

CONSULTATIVE WORKSHOP ON LAND POLICY IN EASTERN AFRICA

SUMMARY OF KEY MESSAGES AND RECOMMENDATIONS

I. INTRODUCTION

Given the importance of land in economic and social development as well as ensuring peace and security, the majority of African governments have embarked on land policy and institutional reforms with a view to addressing land issues in the context of national development. The key issues that need to be addressed in this context are: Securing land rights to improve livelihoods and facilitate economic development; the centrality of land in agriculture development; the importance of urban land delivery and peri-urban land development; natural resource access and sustaining common property; property rights and environmental sustainability; equitable land distribution and restoring alienated land; land and gender issues; and land and conflict.

To facilitate land policy formulation and implementation within the framework of NEPAD and in line with MDGs, the Consortium of the African Union Commission (AUC), the United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB) in collaboration with Regional Economic Communities have initiated a process of developing a framework and guidelines for land policy in Africa. The framework will be supported by Benchmarks and Indicators for assessing the performance of land policy formulation and implementation processes at national, regional and continental levels. This process involves a wide range of stakeholder consultations that are intended to gain consensus on the key elements that should characterize the framework and guidelines. The consultative workshop for Eastern Africa is the second in a series of regional workshops intended to engage all the key stakeholders in the process of developing the framework and guidelines.

II. OBJECTIVES AND EXPECTED OUTCOMES

Participants in the workshop consisted of a wide-range of stakeholders on land issues drawn from the Eastern African region and beyond, including high-level representation from national governments, civil society, private sector, centres of excellence, representatives of farmers organizations and development partners. Discussions during the workshop were informed by a regional background paper based on the assessment of key land issues in the Eastern Africa. The workshop aimed to:

- Identify the key land related issues that should guide/inform land policy and institutional reforms;
- Gain consensus on key region-specific issues that should enrich the continental skeleton framework;
- Identify the key gaps and challenges to policy and administrative reforms; and explore mechanisms for knowledge management, lesson sharing and capacity building in support of land reforms, including the role of actors.

Recommendations from the workshop will be used to enrich the draft continental framework and guidelines of the land policy framework and also a roadmap for the development of relevant benchmarks and indicators.

III. KEY OUTCOMES AND RECOMMENDATIONS

Participants commended the three institutions (AUC, ECA and AfDB) for the initiative and called for the need to engage all the stakeholders at various levels of the process.

A. Key Land Issues in Eastern Africa

1. Participants agreed that the seven key issues identified in the draft background paper were relevant to East Africa. These are: State sovereignty over land, legal pluralism in property systems, land and natural resource degradation, security of land tenure, conflict, inter- and intra-generational equity issues, and HIV-AIDS.
2. Additional issues identified or needing emphasis, include: urbanization, land rights for women, trans-boundary natural resource use, pastoralism, biofuels, land taxation and land investment and markets; sectoral linkages, land information management systems, land fragmentation, common property use, urban informal settlements, climate change, resettlement, compensation, expropriation, land management, illegal land acquisition, and issues relating to the Island States.
3. In the group discussions, four (4) key priority issues, tenure security, land administration, land rights for women and land degradation were identified. Other priority issues identified by the respective groups will be further teased out of the proceedings document when finalised.

B. Land Policy Formulation and Implementation

1. The workshop recognised the need for national land policies to take cognisance of other development strategies, including visions and national development plans, to ensure that policies are in line with the goals of the respective countries. In addition, the workshop noted the need to ensure harmonisation between land policies and other related sectoral policies, such as: agriculture, population, resettlement, housing, environment, mining, water, investment policies and others.
2. The workshop was informed that East African countries have taken differing approaches and strategies in their land policy formulation and implementation processes, noting that post-independence land policies have been largely influenced by the legacy of colonial land policies, the development path chosen in the post-colonial period and the role of donor agencies as well as influence from western countries.
3. The workshop underscored the following needs in policy formulation and implementation: consultation and participation of all stakeholders in policy dialogue and policy formulation processes; Peace and political stability; good governance; assessment of ongoing policies; Sustainable funding mechanisms; Information and public awareness; Sound land laws in line with the land policy; Human resources and capacity building; Use of modern land information systems; Need of data bases documented by quality research

C. Key Gaps and Challenges in Policy formulation and implementation processes

1. The workshop pointed out that gaps in human, institutional and financial capacities are among the main impediments to land policy formulation and implementation. The participants identified the following mechanisms as appropriate in addressing the key gaps identified both in the report and at the workshop: capacity building and human resource management; knowledge and experience exchanges; collecting and allocating financial resources for improvement of land

management; creating a fund for land policy development and implementation with contribution of countries; considering gender perspectives in land policy formulation and implementation; creating and updating rosters of experts; creating a regional resource center on land policies and GIS;

2. The workshop recommended that the framework paper should include the need for governments to commit at least 10% of the national budget to the land sector as was done for the agricultural sector. It was further recommended that at the regional level, a continuous coordination mechanism, spearheaded by the RECs for land experts, to dialogue on land issues, should be set up.

D. Lessons learned in Policy formulation and implementation

1. The workshop noted lessons pointing to the need for sequencing land policy formulation and implementation. . The Workshop noted the need to recognise that the process is lengthy. In addition, the Workshop acknowledged the need for reforms of other sectoral policies and laws to support land policy formulation as a complementary process.

2. While acknowledging that private ownership of land and land titling has worked in some areas, the workshop noted that an emphasis on individual land titling has often been done at the expense of common property users and ‘secondary’ rights holders, women, children, migrants, pastoralists, etc, in some areas.

3. The workshop noted that land policies have a higher likelihood of accomplishing their stated objectives if they are home grown and owned, as opposed to those that are led by donors and others... However, the Workshop noted the immense contribution that has/can be made by donors working in partnership with national authorities and stakeholders.

4. The involvement of civil society was noted as critical to policy formulation and implementation processes. In this regard, the workshop emphasized the need for genuine and inclusive consultation.

5. The workshop noted that local institutions have a critical role to play in land administration. They emphasized the need to recognize and support traditional land dispute resolution mechanisms, noting that they are more accessible to the poor and other marginalized segments of society. The workshop also noted the need to reconcile customary/ indigenous and statutory land tenure systems.

6. Noting the need for integrating processes and institutions in policy formulation and implementation, the workshop emphasized the need for strong institutional and human capacities to ensure a sustainable land reform process.

7. Given the importance and sensitivity of land issues, political will was identified as an essential prerequisite to land reform processes.

8. The workshop pointed out that a number of best practices on land policy and administration exist that could enrich the document. The document should therefore draw from this rich resource.

9. Noting that there are a number of evolving and innovative best practices on land policy formulation and land administration in the East African region, which can provide good lessons

to others, the workshop acknowledged the importance of knowledge management and lesson sharing as critical to supporting development, implementation and monitoring of land policies.

E. Monitoring, Benchmarks and indicators for Land policy formulation and implementation

1. The workshop noted the need to institute monitoring and evaluation mechanisms, and to develop benchmarks and indicators to facilitate the assessment of the processes and impacts of land policy formulation and implementation. In developing benchmarks and indicators, efforts should be made to draw lessons from other regions. The process of indicator development and monitoring should include a multiplicity of stakeholders at different levels.

2. The workshop noted that monitoring is crucial to the effectiveness and efficiency of land policy formulation and implementation and that monitoring systems should consider the following: identification of the appropriate institutions in charge of monitoring, including RECs; using existing institutions at national level; diversification of the appropriate levels for monitoring activities (local, national, regional) and using peer review mechanisms

F. Role of Actors

1. Regarding the role of actors, the Workshop recognized that different partners have a key role to play at different levels in policy formulation and implementation including:

- Local level-----Local communities, local governments, CSOs, Farmers organizations, etc
- National level-----State should show appropriate political will toward land policy development and implementation and ensure sustainable resource mobilization in cooperation with other partners
- Regional level---- the RECs should contribute to promoting exchanges of experiences among countries, encourage harmonization when appropriate, and create databases on best practices. They should promote human resource-sharing amongst countries
- Continental level----- The AU-ECA-AfDB consortium should ensure coordination of formulation and implementation of guidelines on land policy development and implementation; and assist countries in resource mobilization and experience sharing among regions
- At all levels--CSOs, should contribute to the monitoring and evaluation processes

IV. REVISION OF THE REGIONAL BACKGROUND DOCUMENT

Key Land Issues in Eastern Africa

1. The consultative workshop examined the background paper, took note of the seven key issues identified and recommended that land rights for women be dealt with separately. Other issues recommended for inclusion/emphasis in the report included: investment in land, ownership of land by non-citizens, urbanization and rural-urban interphase pastoralism, trans-boundary

resource use, biofuel production, land information management systems, climate change, issues relating to coastal areas and island states, and globalization---conclusive list to be developed from proceedings' report.

2. The workshop observed that the background paper would benefit from a discussion of the key issues that form the basis for the land question in Eastern Africa, highlighting the common characteristics, similarities and variation in the contextualization of the region. In addition, there is need for more and current country specific examples and data and a comparative analysis of the issues across countries in the report.

3. Participants also felt the need to improve the document in regard to structure, clarity, referencing, detailed country information, and overall editing.

Land Policy Formulation and Implementation

1. Participants applauded the efforts made by the authors of the report, noting that the document had provided a highlight of the various land policy formulation and implementation processes in the region. The workshop, however recommended that the report be revised and made the following recommendations to improve this section of the report:

- Include an executive summary targeted at decision makers.
- Ensure the document is restructured and provides a conceptual framework based on the pillars outlined in the Background document: Economic, Social, Environmental and Political pillars. There is a need to include a section on methodology of the study
- While noting that the scope of the initiative does not include detailed country specific information, the workshop participants indicated the usefulness of additional areas of focus. In this regard, country level information should be sourced to ensure that the document is based on current and factual information relating to: land policy processes in the various countries. This is particularly important to ensuring that the report provides the reality on the ground with respect to national land policies as well as other sectoral policies. In this regard, focal points comprised of one participant from each country should provide the relevant data in a week's time.
- Ensure a balanced representation of countries in the analysis and examples provided in the report, and if possible provide country reports as an annex.
- Ensure that the report addresses the political-economic environment within which land policies are based as this sometimes poses a constraint to formulation and implementation, including: political interests, change of government, political instability.
- Include an analysis of civil society participation in policy formulation and implementation of the East African countries.
- A cost-benefit analysis of policy formulation and implementation including an analysis of alternative cost-effective innovations in the various countries to provide guidance and lessons to countries embarking on these processes.
- Ensure a clear distinction is made between policy and law related issues
- Put emphasis on trans-boundary natural resources and the need for harmony in their management.