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### ABOUT THIS BOOKLET

Land tenure represents one of the major challenges that farmers face, especially in developing countries. Many small-scale farmers, especially women, work on land that they do not own, exacerbating their poverty, lack of political power and equal recognition of basic rights.

This booklet contains a series of cases selected from WFO members of different countries around the world highlighting the land tenure situation at country level, as well as the main challenges that farmers face in relation to working on a piece of land that they do not own and identifying possible solutions to overcome land tenure challenges with better involvement of farmers in land tenure policies.

Dr. Marco Marzano de Marinis

**SECRETARY GENERAL**World Farmers' Organisation, WFO

# Workshop on Farmers' land management: THE ROLE OF THE VGGT

#### H. E. Claudio Javier Rozencwaig

Permanent Representative of Republic of Argentina to FAO, IFAD and WFP

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) promote secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment. They were officially endorsed by the Committee on World Food Security (CFS) on 11 May 2012. Since then implementation has been encouraged by many multilateral fora such as G20, Rio + 20, the United Nations General Assembly and the Francophone Assembly of Parliamentarians.

The VGGT document is one the most important instruments of the CFS. They provide a framework that States, farmers and other stakeholders should use in developing their own strategies, policies, legislation, programmes and activities. They allow governments, civil society, the private sector and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices.

The importance of this tool relies on two facts:

- It is the result of an inclusive and participatory process in which all CFS stake-holders were involved at all levels from the very beginning. In this respect it embodies the very DNA of CFS.
- It tackles crucial issues for food security and nutrition. The eradication of hunger and poverty, and the sustainable use of resources, depend in large measure on how people access land and other natural resources.

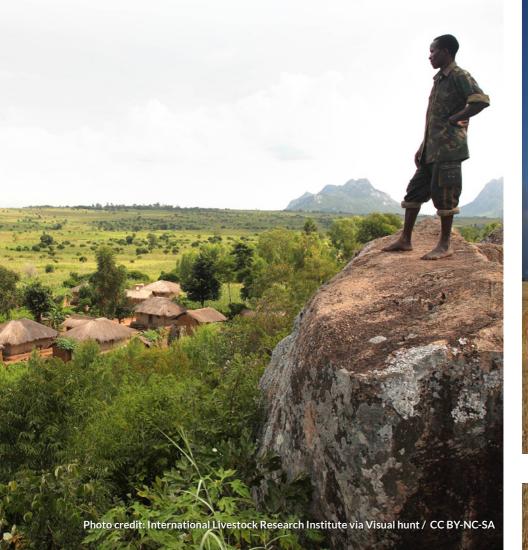
From the very beginning Argentina and many other countries and stakeholders have been deeply committed and involved in the negotiation of the VGGT because we consider it covers crucial aspects: human rights perspective, women's rights, climate change and access to justice, among others.

Many of the new products negotiated at CFS build on the VGGT because this product embodies core values.

The instrument is voluntary and flexible and should be implemented in accordance with the national legislation and the international obligations.

From now on, one of the main challenges regarding VGGT is wide dissemination and effective implementation.

In this regard, the compilation of cases contained in this book constitutes an inspirational and useful tool to know better the VGGT and to encourage farmers and other stakeholders to make use and to disseminate this product in order to improve access to land and natural resources having in mind our final goal of ending hunger and malnutrition.



# COMMUNAL LAND TENURE IN SOUTH AFRICA

#### AGRISA S.A

Home of the South African Farmer

#### Description of the land tenure situation

South Africa always had a dual land tenure system, a titled land tenure system that is subdivided and legally registered to the owners in a deeds office, and communal land tenure system where the state owns the land and traditional leaders are given custodianship to administer the land on behalf of their communities. The former system is characterized by a large degree of tenure security as land ownership is formally recorded and afforded a large degree of protection, it is also freely traded and used as collateral by financial institutions to grant loans. In the latter, the land user negotiates with the traditional leader (headman or chief) for a piece of land to use. The user is then given permission to occupy (PTO) on the land and he can use it virtually in perpetuity until the traditional leader or community decides otherwise. This form of land tenure is not legally registered and as such, not recognized by the financial institutions for use as collateral.

#### Challenges faced by farmers

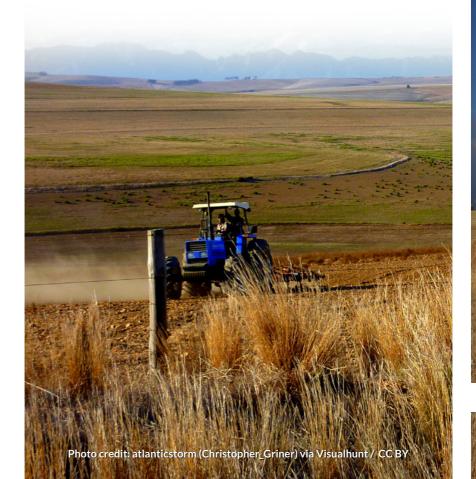
As the tenure right is not legally secured via titling, farmers under this tenure type suffer several challenges. Financial institutions in South Africa mainly recognize a titling as the only ownership type they can lend against. The state does play a role of financing farmers through a few programs like RECAP (Recapitalization and Development Program), MAFISA (Micro Agricultural Finance Institution of SA) etc. but the programs cannot cover all farmers leaving a lot of them without access to any funding except using their own savings. Furthermore, South Africa is a very dry country and one needs insurance products for their farming activities and without finance it means even insurance is out of reach.

Another challenge is that there is no secure tenure for the land as well as transferability. A farmer's land under the PTO ownership was taken by the community who didn't want the farmer to use the land even though the traditional leader gave him the PTO. Vandalism by the community and lack of security to his crop made farming a loss-making business until he quit. In the eastern regions, females are not allowed to inherit or continue using the land

that was given to their husbands should the husband pass away. In terms of customary law, that land is given to a male relative or another male member of the community.

#### Identification of possible solutions

Possible solutions include empowering farmer lobbying groups, especially female rural farmers to be able to advocate their positions during government policy formulation workshops, democratization of traditional leader's governance, and establishing rural state financial institutions to offer finance to this group of farmers. There is also a legislative process underway to formalize the rights of people living under communal tenure and introduce democratic elements to decision making on land administration. There is currently a Bill, however the progress of the Bill is very slow as it affects vested interests of strong lobbying groups. Traditional leaders currently enjoy executive powers in relation to land management and may see the Bill as a threat, which therefore slows the process.



# CASE STUDY 3 LAND TENURE IN THE US

**US NFU** 

**US National Farmers Union** 

#### Description of the land tenure situation

Access to land is a fundamental element of farming. Whether the farmer is producing a crop, livestock or livestock products, land is vital to the undertaking. In the United States there has been a growing desire by industrial agricultural interests to directly own ag/food production resources including land. Many states have adopted restraints on the ability of non-family farm, industrial interests to own production resources. These restraints are described as anti-corporate farm statutes.

#### Challenges faced by farmers

The restraints on corporate ownership arose for several reasons and include:

- The negative effect that corporate purchasing of farmland will have on the ability of new young family farmers to compete for the ownership and/or leasing of farmland based upon the much larger financial capacity of industrial interests.
- The negative effect of absentee ownership on the rural communities. Absentee ownership does not provide the same community support for local schools, medical facilities and other important rural institutions.
- Concern over the failure of industrial agriculture to protect the environment; provide liveable income to workers and the degradation of price discovery opportunities for commodities.

#### Identification of possible solutions

Recently the North Dakota Legislature amended its statute to allow for corporate interest to own farm land. While there was a protracted fight in the Legislature ultimately the corporate forces won and the amendments were adopted.

However, the North Dakota State Constitution provides that if enough state citizens sign a petition any matter adopted by the Legislature may be rescinded by a vote of the general population. A petition for this purpose was developed and its supports succeeded in placing the matter before the public.

The North Dakota Farmers Union (a division of the National Farmers Union in the United States and a charter member of WFO) launched a major public education effort to inform North Dakota citizens of the importance of repealing the statutory amendments. The NDFU conducted numerous meetings across the state, published many press releases and sponsored radio and television spots all directed at the importance of the issue. Thus, 75% of the citizens who voted on the matter supported the Farmers Union position and the anti-corporate statute was restored.

Preserving the ability for families to own the land they farm and to be free from unfair corporate completion in their communities was clearly highly valued by the citizens of North Dakota.



# CASE STUDY 4 LAND TENURE IN JAPAN

JA-ZENCHU

Central Union of Agricultural Cooperatives, Japan

#### Description of the land tenure situation

The amount of farmland has decreased by 25% from 6 million hectares (1965) to 4.5 million hectares (2015) over the last 50 years. This is mainly because of the conversion of farmland for industrial and commercial uses as a result of economic development and increased abandonment of land in unfavourable conditions, including farmlands located in hilly and mountainous areas. In order to improve productivity, it has become apparent that expansion of farm plot size and land consolidation are required.

#### Challenges faced by farmers

Due to regulations on transferring ownership rights and leasing rights, transfer of farmland rights is only permitted for the purpose of cultivation. Resale or sublease of farmland is not permitted.

There are also regulations that do not permit the conversion of farmland to other uses and conversion of any land which is collectively utilized. Conversion is prohibited if it would have adversary impact on surrounding farms. Despite these limitation of farmland, the amount of farmland decreases year by year.

Although a stock company is basically denied the ability to acquire owner-ship rights farmland, they can have the right of use under certain requirements since 2009. Additionally, pressure from deregulation proponents to permit a stock company to obtain proprietary rights has been increasing recently.

### Identification of possible solutions

Since the average size of farmlands is only about one hectare, it has been a common practice for farmers to have a side job in other industries. Unsurprisingly, most farmers place great importance on having ownership rights over their own farmland. Expansion of farmland that belongs to full-time farmers is mainly pursued through land-lease, which is promoted by the government policy.

In order to improve the international competitiveness of Japanese agriculture, the government aims to accumulate 80% of the farmland in the hands of full-time farmers over the next 10 years. Currently 50% of farmland is owned or leased by full-time farmers. At the same time, the Government set a goal to expand farmland size for land-intensive farming such as rice farming to 10 hectares per farmer.

In order to achieve these goals, the "Farmland Intermediary Management Project" was launched in 2014 to rent farmland from farmers who can't continue farming and to rent to farmers who want to expand their capacity. The management body of the Project, Farmland Intermediary Management Institution, is entrusted to select the borrower of the land at its own discretion, which enables it to combine scattered small pieces of farmland owned by different owners into larger tracts.



## LAND TENURE IN MAURITIUS

(Falcon Citizen League)

#### **FCL**

Falcon Citizen League, Mauritius

#### Description of the land tenure situation

In the Island of Mauritius over the period July 2013 to June 2014, most (95%) of the area in the non-household sector was owned by the farmers. In the household sector, nearly half (47%) of the area was owned by the farmers, while most of the remaining area was either rented from other owners or leased from Government. For the Island of Rodrigues, most of the areas in both the non-household and household sectors were leased from Government. The main land tenure systems in the SADC are freehold, leasehold and community system. Small Island states like Mauritius has had uninterrupted growth rates in the same period and as a result has delivered significant improvement in the quality of life of its people.

#### Challenges faced by farmers

With the democratization of the Mauritian economy, the Ministry of Agro Industry & Food Security has helped farmers (especially vegetable & fruit growers) in giving land on long term lease (renewable if needed).



Many planters have had their business grown during the last 20 years. However, with the location of the sites all around the island the farmers are facing several problems in relation to climate change, overuse of chemical fertilizers and pesticides. Moreover, theft has become a big problem during the last 10 years. The government has then given the permission to erect temporary shelter for watchman and night surveillance with fire arm permits.

#### Identification of possible solutions

The threats of encroachment on State Forest Lands and their conversion to other land uses are ever present. Forest lands in strategic locations (e.g. catchment areas) will be made unalienable. Strategically located privately owned forests were compulsorily acquired. In view of the long term investment in forestry private forests are being cleared and converted to other land uses. Some incentives given to the farming community were in the form of: (a) Tax rebates/grants/subsidies (b) Free seedlings & Planting Materials (c) Technical guidance.

Faced with the challenge of competitiveness, Mauritius has sought additional opportunities for diversifying their economies and markets, especially in the agricultural sector, in order to increase their degree of food security and self-reliance. Since 2014 the government is laying lots of emphasis on Natural/Bio-Farming for a 50% market share by 2020.



# Land Tenure in Nigeria YOUNG AGRO-ENTREPRENEURS

John Agboola

Communication Focal Person, YPARD Nigeria

#### Description of the land tenure situation

Nigeria is an endowed country like other African countries. It has potentials to become the food basket of nations, considering the large expanse of arable land, grassland, forest and other natural resources.

Since ages, land tenure has been a pending issue in the agricultural sector, particularly for smallholder farmers (men and women) and youth. The constraints associated with land tenure shifted youths away from accessing land for their agricultural enterprise and also, put women at a disadvantage. In Nigeria, land tenure is basically practiced by the three ethnics groups (Hausa, Igbo and Yoruba). The types are land tenure by inheritance, by communal, by purchase, by pledge, by custom, by lease, etc. but the most prominent practices are the land tenure by communal, by inheritance and by purchase.

#### Challenges faced by farmers

Young people are great assets to any country, given their entrepreneurial spirit and increased mobility and creativity to create a niche for themselves and others. Young agro-entrepreneurs are not just those living in the agrarian communities but also, those willing to tap into the potentials of agriculture for poverty alleviation and job creation.

For the rural youth, few of them have access to land (1-2 hectare) while others don't have. This informs their decision to migrate to the cities in search of better livelihood. In 2013, UN-HABITAT reported that landlessness and lack of economic opportunities among rural youth is a primary cause for migration to urban areas which in turn links to pressures for housing, tenure insecurity, and increase in informal settlements.

### Identification of possible solutions

In 2016, the Federal Government of Nigeria launched one man one hectare for smallholder farmers in Ebonyi.

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This is a good approach to boost productivity at grassroots, ensuring accessibility to land and removing barriers to land holding for farmers, especially women and boosting youth's interest in agriculture.

Policies and intervention programmes should be redesigned to focus more on youth's interest, smallholder farmers and women in agriculture and accessibility to land. This will ensure proper utilization of agricultural land, by guaranteeing the availability of land to people who seek to make a living out of land, and assisting them to utilize it productively.

The recent Nigerian Agricultural Promotion policy suggested some policy thrust on reducing implicit and explicit gender biases in land allocation and titling processes; creating a transparent, liquid market for agricultural land, improving likelihood of land being used as collateral; allowing the farmers who are commercializing to use other land (aggregate) rental markets or land markets and enable migration of farmers who have better opportunities elsewhere in the economy.



Land Tenure in Côte d'Ivoire:

## HOW TO REMOVE THE OBSTACLES TO THE IMPLEMENTATION OF THE LAW ON RURAL LAND

**RIAD** 

Réseau Ivoirien pour une Agriculture Durable

## Description of the land tenure situation

Law No. 98-750 of December 23, 1998 on rural land was implemented to settle conflicts between the different occupants of the same piece of land, in order to secure these lands to develop agriculture. This law takes into account customary ownership and traditional land management. However, it is currently struggling to apply on the ground.

There are several obstacles to the implementation of the law, such as the lack of knowledge on the land law, massive and sometimes violent occupation of plantations and rural lands by foreign and national populations, incomplete implementation of rural land management bodies, and insufficient means. In addition, in 2015, 17 years after the law was passed, only 1038 land certificates were issued out of the 500,000 planned.

### Challenges faced by farmers

As the law has not been implemented, many land disputes remain and constitute a major obstacle to the





development of agricultural activities. For example, farmers are expelled from their farms and are afraid to invest in unsafe land. Also, in the absence of the application of the law, the socio-political crisis has revived these land conflicts; allochthones have seized plots of land, taking advantage of the absence of the real owners or occupants. Other people have forcibly settled on land belonging to third parties. When landowners want to recover their plots, conflicts arise.

### Identification of possible solutions

Possible solutions to overcome the challenges of land tenure faced by farmers include launching an information campaign to raise awareness for all stakeholders (especially farmers) and adopting a consensual delimitation approach to village territories.

It is a matter of conducting a community dialogue on the transformation of customary rights into modern rights:
Clarification of customary rights of ownership and use, identification of rights holders, clarification of land tenure arrangements, and local settlement of land disputes through community dialogue.

This strong involvement of local communities, including farmers in land management, would allow removing obstacles to the implementation of the law, which will surely contribute to resolving the current conflicts.

# Land tenure in Uganda: THE KEY ROLE OF VGGTS

#### Akaki Rose

Member, Uganda National Farmers Federation, Member Women Committee of WFO

You cannot call yourself a farmer without land. Land is a major resource in the life of a farmer. It is therefore important to secure tenure of land to enable a farmer go about the business of farming with peace of mind.

In November 2016, Ugandan farmers had training on implementation of Voluntary Guidelines on Responsible Governance of Tenure (VGGT), organized by WFO and FAO. This training came in handy in guiding farmers, policy makers and local leaders in solving land wrangles that continue to be reported. As of now, FAO is piloting VGGT in one district of Uganda. The indignant farmers get a Customary Certificate of ownership which gives them security of tenure.

In Uganda, there are four types of land tenure clearly spelt out in the 1995 Constitution. These include freehold, mailo land, leasehold and customary tenure.

According to the Uganda Land Act of 1998, freehold tenure is that tenure that bestows upon someone ownership of registered land in eternity.

Mailo land tenure is where permanent ownership of a large plot of land belongs to land lords with tenants on the land recognized and also have rights to live and utilize the land. The land lord has perpetual ownership of the land and is free to sell or pass on his rights to his heir.

With the exception of mailo land, land in most parts of Uganda is under customary tenure. This is land that is communally owned by a clan, a tribe or individual families. This type of land tenure is, according to the Uganda Land Act 1998 governed by rules generally accepted as binding by a particular community.

Lease hold tenure is where one party grants to another the rights to exclusive possession for a specified period of time. Under this type, a land owner; whether customary, freehold or mailo grants lease to another person.

Thus, it is important that any land buyer should know what type of tenure the

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land is under as well as the implications. Javan Akodo did not take this into consideration when he bought land from Francis Otekat for cattle rearing in 2002. The land boarders River Nile on one side and other neighbours on the other sides.

Javan had all the necessary paper work and transfers made and for started raising cattle. It was only in 2016 that he had to face challenges when he wanted to open the boundary of the land. During leasing, Francis did not compensate the squatters to vacate the land. As time went by, these squatters multiplied and continued occupying more of the farmland. He could not chase them away because the Constitution protects them. The second challenge was from another neighbour who took advantage of Javan's not clearly knowing the boundary of his land. This neighbour removed all the mark stones from his side and instead using dubious means planted his far inside Javan's land. When Javan started slashing the boundary he contested.

Javan invited the Local council leaders, neighbours to the land, Sub-county Land Committee members, the Uganda Land Alliance (an NGO that tries to settle land issues in the community) and those elders who were present as witnesses when Francis was leasing the land that Francis bought. This is the time when the VGGT came to be effectively used in resolving the case. The Guiding principles of responsible tenure governance, Part 3 and 4 of the VGGT document (which spell out the Legal recognition of and allocation of tenure rights and duties; and Transfers and other changes to tenure rights and duties) were used to guide in resolving the case.

The meeting which took two days to come to a resolution resolved that the squatters should be left out of Javan's land. Thus, they were each given a portion of land for their livelihood.

For the neighbour who had encroached on Javan's land, the elders and the surveyor were used to ascertain the actual boundary of Javan's land. This done, the surveyor applied for cancellation of the fraudulent title the neighbour had acquired and advised to have the Sub-county Land committee first check the boundary of his land before recommending him for leasing as the law requires.

The experience Javan went through is a familiar one where one person who has bought land from a bona fide owner faces off squatters demanding compensation or neighbours encroaching. However, with the use of the existing country laws and the VGGT guidelines, such cases can be solved amicably.

# Land Tenure in Mozambique: THE "TERRA SEGURA" PROGRAMME

### (MUGEDE)

#### MuGeDe

Mulher, Genero e Desenvolvimento Mozambique

Mozambique covers an area of 799,380 km², with 36 million hectares of arable land like the fertile Zambezi Valley, Gurué, Manica, Chokwé, Moamba, Matutuine, etc.

Underneath this crucial resource for agriculture, there is the coal of Moatize, the gas of Pande and Temane, the gold field of Manica and Cabo Delgado, precious and semi-precious stones of Zambézia, Nampula, etc.

From this land, the stony Montepuez marble mountains rise in Cabo Delgado, the heavy sands of Moma and Chibuto are mixed, and the forests are covered with numerous rich resources, whose devastation exacerbates climate change, that constitute a major blow to the socio-economic life of the Mozambican people.

In Mozambique, the land is owned by the State, as stated in article 46 of the Constitution of the Republic:

- 1 Ownership of land is vested in the State.
- **2** Land may not be sold, mortgaged, or otherwise encumbered or alienated.
- **3** As a universal means for the creation of wealth and social well-being, the use and enjoyment of land shall be the right of all the Mozambican people.

It is in the perspective of the Constitution that the land is granted to the citizen for its use, according to his design, particularizing between land for agriculture, land for housing, land for mining, forestry, industrial sites and for other purposes.

From the law n.6/79 of June 3rd to its revision with law n.19/97 of October 1st, Land Law has existed for more than three decades, but it is still unknown by a large part of the population, mainly in rural communities and especially by rural women.

This limited knowledge facilitates violations that vary from theft to expropriations of those lands that ensure the livelihood to rural communities, farmers and rural women.

Land is the most important resource of the country, and it is the fixed asset for farmers and rural communities, whose revenues are mainly ensured by agriculture.

In addition to guaranteeing DUAT to rural communities and farmers, it is fundamental to share the knowledge of the law and of its ability to improve the living conditions of the people.

In rural areas, women are still discriminated in the inheritance of lands. It is important that rural communities become aware that the law is clear, as article 16 provides that "the right of land use and benefit may be transferred by inheritance, without distinction by gender"

"Terra Segura" is a programme launched by the Government to give the chance to millions of citizens to grow crops and escape from poverty, granting them the land needed.

"Terra Segura" Programme should be aligned with the core principles of Land Law to allow not only farmers, but all the population to explore and benefit from the opportunities given by the land.

The Programme should be safe not only in in words, but especially, in the realisation of land security for rural communities, farmers and rural women.

The ambitious goal of granting five million DUAT to poor families is a courageous step made by the Government, but it should be accompanied by an awareness raising activity that gives to the population the tools needed to protect themselves from any kind of violation that will occur.

On the other hand, the involvement of civil society Organisations, working with grassroots communities, rural women and farmers on issues related to land, is essential to support such a great initiative by the Government.

If that happens, land will finally be in the hands of those who work it and have always worked it, even if they did not own it.

## LAND TENURE IN CAMBODIA (CFAP)

#### **CFAP**

Cambodian Farmers Association Federation of Agricultural Producers

Cambodia has an agricultural land of about 3060000ha for a short term period of agricultural production. Agriculture is a major sector in Cambodia which represents of about 82% of the total population, most of them are farmers who live in rural areas with a land size of 0.5ha in average. They still depend much on rain water. The irrigation system is very poor and there is limited or no water during the dry season which does not that could not allow farmers to continue their farming activities in a year round. Rain water is about 1400-1500mm Ave./Yr. Even though, the country adopted itself an agricultural country, the Climate Services in agriculture are very poor. Generally, farmers could not get access to services, knowledge and finance properly. Cambodian agriculture is still unproductive when compared to neighbouring countries in the region.

To grant land concessions for local and foreign companies often affected to the local community, right of landholders, agricultural activities and also threatened to the environment and forestry areas in Cambodia where many rural people depend much on for their daily life and country forest areas. There is a lack of transparency in terms of land concessions grants and sometimes affected seriously to the existing infrastructure that could cause lots of suffering for the rural poors and farmers from land concessions. Therefore, the national farmers' organizations, international farmers' representatives, relevant stakeholders and development agencies should be involved in government's efforts to address challenges that have affected farmers and local community in target development areas.

There is no clear data on numbers of landless households in Cambodia, it is estimated that about 40%-50% of young generations that live in rural areas have no agricultural land given by the state since 1990s, therefore numbers of landless households have increased accordingly. In 1980s, all household members were offered parts of land by the state. Cambodia has the laws on land tenure and people have the right to register to hold their land with recognition from the authorities, administratively by Ministry of Land Management Urban Planning and Construction. However, many people who live

in local community could not get access to land registration and recognition. Constraints, are even for those who have land titles, as they still have problems from land concessions grants and land crabbing. Land crabbing, not only happened in forestry areas, but also at local communities where poor and indigenous people live.



It is estimated that about 40% of farmers could get access to technical training directly from other projects supported by farmers' organisations, development agencies and the government while the rest of others could not get access to services properly. Among those only about 25% have applied new agricultural technical practice. Agricultural yield in Cambodia is still low i.e. 2.5-4t/ha for rice production. Rice is the main diet in Cambodia and it grows everywhere during the rainy season. The majority of farmers do only one crop per year as they are limited by drought and lack of water sources, especially during the dry season of most places while during the rainy season, it is always flooded, especially those along Mekong river and flat areas. The irrigation system has about 45%, but only about 15% is used while in dry season there is no or limited water for farmers. The increasing of temperatures (35-41 Decree Celsius) also limits farmers to continue farming, especially during the dry season as crops, especially vegetables do not grow well and it costs a significant amount of money for farmers to prepare a greenhouse while animals always die during the dry season as well. Many farmers have fallen into debt. Cambodian farmers depend much on rain fall.

It is incredible that about 99.9% of farmers in Cambodia cannot get access to soil testing for their farm land. Therefore, they do not know how to improve their soil quality technically.

According to the achieved results those who have applied new agricultural technical protocols, got access to water sources (lakes/river) and household ponds provided by CFAP under the climate changes programme, their products have increased about three times compared to the old practice. Organic products however have better prices when compared to the non-organic products. Investment on household ponds cost a lot of money for rural poor farmers, therefore farmers are reluctant to borrow money from Bank/MFI to dig household ponds or community ponds, so they still depend much on external support.











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