

## **The relevance of the FAO ‘*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*’ to the SDC Project ‘Programme d’appui à la gestion foncière au Burundi’.**

### ***Background of Land Governance in Burundi***

Burundi is one of the most densely populated countries in Africa. On average, 315 persons live on a hectare. Against this background, land-related conflicts are increasing. The land administration is highly centralised and leaves little room for participation. Ninety per cent of the population is active in the agricultural sector, but land fragmentation is an increasing problem threatening agricultural productivity. Hence, the available area for agricultural production per household is very small.

The improvement of the legal situation regarding land governance in Burundi is a major focus of government attention. This situation is accentuated by the return of refugees to Burundi. The government of Burundi seeks to decentralise the management of legal systems related to land governance in order to (1) increase the efficiency of law application and (2) to have legal conflicts addressed at the local level.

The ministry in charge of legal land issues is a proven partner from SDC cooperation in previous phases.

### ***Challenges to the land governance system in Burundi***

The scarcity of land combined with returning refugees and a weak and highly centralised land administration has given rise to conflicts between groups and greater criminality. This is the situation that prompted the government of Burundi to reform the land governance sector. However, the coordination unit of the Burundi government that is responsible for this reform is anchored in only one of the partner ministries, meaning it is not sufficiently connected to the other important government institutions to effectively account for the transversal nature of land tenure / land governance issues.

In addition, the partner communities display a marked deficit in human and institutional capacities for land governance. Nevertheless, they display openness to system innovation that serves their interests.

## ***The SDC Project ‘Programme d’appui à la gestion foncière au Burundi’***

The project aims to prevent land-related conflicts and support rural development. The major avenue to achieving this aim is to reinforce institutional capacities in combination with more effective coordination of land governance at the level of land users. A model for land governance is being created for use in other areas of the country.

### ***FAO Voluntary Guidelines***

A number of aspects of the Voluntary Guidelines are relevant to the project. These aspects are contained in various parts of the Voluntary Guidelines, in particular the following parts:

2. General matters
3. Legal recognition and allocation of tenure rights
4. Transfer and other changes to tenure rights
5. Administration of tenure
6. Responses to climate change and emergencies

The following table summarises the aspects of the FAO Voluntary Guidelines that are thematically related to the SDC project in Burundi. The table describes and comments on that relationship.

**Comparison of provisions in the FAO Voluntary Guidelines with project elements of the SDC project  
'Programme d'appui à la gestion foncière au Burundi'**

Part of the Voluntary Guidelines	Sub-chapter	Aspect described in the Voluntary Guidelines	Relation to the SDC project	Remark
Part 2. General matters	3. Guiding principle of responsible tenure governance	<ul style="list-style-type: none"> <li>• Demands that states should recognise and safeguard tenure rights</li> <li>• Demands access to land-related information and legal support in case of rights infringements</li> <li>• Demands that states should prevent land related disputes and violent conflicts</li> <li>• Chapter 3.B places gender equality as one of the 10 principles of implementation</li> </ul>	<ul style="list-style-type: none"> <li>• The government of Burundi has recognised the need to establish clearer safeguarding mechanisms towards securing tenure rights and tenure information in a context of increasing conflict potential</li> <li>• The prevention of conflicts is one of the major reasons for the government's reform intention as well as for the SDC support project</li> <li>• One specific outcome of the SDC support project is to ensure legal recognition of land rights for women and girls and access to land for them</li> </ul>	This recognition of the Government is a solid platform for the SDC support project to work on.
	4. Rights and responsibilities related to tenure	<ul style="list-style-type: none"> <li>• Suggests to widely publicise land-related information</li> </ul>	<ul style="list-style-type: none"> <li>• This is what the SDC project tries to implement through a broad involvement of all actors into land planning decisions</li> <li>• Availability of land-related information and access to it is one of the outcomes of the SDC project</li> </ul>	
	5. Policy, legal and organisational frameworks related to tenure	<ul style="list-style-type: none"> <li>• Demands that states should ensure adequate coordination between actors in areas important for land governance and governance of natural resources</li> </ul>	<ul style="list-style-type: none"> <li>• The SDC project has identified exactly this aspect – the insufficient coordination between actor agencies in the state – as one of the major risks to improving the land governance system in the country</li> </ul>	
Part 3. Legal recognition and allocation of tenure rights and duties	7. Safeguards	<ul style="list-style-type: none"> <li>• Demands that existing tenure rights that may not be protected by existing law should be identified and considered in land-related negotiations</li> <li>• Demands that women and girls are fully considered in terms of land rights</li> <li>• Also suggests that legal recognition and titling be done on a systematic area-by-area basis so that land rights are conferred to poor and vulnerable women and girls and do not depend</li> </ul>	<ul style="list-style-type: none"> <li>• A specific outcome of the project focuses on securing land rights and titles for women and girls</li> </ul>	The aspect of progressing and systematic land titling without being based on demand from land users is an important aspect realised and implemented in the SDC project. The related discussions are time-consuming. No conclusion as yet on this (May 2012)

Part of the Voluntary Guidelines	Sub-chapter	Aspect described in the Voluntary Guidelines	Relation to the SDC project	Remark
		on their demanding for land rights		
Part 4. Transfers and other changes to tenure rights and duties	11. Markets	Demands that states should support the establishment of appropriate and reliable land-tenure recording systems so that land transaction costs can be conducted efficiently	<ul style="list-style-type: none"> <li>While the support to land markets is not a specific project element, the establishment of a land recording and information system as supported by the project may be beneficial to future land markets</li> </ul>	
	13. Land consolidation and other readjustment approaches	Demands that states should consider land consolidation and the establishment of land banks in cases of high fragmentation of land. If fragmentation provides benefits to land users, states should refrain from land consolidation.	<ul style="list-style-type: none"> <li>The suggestion regarding fragmentation may be useful for project activities</li> </ul>	This aspect is not yet understood by leaders
Part 5. Administration of tenure	17. Records of tenure rights	Demands that: <ul style="list-style-type: none"> <li>tenure rights of all kinds (inofficial, customary, informal) be recorded in a public system</li> <li>the spatial accuracy of a plot should be the core identification mark to identify tenure information to be available to the public subject to private restriction. However, such restrictions should not prevent scrutiny into corruption</li> </ul>	<ul style="list-style-type: none"> <li>The project's work on land information, registration and information dissemination is well supported by part 17 of the Voluntary Guidelines</li> <li>The project could also consider using GIS as a land identification tool which would greatly support the localisation and information of tenure rights</li> </ul>	
	21. Resolution of disputes over tenure rights	Demands: <ul style="list-style-type: none"> <li>that states should provide dispute resolution fora</li> <li>that special dispute resolution fora are introduced to handle tenure conflicts in the area of customary land tenure</li> </ul>	<ul style="list-style-type: none"> <li>The prevention of land-related conflicts and emerging criminality is a major pillar of the project's goal</li> <li>The project's activities on information, dissemination and conflict prevention serves this provision in the Voluntary Guidelines well</li> </ul>	
Part 6. Responses to climate change and emergencies	25. Conflicts in respect to tenure of land, fisheries and forests	Demands that: <ul style="list-style-type: none"> <li>states address potential conflicts at an early stage</li> <li>violations of tenure rights be documented</li> </ul>	<ul style="list-style-type: none"> <li>These two demands are well supported (outcome 5) by the project's activities on information dissemination supporting the reduction of conflict potential over land</li> </ul>	