



*Expanding and Leveraging Private Sector Action to Secure Community Land Rights*

**Offices of Omidyar Network**

March 3, 2015

Shoreditch, London, UK

Co-chaired by Andy White (RRI) and Mark Constantine (IFC)

Facilitated by Avrim Lazar

## **I. Background**

The Interlaken Group consists of representatives from leading companies, investors and NGOs jointly committed to helping the private sector to effectively address community land rights issues. The group first came together in September 2013 in Interlaken, Switzerland, in a conference sponsored by RRI, Helvetas, Oxfam, and IUCN on *Scaling-Up Strategies to Secure Community Land and Resource Rights*. Their discussion, as part of the private sector panel – one of five thematic working groups established during the conference – focused on insecure land tenure in land acquisitions and the particular roles of companies and investors in addressing these challenges while protecting the rights and livelihoods of existing rights holders. Representatives found the forum to be productive and recommended that they meet again soon to advance the identified work plan.

Following this first meeting, a subset of the original group convened in February 2014 in Bellagio, Italy to start to map the ecosystem of stakeholders involved in land rights, including their particular interests and constraints, and to develop a theory of change in promoting profitable, sustainable and equitable investment in land-intensive productive enterprises. The “Interlaken Group”, as it had become known by that point, reconvened in March 2014 in London to review baseline work and mapping done in Bellagio and to agree on priority workstreams to carry forward.

It was agreed that first product would be clear, practical guidance for companies in land intensive sectors to operationalize their commitments to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT). A background study was first prepared as input to this project, giving context to key issues around land tenure and the appropriate role and exercise of responsibilities by companies in land “acquisition”.

The Interlaken Group met in October 2014 in Windsor, UK to review the findings and to make key decisions on the design and content of the final VGGT Guidance “tool”.

## **II. Purpose of Shoreditch meeting**

The March 2015 meeting was dedicated in large part to reviewing progress made on the Interlaken Group’s first collaborative output of developing guidance for companies to operationalize their commitments to the VGGT. A first draft of the VGGT Guidance tool, organized both by key questions and project types, was developed and shared with members in early 2015. Members’ comments were reconciled as best possible (while not compromising the accessibility or “race to the top” spirit of the guidance) and integrated into a revised draft, which formed the basis of this discussion.

Intended outputs of the March 2015 session were:

1. Drafting advice on any outstanding issues in the revised draft of the VGGT Guidance tool;
2. Agreed upon next steps for completing and promoting the VGGT Guidance tool;
3. Identified options for leadership opportunities for the Interlaken Group.

### III. Participants

1. Duncan Pollard, AVP Stakeholders Engagement in Sustainability, Nestlé
2. Megan MacInnes, Head of Land Campaign, Global Witness
3. Terhi Koipijarvi, Senior VP, Global Responsibility, Stora Enso
4. David Bledsoe, Senior Director of Program Partnerships, Landesa
5. Rachel Cowburn-Walden, Global Senior Manager for Social Impact, Unilever
6. Chris Brett, Senior Vice President and Head of Corporate Responsibility and Sustainability, Olam
7. Chris Jochnick, Director, Private Sector Department, Oxfam America
8. Benedick Bowie, Partner, The Munden Project
9. Shahila Perumalpillai, Social Performance Advisor, Environmental Resources Management (ERM)
10. Tina Arreaza, Investment Associate, Omidyar Network
11. Annie Thompson, Senior Associate, Strategic Analysis, RRI
12. Jeffrey Hatcher, independent consultant to the Interlaken Group

### IV. Agenda (synopsis)

Following introductions, opening remarks were given by the co-chairs on the genesis and evolution of the VGGT Guidance project. The [proceedings](#) from the October 2014 session in Windsor, UK were revisited to remind members – and reaffirm - the set of agreed-upon principles to guide the design of the VGGT Guidance tool, and to suggest content matter and a timeline for completion.

The revised VGGT Guidance tool was presented; first, highlighting edits made following Interlaken Group consultations in early 2015, then laying out points where member feedback was conflicting or ambiguous, and where further guidance was thus needed. After resolving these outstanding issues, next steps for completion were agreed and dissemination plotted, including the members' roles and responsibilities in promoting adoption of the guidance. Before the close of the session, the Interlaken Group brainstormed potential avenues of further collaboration and demonstration of leadership. The meeting was co-chaired by Andy White (RRI) and Mark Constantine (IFC). Avrim Lazar facilitated the discussion. The meeting was held under the Chatham House Rule.

### V. Meeting highlights

#### **Framing the review: Revisiting and reaffirming decisions made in Windsor and comments from the co-chairs**

- Prior to opening discussion on the revised draft of the VGGT Guidance tool, some points of consensus were recalled. Specifically, in the October 2014 meeting it was agreed that the product:
  - **Provide operational guidance, NOT guidelines.** The intention is to allow companies to ensure they act “consistent” with the spirit of the VGGT, rather than certify compliance, because the VGGT are not a compliance framework.
  - **Encourage a “race to the top”.** The tool is meant to reinforce company practices that uphold the VGGT while guiding companies towards continuously improving their operations with respect to land tenure governance by offering two levels of guidance: 1) What would be “required” to claim consistency with the VGGT and 2) Additional, recommended practices.
  - **Link directly to the VGGT.**

- **Target companies**, including producers and buyers. Guidance for investors will follow as a separate project (led by TMP).
- **Is not a detailed, technical “how to”**, rather points to types of outcomes and indicators. It is beyond the remit of the Interlaken Group to be prescriptive and not trying to take the place of technical expertise.
- **Is one tool among many**. As such it must build upon and complement what has been done or is underway (FAO, USAID, AFD, Landesa, TMP).

### Presentation of the revised draft of the VGGT Guidance tool and drafting advice on any outstanding issues

- Much work has been done to **further the VGGT project since the October 2014 meeting** of the Interlaken Group. Specific **milestones** in this process have included:
  - **By late November 2014**: A draft framework of the tool developed following advice received in Windsor on content and design.
  - **December 2014**: Basic functionality of the draft framework vetted through consultations held with key corporate representatives.
  - **By early January 2015**: Input on form and function gathered from bilateral consultations incorporated into a preliminary draft of the VGGT Guidance documents.
  - **January – mid February 2015**: Group-wide consultation of the preliminary draft VGGT Guidance documents conducted. Comments received from 12 members.
  - **By late February 2015**: Feedback from consultations reconciled and addressed wherever possible in the VGGT Guidance documents to produce a revised draft for discussion on March 3, 2015.
- The **current draft** of the VGGT Guidance tool consists of **two documents**.
  1. A **Cover Note** that makes the business case for companies to adopt the VGGT/Guidance tool.
  2. The **Guidance Tool** itself which lays out the key responsibilities of companies should they wish to be consistent with the VGGT. These responsibilities are given at both **the corporate and project level** and provide reference to the specific VGGT text and other resources.
    - Furthermore, **guidance at the project level** is organized by **five project types** (Greenfield Investments, Brownfield Investments, Existing Holdings, Joint Ventures or M&A and Supply Chains).
- It was recalled that the final VGGT Guidance tool is **not intended to reflect how any of the individual members would have written it**; rather, to be a **crystallization of diverse points of view**.
- At the same time, the Interlaken Group acknowledged that they had **reached a surprising degree of consensus**. The following types of **comments relating to content** emerged from the Group-wide consultation process and are preliminarily addressed in the March 3rd draft.
  - Provide better treatment of gender and land rights;
  - Feature FPIC more robustly;
  - Provide explanation of customary/informal tenure rights for non-experts;
  - Feature case studies (eg. FPIC, VGGT consistent operations) to ground the guidance;
  - Stress that projects consistent with VGGT should support food security objectives;
  - Consider adding links to tools for companies to use and to assess land administration capacity;
  - Provide detail on corporate VGGT commitments to date;
  - Reference other “operationalization” guides;
  - Explain where VGGT sit in international law and cross-references with EITI, Ruggie, RAI, etc;
  - Articulate the outcomes the VGGT should produce.
- Nonetheless, a number of comments received from members were **more ambiguous or required further exploration**. These were discussed among members to produce **more specific guidance featured below**.

Key issues for further Interlaken Group discussion and decision	
Question	Drafting guidance
How can we more clearly define the mandate of the Interlaken Group to produce such a Guidance tool?	<ul style="list-style-type: none"> <li>The Interlaken Group is a <b>diverse group of committed, experienced individuals</b> who have a desire to contribute to supporting the VGGT.</li> <li>This is a one-off contribution; a promotional tool (inviting participation by demystifying the VGGT); we are not starting a new standard setting, compliance monitoring or certification scheme.</li> </ul>
Clearer articulation of the purpose and audience of the VGGT Guidance tool is needed. How should this be framed within the documents?	<ul style="list-style-type: none"> <li>The tool is intended for <b>companies that are leaders</b> already and those who are <b>committed to doing it right but who are unfamiliar with the VGGT</b> landscape. Within these companies, the <b>specific target is the board room and field-level operating managers</b>, who could use to guide operational staff.</li> <li>It should be clear what the guide is, and what it is not. Specifically, <ul style="list-style-type: none"> <li>This tool is intended to <b>encourage more companies to adopt good practices by illuminating what the VGGT mean for them.</b></li> <li>It is a <b>first stop</b>. It lays out in a clear, concise way the basic role and key responsibilities of companies with respect to land tenure to claim consistency with the spirit and intent of the VGGT.</li> <li>It <b>will not provide a step-by-step guide to implementing land based investments to comply with the VGGT or constitute a "how to"</b> in all circumstances.</li> </ul> </li> </ul>
What is the scope? Do we want the VGGT Guidance tool to be as far reaching as the VGGT itself, to include tenure of fisheries?	<ul style="list-style-type: none"> <li>This Guidance is <b>not intended to give comprehensive treatment</b> of the VGGT, <b>rather add value where the Interlaken Group has expertise.</b></li> <li>For this reason the focus of the tool will be on <b>land acquisition (including leaseholds) for agribusiness and agro-forestry plantation investments.</b></li> <li>Guidance will <b>not be given for fisheries.</b></li> <li>Considerations in <b>supply chain/procurement</b> will also feature to give clarity on how buyers should address the long-term objectives of the VGGT.</li> </ul>
How do we determine which VGGT articles to include?	<ul style="list-style-type: none"> <li>The tool will <b>highlight specific points of concern</b> for companies by <b>unpacking those more complex sections which specifically refer to the responsibilities and role of the private sector</b> (eg. Section 3.2 and 12.4).</li> <li>At the same time, the VGGT Guidance tool should reiterate that <b>the entirety of the VGGT remain in force</b> and that companies have <b>responsibility to understand all parts of the VGGT.</b></li> </ul>
How should we talk about the VGGT? Are they the "minimum" or the "best" standard?	<ul style="list-style-type: none"> <li>No clear consensus that the VGGT are the minimum standard.</li> <li>Companies operating in regions with "governance vacuum" will likely be expected to fill some roles that governments are obligated to serve under the VGGT.</li> <li>It is <b>not for the Interlaken Group to decide if they are minimum or best.</b> The VGGT are what they are and we are trying to help corporates understand. Best to look at the terminology used around the date of publication of the VGGT and to quote the source, rather than for the Interlaken Group to make this statement.</li> </ul>
What is the best way to treat seemingly ancillary issues, like labor rights?	<ul style="list-style-type: none"> <li>If they are mentioned in the VGGT, they are <b>relevant</b></li> <li>At the same time, the VGGT Guidance tool should <b>not lose sight of the objective</b> of treating land rights. A possibility is to include a footnote and <b>point in the direction of relevant normative standards</b> (ie. ILO).</li> </ul>

## Agreed upon next steps for completion and promotion of the VGGT Guidance tool

The Interlaken Group gave the following considerations to the process of finalizing, disseminating and promoting the adoption of the VGGT Guidance tool.

### • **Finalizing the VGGT Guidance tool**

- It was acknowledged that there are **outstanding content issues** (such as those above) and **gaps** - in the “indicators” and “other resources” section – that should be addressed. The VGGT Guidance tool should undergo **one more round of revision** informed by the guidance given during the meeting.
- The Guidance tool will then be **recirculated for final comments** from members. These comments will be of **two types**, and considered accordingly.
  - 1) **Deal-breakers**, subject of wider discussion.
  - 2) **Editorial improvements**, which will be selectively processed.
- Consideration should be given to **sharing the next draft with the FAO, as steward of the VGGT**, for a “are we on the right track” check to confirm that the Interlaken Group guidance is in line with the spirit of the VGGT. However, in doing so, it should be clear that while comments are welcome, the Interlaken Group **does not seek the FAO’s approval/endorsement**.
- Much thought was given to the question of **branding**.
  - The option of releasing the product anonymously was quickly overturned. It was decided that the **value of the product lies in the leading organizations that stand behind it**.
  - It was agreed that the **Interlaken Group logo should be used** rather than the individual logos of the member organizations.
  - Furthermore, it was suggested that the **inside cover should specify** the following:
    - The Guidance is a product of the **Interlaken Group process**. The Interlaken Group, convened by RRI, is a multi-stakeholder forum consisting of companies, investors and CSOs.
    - **Brief history** of the Interlaken Group, and who participants have been, including member names and affiliation.
    - **Disclaimer** to the effect of “this does not necessarily reflect the views, policies or commitments of the individual organizations represented, rather consensus that emerged from the Interlaken Group process.” The disclaimer will be drafted and circulated for Group approval.
- The importance of making the Guidance available in an **online, interactive version** once the text is complete was reaffirmed.

### • **Disseminating and promoting adoption of the VGGT Guidance tool**

- Members agreed that it was important **to start building public awareness** of the VGGT Guidance project as soon as possible, as it has never been officially announced. The **World Bank Land Conference at the end of March 2015** was suggested as a good venue for this.
- It was agreed that the official launch of the Guidance tool should be credible and high level, and before the end of 2015. Some opportunities include:
  - **Interlaken + 2** organized by RRI, September 29-October 1, 2015.
  - **Side event during the Committee on World Food Security (CFS 42)**, October 12-15, 2015.
- Looking ahead **to dissemination**, it was discussed that much of the effort will be made by Interlaken Group members.

- **Corporates** in particular are encouraged to apply the Guidance tool within their organizations by sharing with senior level and testing it out in their operations.
- **All members** agreed to share with peers and encourage its use.
- Other potential fora to promote the VGGT Guidance tool include the **UNGC, WBCSD, AIM progress, Business and Human Rights Center, The Land Portal/USAID Land Portal** and **commodity roundtables**. It was recommended that the Interlaken Group also consider media outreach through Mongabay, etc.
- The following timeline was envisioned for completing, disseminating and promoting adoption of the tool.

<b>Timeline for completion of VGGT Guidance tool</b>	
<b>End March 2015</b>	• First public announcement of VGGT project at World Bank Land Conference
<b>May 2015</b>	• Revised, final VGGT Guidance tool complete and available as hard copy
<b>June 2015</b>	• VGGT Guidance tool made available in electronic version
<b>June 2015</b>	• TBD 2-hour virtual meeting focused in part on concretizing dissemination plan of VGGT tool
<b>July-Sept 2015</b>	• Media outreach efforts in advance of launch
<b>End Sept/Oct 2015</b>	• Official launch of VGGT tool, possibly at Interlaken + 2 or CFS 42 side event • Face-to-face meeting of Interlaken Group in Bern, Switzerland (Private meeting on September 29, 2015/Plenary session at Interlaken + 2 on October 1, 2015)
<b>Post Oct 2015</b>	• Interlaken Group members put the VGGT Guidance tool to use within their organization and disseminate throughout their respective networks.

### **Stocktaking and identifying further leadership opportunities for Interlaken Group**

- Members were asked to take a step back to assess the Interlaken Group as it currently stands, identifying **aspects that they thought worked particularly well**. These included:
  - **Candid, closed door discussion** creating a safe space to share and learn;
  - **Diversity** of membership;
  - The **small, informal space** which has allowed for familiarity among members;
  - **“Race to the top”** mentality.
- Members were then asked to brainstorm some **possible changes that they would like to see**, including:
  - Invite **host country government representation**, possibly 1-2 retired officials;
  - Increase the private sector membership base - especially **investor** - but with careful consideration so as not to expand too much or too quickly.
  - Consider more **deliberate focus on agriculture and forestry**, as more expansive, undocumented and generally further behind in terms of social and environmental commitments than the mining sector.
  - Develop **longer term strategy and objectives** for the collaboration. In doing so, consider fundraising, online presence and staffing needs. However, feel comfortable with an exit strategy if necessary.
- After successfully finalizing the VGGT Guidance project, **options for continued collaboration** were identified.
  - **Informing the development of risk analysis and due diligence tools for investors** (led by TMP). This could be discussed at the 2-hour virtual meeting planned tentatively for June 2015.
  - **Weighing in and presenting unified voice** via **1-2 page briefs on “thorny” issues** (eg. briefs by WCSBD), including operating in government vacuum, cumulative impacts, etc.
  - Produce a **collection of lessons learned**.
- In closing the session, members recommended that at the next session they would **revisit the list of priority workstreams** agreed on in London, March 2014 to see if they still stick. From there, it will be important to do a mapping exercise to better understand the value added of the Interlaken Group and, based on this, **develop a roadmap** for future collaboration.