

LGAF South Africa (2011)

Country Scorecard

LEGAL AND INSTITUTIONAL FRAMEWORKS

			Score – Panel Consensus Position				Score -Verification Workshop Result				
LGI-Dim	Topic		A	B	C	D	A	B	C	D	Comment
Recognition of Rights							Verification Workshop Result				
1	i	Land tenure rights recognition (rural)		?							
1	ii	Land tenure rights recognition (urban)		?							
1	iii	Rural group rights recognition		?							
1	iv	Urban group rights recognition in informal areas			?						
1	v	Opportunities for tenure individualization			?						
Enforcement of Rights											
2	i	Surveying/mapping and registration of claims on communal or indigenous land				?					
2	ii	Registration of individually held properties in rural areas	?								
2	iii	Registration of individually held properties in urban areas	?								
2	iv	Women's rights are recognized in practice by the formal system (urban/rural)	?								
2	v	Condominium regime that provides for appropriate management of common property	?								
2	vi	Compensation due to land use changes				?		?			Are able to claim compensation due to a change in land use - such as rezoning

Mechanisms for Recognition											
3	i	Use of non-documentary forms of evidence to recognize rights			?						
3	ii	Formal recognition of long-term, unchallenged possession			?						
			Score – Panel Consensus Position				Score -Verification Workshop Result				
LGI-Dim	Topic		A	B	C	D	A	B	C	D	Comment
3	iii	First-time registration on demand is not restricted by inability to pay formal fees				?					
3	iv	First-time registration does not entail significant informal fees	?	?				?			
3	v	Formalization of residential housing is feasible and affordable			?						
3	vi	Efficient and transparent process to formally recognize long-term unchallenged possession									
Restrictions on Rights											
4	i	Restrictions regarding urban land use, ownership and transferability		?							But question about the urban edge and limitations - example used was the exclusion of Orange Farm
4	ii	Restrictions regarding rural land use, ownership and transferability		?							
Equity and Non-Discrimination											
6	i	Clear land policy developed in a participatory manner			?						
6	ii	Meaningful incorporation of equity goals			?						
6	iii	Policy for implementation is costed, matched with the benefits and is adequately resourced			?						
6	iv	Regular and public reports indicating progress in policy implementation			?						

MANAGEMENT OF PUBLIC LAND

		Score – Panel Consensus Position				Score -Verification Workshop Result					
LGI-Dim		Topic	A	B	C	D	A	B	C	D	Comments
12	i	Public land ownership is justified and implemented at the appropriate level of government		✓							
12	ii	Complete recording of publicly held land	✓								
12	iii	Assignment of management responsibility for public land			✓			✓	✓	<input type="checkbox"/>	Group argued that it could be a "B" or a "C"
12	iv	Resources available to comply with responsibilities			✓						
12	v	Inventory of public land is accessible to the public		✓							
12	vi	Key information on land concessions is accessible to the public.			✓						
Incidence of Expropriation											
13	i	Transfer of expropriated land to private interests	✓	✓			✓				
13	ii	Speed of use of expropriated land	✓								
Transparency of Procedures											
14	i	Compensation for expropriation of ownership			✓		✓				Strongly disagree with the panel finding
14	ii	Compensation for expropriation of all rights			✓						Agree with the finding of a "C" but concerned re the wording relating to grazing etc
14	iii	Promptness of compensation		✓							
14	iv	Independent and accessible avenues for appeal against expropriation		✓							
14	v	Appealing expropriation is time-bounded				✓					Group could not comment as there was insufficient information
Transparent Processes											
15	i	Openness of public land transactions				✓					
15	ii	Collection of payments for public leases			✓						
15	iii	Modalities of lease or sale of public land			✓						

LAND INFORMATION

			Score – Panel Consensus Position				Score - Verification Workshop Result				
LGI-Dim		Topic	A	B	C	D	A	B	C	D	Comments
Completeness of Registry											
16	i	Mapping of registry records	✓								
16	ii	Economically relevant private encumbrances	✓								
16	iii	Economically relevant public restrictions or charges			✓						
16	iv	Searchability of the registry (or organization with information on land rights)	✓								
16	v	Accessibility of records in the registry (or organization with information on land rights)	✓								
16	vi	Timely response to a request for access to records in the registry (or organization with information on land rights)	✓								But there are exceptions
Reliability of Records											
17	i	Focus on customer satisfaction in the registry			✓						
17	ii	Registry/ cadastre information is up-to-date	✓				✓	✓			Argued that the SG is out of date but the registry is not
Cost Effective and Sustainable											
18	i	Cost of registering a property transfer			✓						One participant felt it was an "A"
18	ii	Financial sustainability of the registry	✓				✓				
18	iii	Capital investment			✓		✓				Two issues were joined into a single dimension - argued that there is sufficient capital investment
Transparency											
19	i	Schedule of fees is available publicly	✓								
19	ii	Informal payments discouraged		✓			✓				Argued that corruption has been addressed in the system – This was suggest by one government official

DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

		Score – Panel Consensus Position				Score - Verification Workshop Result				
LGI-Dim	Topic	A	B	C	D	A	B	C	D	Comment
Assignment of Responsibility										
20	i		✓				✓	✓		Group argued that it could be a "B" or a "C"
20	ii			✓						
20	iii			✓						
20	iv			✓						
Low Level of Pending Conflicts										
21	i					✓				
21	ii				✓					
21	iii				✓					

LARGE SCALE LAND ACQUISITION

LGI	Dimension Description	Score – Panel Consensus Position				Score -Verification Workshop Result				Comment
		A	B	C	D	A	B	C	D	
LSLA-1	Most forest land is mapped and rights are registered	✓								
LSLA-2	Land acquisition generates few conflicts and these are addressed expeditiously and transparently.			✓						Although "C" is correct, its not always expeditious
LSLA-3	Land use restrictions on rural land parcels can generally be identified			✓						
LSLA-4	Public institutions involved in land acquisition operate in a clear and consistent manner			✓						
LSLA-5	Incentives for investors are clear, transparent and consistent			✓						
LSLA-6	Benefit sharing mechanisms regarding investments in agriculture (food crops, biofuels, forestry, livestock, game farm/conservation) are regularly used and transparently applied			✓						
LSLA-7	There are direct and transparent negotiations between right holders and investors				✓					
LSLA-8	Sufficient information is required from investors to assess the desirability of projects on public/communal land				✓					This is hypothetical as the answer is based on what is happening in the mining sector
LSLA-9	For cases of land acquisition on public/community land, investors provide the required information and this information is publicly available			✓						
LSLA-10	Contractual provisions regarding acquisition of land from communities or the public are required by law to explicitly mention the way in which benefits and risks will be shared.				✓					
LSLA-11	The procedure to obtain approval for a project where it is required is reasonably short			✓						
LSLA-12	Social requirements for large scale investments in agriculture are clearly defined and implemented			✓						
LSLA-13	Environmental requirements for large scale investments in agriculture are clearly defined and implemented			✓						
LSLA-14	For transfers of public/community lands, public institutions have procedures in place to identify and select economically, environmentally, and socially beneficial investments and implement these effectively.			✓						
LSLA-15	Compliance with safeguards related to investment in agriculture is checked			✓						
LSLA-16	There are avenues to lodge complaints if agricultural investors do not comply with requirements			✓						