covered
- Principles: recognize, respect, protect, facilitate legitimate tenure rights, providing access to justice and prevent conflict, and responsibility of private sector in line with UN Guiding Principles on Business and Human Rights
- Procedural human rights and governance principles
- Securing tenure rights for all, but a particular emphasis on the legitimate tenure rights of vulnerable and marginalized groups and individuals

VGGT section 12 on investment: selected points

- States: Provide safeguards and consider alternative models
- Home states: Ensure that their conduct is consistent with the protection of legitimate tenure rights, the promotion of food security and their existing obligations
- Investors: Responsibility to recognize and respect tenure rights of others and should not contribute to food insecurity and environmental degradation.
- Professionals: Due diligence
- Contracting parties: Information for meaningful negotiations
- Indigenous Peoples: FPIC

CFS RAI

- CFS Principles of Responsible Investment in Agriculture and Food Systems
- Endorsed by Committee on World Food Security 2014
- Refer to VGGT on investments in land
- Cover food security, environment, food systems, labour, gender, youth and more

FAO work on VGGT follow up

- Advocacy and awareness raising
- Capacity development
 - Technical guides
 - E learning
 - Trainings
- Technical assistance to support implementation
- Partnerships (VGGT do not belong to FAO)

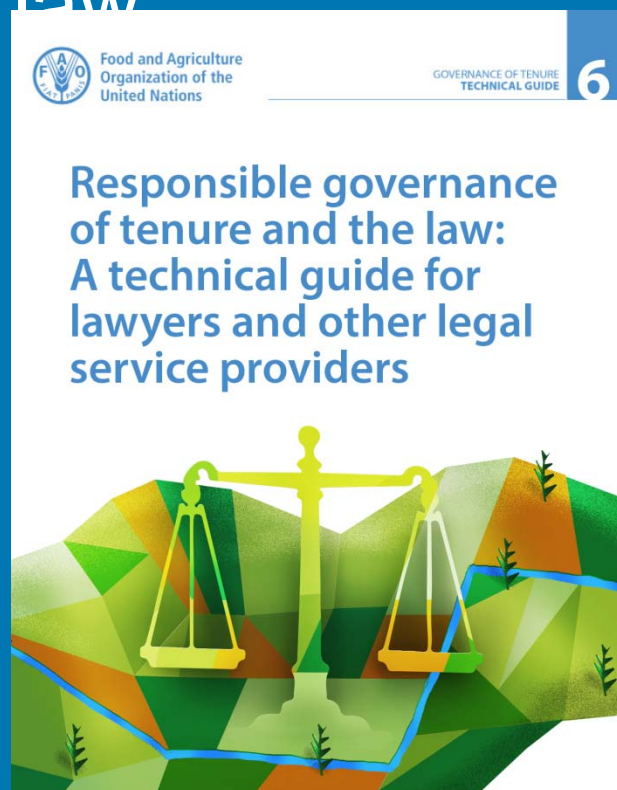
Technical guides

1. Gender and land
2. Forestry
3. Indigenous Peoples
4. Agricultural investments
5. Investors
6. Lawyers

Forthcoming

- Fisheries (preliminary and final)
- The commons
- Pastoralism
- Registration
- Information technology
- Valuation

6 Responsible governance of tenure and the law



- Target audience: Lawyers
 - Governments
 - Public interest legal service providers
 - Business lawyers
 - IGO lawyers
 - Academics
- Interested public

Content and approach of TG Legal

- Land, fisheries and forests
- Legal significance of the VGGT
- Legitimate tenure rights
- Links with ethical obligations of lawyers
- Legal assessments and drafting
- Implementation of laws
 - Governments
 - Public interest legal service organizations
 - Business lawyers
- Dispute settlement

5 Responsible governance of tenure: a technical guide for



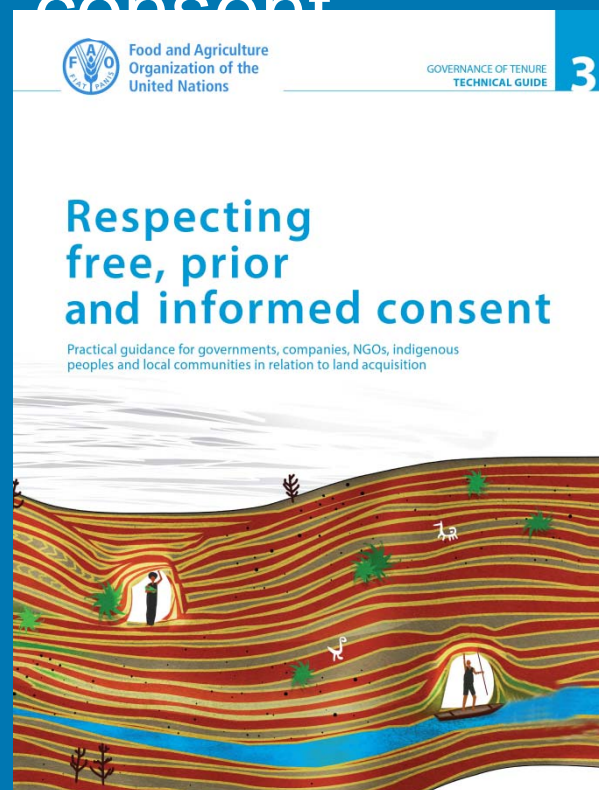
- Targets investors in agriculture
- Not about corporate social responsibility
- Due diligence to minimize risks and maximize financial returns
- Red lights: when to go and invest in something else

4 Safeguarding land tenure rights in the context of agricultural



- Targets government agencies promoting, approving and monitoring agric. investments
- Maximizing shared benefits of public and private investments
- Mitigating negative impacts
- Inclusive business models

3 Respecting free, prior and informed consent



- Targets: governments, companies, NGOs, Indigenous Peoples and local communities in land acquisitions
- Encourages FPIC
- Provides practical tools

Key messages of the guides related to investments (1)

- Not to promote land grabbing, but promote responsible investment
- Alternative and inclusive business models that do not lead to transfer of rights in land
- Participation, consultation, even negotiations with holders of legitimate tenure rights
 - Including customary rights, whether or not they are formally recognized by law or formally registered
- Perform due diligence – investors and their lawyers, including to identify legitimate tenure rights and the holders of these rights
- Not cheap but needs to be factored into the cost of doing business to avoid legal, financial and reputational risks

Key messages of the guides related to investments (2)

- Strengthen the legal frameworks (and policies/institutions) and establish safeguards (governments)
- Avoid taking advantage of weak legal environments by using the VGGT (private sector)
- Advocate, monitor and support legal reform (NGOs)
- Ensure legal assistance and legal representation for communities and other vulnerable groups and individuals in ways that do not cause conflict of interest (all)
- Use FPIC tools to reach sustainable and responsible investment

Thank you for your attention

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