

# How to do

## Land tenure in IFAD project design

### Land tenure toolkit



**How To Do Notes** are prepared by the IFAD **Policy and Technical Advisory Division** and provide practical suggestions and guidelines for country programme managers, project design teams and implementing partners to help them design and implement programmes and projects.

They present technical and practical aspects of specific approaches, methodologies, models and project components that have been tested and can be recommended for implementation and scaling up, including best practices and case studies that can be used as a model in their particular thematic areas.

**How To Do Notes** provide “tools” for project design and implementation based on best practices collected at the field level. They guide teams on how to implement specific recommendations of IFAD’s operational policies, standard project requirements and financing tools.

The **How To Do Notes** are “living” documents and will be updated periodically based on new experiences and your feedback.

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## List of acronyms

|          |   |
|----------|---|
| CPM      | country programme manager                               |
| CSO      | civil society organization                              |
| M&E      | monitoring and evaluation                               |
| NGO      | non-governmental organization                           |
| PDR      | project design report                                   |
| RB-COSOP | results-based country strategic opportunities programme |
| TOR      | terms of reference                                      |

## Land assessment methodology in project design

Land assessment at the project design stage aims to provide operational indications to be included – in the needed and relevant format (working paper, paragraphs in the project design report (PDR), annexes) – in the project document during its design. Through this assessment, it will be possible to identify the key land tenure issues the project area is facing and how they could be operationally faced by the project through concrete activities and interventions.

It is essential that the interventions be in line with IFAD's mandate and the key principles of the Fund's land policy (see Box 1). The identified interventions can constitute a full project component, a subcomponent or a part of them. The recommendations proposed in the assessment (and, if needed and appropriate, included in the project) will highlight what IFAD could concretely do in the project area in the time span of project implementation. The breadth of the assessment will depend on the weight and on the relevance of the land-related issues in the project.

**IMPORTANT:** If a land assessment has already been carried out at the results-based country strategic opportunities programme (RB-COSOP) level, the new assessment will be based on it and will mainly aim at updating its content relevant to the project and defining operational modalities in view of future implementation. Therefore, the assessment at the project design stage requires a different level of in-depth knowledge and an operational perspective where practical issues have to be investigated, implementing partners need to be identified and their capacities assessed.

### Box 1: IFAD's land policy objectives and guiding principles

- Alignment with national priorities and support to poverty reduction strategies
- Adherence to the “do-no-harm” principle at all times
- Appreciation of the diversity and dynamic nature of existing agrarian structures and tenure systems
- Centrality of the empowerment of poor rural people and the organizations that represent them
- Forging of complementary partnerships with like-minded actors
- Focus on the gender dimension of land rights
- Adherence to the principle of free, prior and informed consent
- Support to production services and market linkages to maximize the positive effects of access to land and tenure security.

## Phasing the assessment

The land assessment can be divided into three phases.

### Phase 1: Initial collection and analysis of background information

This first phase is carried out in the following steps:

- 1 Collect and review the relevant documentation related to the country and to past and ongoing IFAD engagement in it. If a land assessment has already been carried out at the RB-COSOP level and is still up to date, it may be sufficient to update and complement it.
- 2 Interview (in person or remotely) resource persons (country programme managers – CPMs, consultants who have worked in the country and/or on land tenure in the area, technical advisers, NGOs, etc.) to have an overview of the land tenure issues in the country. Specific attention will be paid to the project area of intervention.

- 3 Based on the reviewed information and interviews, identify key stakeholders at country level to meet during the second phase of the assessment, i.e. the fieldwork.

Relevant documentation refers to:

- The country: general economic situation in the country and in the project area; national legislation on land, with a specific focus on the laws and norms that can be used for project implementation (see Box 2); and any other reports on the land tenure situation in the country and/or the project area produced by IFAD or other donors/organizations.

### Box 2: Legal framework

#### Laws

- Constitution
- Civil code and rural code
- Land laws and regulations
- Land policies
- Inheritance laws
- Marital property laws
- Land transfer and lease laws
- Mortgage laws
- Registration and titling laws
- Expropriation laws
- Forest laws
- Land taxation laws
- Land surveying and mapping laws
- Protected area laws
- Pastureland laws
- Environmental laws
- Land-use regulations
- Other natural resource laws and regulations

#### Legal pluralism

- Religious laws
- Customary laws

- IFAD country activities:
  - ongoing RB-COSOP, if relevant (<http://www.ifad.org/operations/policy/cosop.htm#list>)
  - completed and ongoing projects (<http://www.ifad.org/operations/projects/regions/country.htm>) that have dealt or deal with land tenure issues (design reports, mid-term review documents, end of project reports)
  - country and project evaluations ([http://www.ifad.org/evaluation/public\\_html/eksyst/doc/index.htm](http://www.ifad.org/evaluation/public_html/eksyst/doc/index.htm))
  - case studies, factsheets, etc.
- Other resources for those who are not familiar with IFAD's operations include:
  - Project design guidelines (<http://intranet/guides/manuals/project/index.htm>);
  - IFAD land policy (<http://www.ifad.org/pub/policy/land/e.pdf>);
  - IFAD Strategic Framework 2011-2015 (<http://www.ifad.org/sf/>).

**Indicative duration:** This phase could take from 3 to 5 days, depending on the extent and depth of the assessment and the availability of secondary data and information.

### Phase 2: Fieldwork

- 1 During this phase, meet with key stakeholders and informants to collect information on the specific key aspects of the land tenure assessment in the project area. If relevant, visit IFAD past projects (linked to the project under design) and meet with project staff, as well as IFAD project beneficiaries, to assess what IFAD has been doing in the area and what the beneficiaries new situation is. Carry out individual interviews as well as group meetings, as appropriate.
- 2 Constantly review and validate information during field visits.

- 3 Assess land tenure aspects (as shown below) and meet with key informants.

**On access and tenure**

- Forms of land and resource holding: private ownership, collective ownership, common ownership, customary and informal tenure, concession, leasehold, sharecropping, use right, squatting, marital property.
- Pattern of land and resource holding: landlessness, ownership and access by women (within a household and as head), ownership and access by marginalized groups (indigenous peoples, young people, etc.), ownership and access by commercial interests, ownership and access by foreign interests.
- Means of acquiring land and resources: purchase, inheritance, distribution programmes, regularization, restitution, privatization, leasehold, sharecropping, individualization, customary access rights.
- Changes in landholding patterns: land/agrarian reform, farm restructuring, individualization, involuntary resettlement, land allocation, land redistribution, market-assisted land reform, privatization, urbanization.
- Intra-household changes: marriage, divorce, birth, polygamy, death.
- Rights, access and management of natural resources: water, forests, pastureland, wetlands, subsoil resources, reserves, state lands.
- Risks that could be generated by the project. These could include involuntary displacement and resettlement because of infrastructure construction or the implementation of land regularization operations.

**On institutions dealing with land**

- Institutions: land and resource-related ministries, departments or agencies, decentralized and local land and resource-related bodies, customary tenure and resource allocation bodies.
- Dispute resolution: judiciary, land and resource dispute bodies, customary dispute resolution bodies.
- Land administration: formal and informal recognition of land rights, registration and titling system, cadaster.
- Civil society: NGOs working on land or resource issues, farmers' organizations, water users' associations.
- Private sector: private-sector professional associations of lawyers, surveyors, real estate agents, bankers, moneylenders.

The analysis on the institutions likely to be involved in project implementation will also include an assessment of their capacities and of their relative weight and importance in affecting pro-poor land tenure (a relatively easy way of finding out, including about existing power relations in the project area, is to assess a sample of recent land-related conflicts).

- 4 Meet with the target population and identify how the possible IFAD interventions could affect all its components, considering the groups (e.g. women, youth, households, etc.) not as homogeneous entities but taking into account their different conditions and needs (using participatory rural appraisal, for example). Particular emphasis should be put on the risks of involuntary displacements and resettlements. Appropriate mitigation measures should be envisaged in a participatory way with the possibly affected people, in compliance with the requirements of the IFAD land policy (free and prior information, compensation, amicable arrangements, etc.).

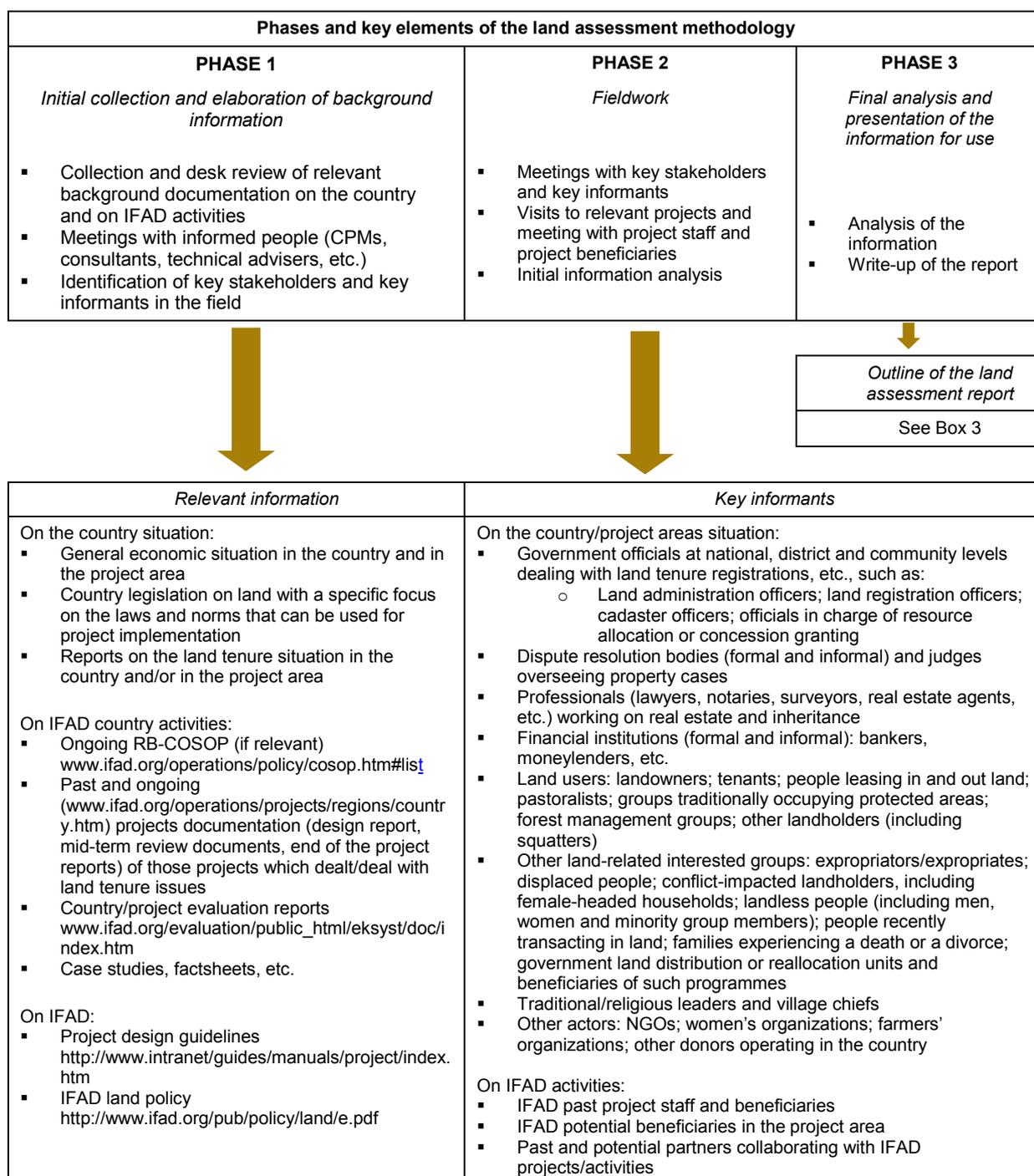
**Indicative duration:** This phase could take from 10 to 15 days, depending on the extent and depth of the assessment.

### Phase 3: Final analysis and presentation of the information for use

The collected information will be analysed and presented in the most appropriate format, as requested by the CPM. The analysis of the information should be tailored to fully respect the Fund’s mandate. A possible outline of the land assessment report is given in Box 3.

**Indicative duration:** This phase could take from 3 to 5 days, depending on the extent and depth of the assessment report.

The figure below summarizes the land assessment process at the project design stage.



**Box 4: Outline of the land assessment report (working paper type)**

1. Introduction
2. Overview of land tenure issues (and other natural resource issues, if needed) in the project area
  - a. Land policies
    - i. National land policies
    - ii. Agricultural policies and agrarian reforms
  - b. Legal framework
    - i. Statutory law
      1. Laws
      2. Institutions
    - ii. Customary norms and socio-economic structures
      1. Traditional ways to access land
      2. Duality customary and statutory laws and their possible impacts on the project
  - c. Land tenure situation in the project area
    - i. Description of the land tenure structure and identification of rights
    - ii. Leases and sharecropping – secondary rights
    - iii. Land tenure insecurity
      1. Gender issues
      2. Youth and heirs issues
      3. Indigenous peoples
      4. Non-residents, internally displaced people, returnees, etc.
    - iv. Conflicts and conflict resolution mechanisms
    - v. Interactions between land and other natural resources
      1. Water (irrigated land, water ponds, fisheries)
      2. Forests
      3. Fodder
      4. Protected and environmentally valuable areas
    - vi. Other relevant trends
3. IFAD land-related experiences in the country
  - a. Previous projects
  - b. Other activities (e.g. grants, etc.)
4. Land-related interventions by other actors
  - a. Projects and other interventions
5. Lessons learned from past experiences (by IFAD and other donors)
6. Possible synergies with other projects led by national and international actors in the country
  - a. Projects of international actors (other donors, United Nations agencies, international NGOs, etc.)
  - b. National projects (implemented by national NGOs, farmers' organizations, water users' associations, etc.)
7. Recommendations for design
  - a. Description of proposed activities, implementation modalities and related costs (according to the level of land activities in the project: component, subcomponent or part of the activities)
  - b. Possibilities of innovations and scaling up
  - c. Inclusion of land activities in the logical framework and definition of relevant indicators (first, second and third level)
  - d. Identification and assessment of the risks (for the project and generated by the project) and elaboration of mitigation measures
  - e. Verification of the compliance with IFAD policies
  - f. Options and strategies for policy dialogue

Annex 1. List of resource people and institutions

Annex 2. Bibliography

## Terms of reference for land tenure assessment at the project design stage: a template

**What is its purpose?** The terms of reference (TOR) template should be used by the country programme manager (CPM) when recruiting consultants to carry out a land assessment. The template should be adapted to the specific needs of the CPM and, therefore, its scope can be wider or narrower depending on the entity of the land issues in the areas of IFAD interventions and their relevance within the project under design. The template can, therefore, be used to design TOR for a complete working paper, as well as for a less detailed analysis that will nonetheless contribute to specific sections/paragraphs of the final project design document.

**At what stage should it be used?** At project design stage.

**What is its content?** The template includes aspects that should be analysed on the current land tenure situation in the given project area, as well as to what has been done already by IFAD and possibly by other donors, governments, civil society organizations (CSOs), so as to build on past experiences/lessons learned and implications for the focus of the new project. The template is not exhaustive and will need to be adapted to the specific project area situation. Therefore, new parts/issues can be added or deleted, as considered appropriate.

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**Terms of reference**  
**Project design consultancy**  
*[Add name of the project and country]*

### 1. Context and brief presentation of the IFAD project

#### 1.1. IFAD project

Brief description of the project (based on the concept note), including:

- Overall and specific objectives of the project
- Components
- Project area
- Target population

#### 1.2. Specific land issues

Brief description of land issues in the country and their possible implications on the project, which will be investigated through the consultancy. If relevant, include a brief description of how land issues have been dealt with in past IFAD operations.

### 2. Purpose, description and methodology of the assignment

Brief introduction on what is required of the consultant and a description of what the final product should contain.

Aspects that the consultant needs to investigate are as follows.

- A. Analysis of the current situation: general and regional assessments of the land tenure situation and dynamics in the targeted areas, including a section briefly describing the historical elements leading to the current situation and which affect IFAD target groups' access to land and their land tenure security. Specifically, information should be provided on:
  - The policy and legal frameworks, including social and customary, and religious norms affecting land tenure.

- Institutional frameworks: role of land-related central and local governmental and private (including customary and religious) institutions for the provision of benefits, services and opportunities in the area of IFAD intervention.
  - The land tenure situation, with special emphasis on the more vulnerable, i.e. women, indigenous peoples, young people, etc.(highlighting their land access status and [lack of] opportunities). The consultant will focus, in particular, on the land tenure structure, issues of secondary rights, rights of sharecroppers, land conflicts, their origins and the resolution mechanisms.
  - Existence of other relevant trends (e.g. large-scale acquisition, markets, etc.) and existence of other data to inform both project design and implementation (e.g. cadastral maps, participatory community maps, etc.).
  - If the project will include irrigation and construction of infrastructure, focus on access to land and water, assess the new situation created by the increased value of land and evaluate the risks related to involuntary displacement and resettlement. Propose recommendations and measures aiming at mitigating those risks, to be included in the concerned components of the project.
- B. Analysis of past experiences and lessons learned by IFAD and other actors (other donors, CSOs, NGOs, etc.):
- IFAD completed projects, including those linked to present ones
  - Other actors' interventions
  - Lessons learned.
- C. Assessment of possible and potential synergies with other land-related initiatives promoted at the national, regional and local levels to be taken into account by the IFAD project during design and implementation. If relevant, identification of in-country partners and resource persons who could follow project implementation on land-related issues (NGOs, think tanks, individual consultants, etc.).
- D. Recommendations and elements of design:
- Description of the proposed activities according to the level of the land activities in the project: component, subcomponent or part of the activities; if land tenure insecurity is a major issue for IFAD target groups, describe concrete activities and measures that the project could undertake to address this situation.
  - Possibilities of innovations and scaling up.
  - Inclusion of the land activities in the logical framework and definition of relevant indicators.

**Methodology:** To investigate the above-mentioned aspects, the consultant will carry out a desk review and analysis of the key relevant documents, followed by field visit(s) to meet with key stakeholders and informants at country level to collect first-hand information and validate the information of the desk review. The consultant will then analyse the information and produce the outputs as indicated in the following paragraph.

### 3. Outputs

The list of possible outputs are:

- Working paper
- Paragraphs to be included in the aide-memoire and PDR
- Tables
- Annexes.

All relevant documentation collected during the consultancy work should be submitted to the CPM at the end of the contract.

### 4. Duration and timing

The consultant will deliver *[add output]* of a maximum of *[add number]* pages (excluding/including maps and annexes) in *[add the language]*. The paper has to be enriched with data, evidence and interviews.

### 5. Consultant's profile and skills

Technical competencies, e.g. expert in land tenure in *[add the area or country]*, including practical and legal knowledge (in some cases, particular skills/knowledge will be requested).

Language competencies: English, Spanish, Arabic and/or French, according to the country.

Writing skills, e.g. good writing capabilities.

**6. Management and supervision**

Indication of who will monitor the consultant and, if needed, who will review the first draft of the document.

**7. Duration, timing and cost**

The consultant will be hired for *[add number]* working days within a period from *[add dates]*.

The first draft of the *[add output]* will be delivered by *[add date]*.

The daily fee will be US\$ *[add amount]* for a total of US\$ *[add amount]*.

## Key land tenure information to be contained in the project design report

**What is its purpose?** The information list can be used as a reference for CPMs and/or consultants while writing the project design document to be sure that all the relevant land-related information is contained in the document.

**At what stage should it be used?** At project design level, while writing the project design report (PDR) and – to a lesser extent – during supervision missions.

**What is its content?** It indicates what type of land-related information (if relevant) should be included in the various chapters of the PDR. The exhaustiveness of the information included will depend on the weight and on the relevance of the land tenure issues in the project (e.g. if land tenure-related activities constitute a land component or only part of it).

### Information list

| Table of contents of the PDR              | Information to be included in the PDR  |
|---|--|
| <b>I. STRATEGIC CONTEXT AND RATIONALE</b> |  |
| A. Country and rural development context  | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Land issues as a cause of rural poverty (and vice versa) and constraints and opportunities for poverty reduction;</li> <li>• Specific information on smallholders (provide local definition of “smallholder”), with a special emphasis on vulnerable groups, i.e. women, young people, indigenous peoples, etc.;</li> <li>• Country national policy, legal framework and customary norms on land and on other natural resource strategies (if relevant);</li> <li>• Key structural and emerging land-related issues (e.g. fragmentation, large-scale acquisitions, limited access to land for the rural poor and insecurity of tenure, etc.).</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 1 (Country and rural context background);</li> <li>• Annex 2 (Poverty, targeting and gender).</li> </ul>  |
| B. Rationale                              | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Explanation of project contribution to specific land-related objectives of government strategies and policies and the relevant RB-COSOP objectives (if needed, add relevant new developments that were not foreseen in the RB-COSOP);</li> <li>• Description of how the land-related aspects of the project fit and link with ongoing IFAD land-related projects/grants and with the activities and policies of other international agencies (harmonization) and major stakeholders;</li> <li>• Describe IFAD’s unique or incremental contribution (added value) for dealing with land-related issues;</li> <li>• If this is a scaled-up design of IFAD or a partner initiative, elaborate on the chosen scaling-up pathways/drivers and list the potential barriers/opportunities (financial, policies, institutions, culture, partnerships, learning, etc.) to be lifted/built upon.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 1 (Country and rural context background);</li> <li>• Annex 2 (Poverty, targeting and gender).</li> </ul> |

|   |   |
|---|---|
| <b>II. PROJECT DESCRIPTION</b>                    |   |
| A. Project area and target group                  | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Land tenure situation in the project area;</li> <li>• Critical land-related issues emerging in the project area from poverty analysis and the land assessment study;</li> <li>• Specific land issues and land-related expectations of any project targeted group or subgroup.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 2 (Poverty, targeting and gender);</li> <li>• Annex 4 (Detailed project description).</li> </ul>   |
| B. Development objective and impact indicators    | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Expected outcome(s) related to land and impacts for the targeted group(s);</li> <li>• Intermediate indicators for measuring progress towards achieving these outcome(s) and impacts (such as number of land titles delivered, number of acres with secured rights of access, etc.).</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 4 (Detailed project description).</li> </ul>   |
| C. Outcomes and components                        | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Details of the land-related activities and the related outcomes (who is responsible for producing outcomes and key outputs, beneficiaries, institution-building aspects, identification of implementing agencies, innovative features).</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 4 (Detailed project description).</li> </ul>   |
| D. Lessons learned and adherence to IFAD policies | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Lessons learned related to land issues and activities that have influenced or have been applied in the present project. These lessons learned derive from IFAD activities related to loans, grants, policy dialogue, partnership and knowledge management and from best practices by other partners;</li> <li>• This section should also reflect compliance with the IFAD land policy principles.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 3 (Country performance and lessons learned);</li> <li>• Annex 12 (Compliance with IFAD policies).</li> </ul> |
| <b>III. PROJECT IMPLEMENTATION</b>                |   |
| A. Approach                                       | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Any land-related aspect that is linked to the rationale and the implementation modalities;</li> <li>• Description of the approach used for the involvement of the target group in the land-related activities.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 5 (Institutional aspects and implementation arrangements).</li> </ul>   |
| B. Organizational framework                       | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>• Any key institution (and its function and capacities) responsible for the implementation of the land-related activities (delivery, user and enabling agencies);</li> <li>• Any strategic partnership to support the project land-related activities.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>• Annex 5 (Institutional aspects and implementation arrangements).</li> </ul>   |

|  |  |
|--|--|
| <p>C. Planning, monitoring and evaluation (M&amp;E), learning and knowledge management</p> | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>Any information related to the planning, monitoring and knowledge generation activities linked to land activities, including learning by and with beneficiaries (their capacity to analyse land tenure issues and propose solutions, evaluative criteria, etc.);</li> <li>Knowledge gaps to be followed up on, “action research” topics to be proposed, format of participatory stakeholder evaluation exercises (beneficiaries evaluating project activities);</li> <li>Perspective of scaling up the land-related activities.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>Annex 6 (Planning, M&amp;E and learning knowledge management).</li> </ul>   |
| <p>D. Financial management, procurement and governance</p>                                 | <p>Describe specificity of proposed strategic partnership partner (see B.) to facilitate procurement through “direct contracting”.</p>   |
| <p>E. Supervision</p>  | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>Any specific land-related key feature that will require greater attention during supervision;</li> <li>The land expert profile that will be required for such supervision.</li> </ul>   |
| <p>F. Risk identification and mitigation</p>   | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>Any key land-related risk that will have the greatest likelihood of occurring and have a greater impact on the project’s activities;</li> <li>This section should also include an analysis of the risks likely to be generated by the project: particular care should be taken of the risks of involuntary displacements and resettlements (due to the construction of infrastructure or to the implementation of land regularization operations). Mitigation measures should be adopted to minimize these risks, in compliance with the principles of IFAD’s land policy (in particular, free, prior and informed consent and “do-no-harm” principles).</li> <li>The mitigation actions to face such risk(s).</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>Annex 4 (Detailed project description).</li> </ul> |
| <p><b>IV. PROJECT COSTS, FINANCING, BENEFITS AND SUSTAINABILITY</b></p>                    |  |
| <p>A. Project costs</p>  | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>Any cost related to land tenure activities.</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>Annex 9 (Project cost and financing).</li> </ul>  |
| <p>B. Project financing</p>  |  |
| <p>C. Summary benefits and economic analysis</p>   | <p>This section should include the following information:</p> <ul style="list-style-type: none"> <li>Any benefits derived from the land-related activities by the target group(s).</li> </ul> <p>This information should be reflected in:</p> <ul style="list-style-type: none"> <li>Annex 10 (Economic and financial analysis).</li> </ul>  |
| <p>D. Sustainability</p>   | <p>This section should include key land-related elements that will enhance the sustainability of the benefits gained.</p>  |



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[www.ruralpovertyportal.org](http://www.ruralpovertyportal.org)

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