



Co-funded by the European Union



german  
cooperation

DEUTSCHE ZUSAMMENARBEIT

# SAFEGUARDING LAND TENURE RIGHTS IN THE CONTEXT OF RESPONSIBLE GOVERNANCE OF INVESTMENTS IN UGANDA



Implemented by

**giz** Deutsche Gesellschaft  
für Internationale  
Zusammenarbeit (GIZ) GmbH

 **UIA**  
Uganda Investment Authority  
your investment is our business

  
THE REPUBLIC OF UGANDA  
MINISTRY OF LANDS, HOUSING  
AND URBAN DEVELOPMENT

## Contents

List of abbreviations .....	3
Preface .....	4
1. INTRODUCTION .....	5
2. RESPONSIBLE GOVERNANCE OF TENURE .....	6
2.1 What is the meaning of land tenure?.....	6
2.2 What is governance of tenure? .....	7
2.2.1 When can governance of tenure be considered responsible? .....	7
2.2.2 Principles of responsible governance of tenure .....	7
2.3 Responsible Investment in Land .....	7
3. LAND TENURE SYSTEMS IN UGANDA.....	12
3.1 What is Freehold tenure? .....	12
3.1.1 How to acquire a freehold title .....	12
Procedure at the Ministry Zonal Office.....	13
3.2 What is Customary Tenure? .....	15
3.2.1 Communal Land Association (CLA) .....	15
Procedure for formation of a Communal Land Association.....	15
3.2.2 How to acquire a Certificate of Customary ownership (CCO).....	17
3.3 What is Mailo Tenure? .....	19
3.3.1 How to acquire a Certificate of Occupancy (CO) .....	20
3.3.2 How to transfer a Mailo land certificate of title .....	22
3.3.3 How to carry out a subdivision on Mailo land .....	23
3.4 What is Leasehold tenure? .....	24
3.4.1 How to acquire a leasehold title .....	25
Procedure at the Ministry Zonal Office.....	25
Bibliography.....	26

## List of abbreviations

<b>CCO</b>	Certificate of Customary Ownership
<b>CLS</b>	Communal Land Association
<b>CFS-RAI</b>	The Principles for Responsible Investment in Agriculture and Food Systems
<b>CoO</b>	Certificate of Occupancy
<b>DLB</b>	District Land Board
<b>DRT</b>	District Registrar of Titles
<b>FAO</b>	Food and Agriculture Organisation of the United Nations
<b>ID</b>	Identity Card
<b>IS</b>	Instruction to Survey
<b>JRJ</b>	Job Record Jacket
<b>LC</b>	Local Council
<b>MLHUD</b>	Ministry of Lands, Housing and Urban Development
<b>MZO</b>	Ministry Zonal Office
<b>PWD</b>	People With Disabilities
<b>RELAPU</b>	Responsible Land Policy in Uganda
<b>RGIL</b>	Responsible Governance of Investments in Land
<b>RIL</b>	Responsible Investment in Land
<b>URA</b>	Uganda Revenue Authority
<b>VGGT</b>	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

## Preface

Access to and secured long-term use rights of land are essential conditions for rural development, food production and security as well as social peace. The distribution and use of land is connected to other thematic areas targeted in the Sustainable Development Goals like the achievement of SDG 5 gender equality and the implementation of human rights. As land is a limited resource, its distribution is often disputed between a variety of actors. The competition for land may further be aggravated by commercial agriculture and forestry investments. Such investments are often intended to generate value, providing positive impacts for the overall economy via land revenues and taxes, but also for the local communities in terms of livelihood improvement, job opportunities and transfer of know-how. However, if investments do not follow internationally agreed principles and guidelines, they run a high risk of having negative consequences on communities and the environment. Investments may lead to land-use disputes, expropriation, and displacement as well as environmental degradation, worsening the socio-economic situation of already disadvantaged groups.

Population growth, climate change as well as global supply chain disruptions for agricultural inputs and staples caused by the war in Ukraine are some of the drivers of the current downward spiral for food insecurity, poverty and hunger. Investments in land, when committed in a sustainable manner – considering ecological responsibility, social equity, and economic performance – contribute to tackling these challenges. To ensure that investments in land not only generate profit for the investors, but also for other actors, certain aspects must be considered when designing sustainable and profitable investments in land.

This is where the project *Promoting Responsible Governance of Investments in Land* (RGIL), commissioned by the European Union and German Federal Ministry for Economic Cooperation and Development (BMZ) comes in. Implemented by GIZ in Ethiopia, Laos and Uganda, the project aims to ensure that investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations, in particular vulnerable groups and women. RGIL works together with target communities, political partners and investors as well as Civil Society Organisations, academia and investor associations on the implementation of good land governance based on international principles such as the VGGTs and the CFS' Principles on Responsible Agricultural Investment (RAI).

The guides and manuals were developed and validated in a participatory and iterative process with the stakeholders, after assessing the actual needs regarding capacity development and analysing existing international and national guidelines, regulations and training material. They combine important elements from existing products and trainings, and apply them specifically to the process of large-scale land based investments and in relation to identified problems in the three countries. The various guides and manuals complement each other thematically and can be used both as individual products and as a complete toolkit in the respective country-specific context.

This manual on land tenure rights in Uganda is intended to provide an overview of the land tenure rights to both the investment affected communities and the investors to ensure that all the different rights on land are recognized and considered.

Anna Karolina Lamik  
GIZ Head of Component  
Responsible Governance of Investments in Land (RGIL)

## 1. INTRODUCTION

*Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH* in partnership with the Ministry of Lands, Housing and Urban Development is implementing the BMZ and European Union co-financed project “Responsible Governance of Investments in Land (RGIL)”. The RGIL project is part of the GIZ Global Program “Responsible Land Policy” and is implemented in Uganda through the country Programme “Responsible Land Policy in Uganda” (RELAPU). Both are part of the Special Initiative “One World, No Hunger” of the German Federal Ministry of Economic Cooperation and Development (BMZ). The specific objective of the RGIL project is: “to foster investments in land that are productive, contribute to sustainable land management and respect the rights and needs of the local population, including vulnerable groups and women.”

The approach of GIZ and its partners in the implementation of the RGIL project is focused on the following areas:

1. Strengthening the capacities at government, district, investor and community level to improve alignment of domestic investors to national laws and recognised principles such as Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs) and the Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI)
2. Developing and implementing methods to verify the compliance of the investments with land rights, environmental regulations, social standards and other safeguards
3. Fostering dialogue between government representatives, investors and affected land users through national, regional and local multi-stakeholder dialogue platforms
4. Support existing local grievance mechanisms to document and manage conflicts as an alternative to formal judicial processes.
5. Support investors and affected land users securing land tenure rights
6. Support decentralized structures at district and subcounty levels to verify and improve compliance levels.

In line with the above approach, the present manual on land tenure rights in Uganda is intended to provide an overview of the land tenure rights to both the community (affected community members) and the investors to ensure that all the different rights on land are recognised and considered.

The manual addresses the following:

1. The governance of tenure and the principles of responsible governance of tenure
2. The land tenure systems in Uganda and the procedure of documenting the land tenure rights for each of the tenure systems

## 2. RESPONSIBLE GOVERNANCE OF TENURE

### 2.1 What is the meaning of land tenure?

Land tenure is the relationship between humans and the land, and controls how people hold, use and transact land rights. Land tenure comes with a wide range of agreed rights and responsibilities sometimes referred to as the 'bundle of rights' which contextualizes the rights that are attached to the same piece of land highlighting the fact that different parties may have different rights such as rights to sell the land, rights to use the land, or rights to travel across the land, etc. on the same piece of land (FAO, 2017a).



*Figure 1: An agro-forestry plantation in Kassanda District*

The VGGTs refer to the full range of people's tenure rights as "legitimate tenure rights", which recognises that tenure rights should, cover all valid rights, whether these rights are formal and registered or customary, traditional, undocumented or unregistered. Tenure rights can either be for an indefinite period e.g., freehold tenure or for a limited period e.g., leasehold tenure. The rights can also apply for only certain periods of the year, such as a right to collect particular foods or fish in a season, or to pasture animals at certain times of the year (FAO, 2017b).

Investments on land affect the land rights of the different parties on the land and it is important that all parties are adequately informed and involved in discussions before, during and after the investment so that their rights are not disenfranchised.

## 2.2 What is governance of tenure?

This is the way in which access to and control over natural resources (land) is managed in society. The governance of tenure is a crucial element in determining if and how people, communities and others are able to acquire rights, and associated duties, to use and control natural resources (FAO, 2017a).

### 2.2.1 When can governance of tenure be considered responsible?

Governance of tenure can be considered responsible when it is fair and equitable and seeks to bring the greatest good to the most people, while minimizing adverse impacts on individuals or groups and keeping in mind the principle of sustainability (FAO, 2017a).

### 2.2.2 Principles of responsible governance of tenure

According to the VGGTs (FAO, 2012), the following are the guiding principles of responsible governance of tenure

1. Recognition and respect for tenure right holders and their rights.
2. The government should take the required steps to identify, record and respect the legitimate tenure rights holders and their rights.
3. Safeguarding and protection of tenure rights against threats and infringements.
4. The government should protect tenure rights holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with national and international law.
5. Promotion and facilitation of the enjoyment and exercise of tenure rights.
6. The government should take active measures to promote and facilitate the full enjoyment of tenure rights and the ability to make all legal transactions on the land
7. Provision of access to justice to deal with infringements of tenure rights.
8. The government should establish easy, fast, cheap and accessible means of resolving land disputes
9. Prevention of tenure disputes, violent conflicts and corruption.

## 2.3 Responsible Investment in Land

An investment in land can be said to be a responsible investment if within the context of its structures, processes, outcomes and impacts it has the following principles based on the VGGTs:

- a) All forms of transactions in tenure rights as a result of investments in land should be done transparently.



*Figure 2: Community consultation as part of a responsible investment*

- b)** Responsible investments should do no harm and safeguard against dispossession of legitimate tenure rights holders and environmental damage. The National Environment (Wetlands, River Banks and Lake Shores Management) Regulations, 2000, allow for tenure rights holders including the community and investors to apply for a Wetland Resource Use Permit from the National Environment Management Authority (see Box 1)
- c)** Responsible investments should respect human rights
- d)** Responsible investments should strive to support local communities and enhance social and economic sustainable development
- e)** Responsible investments should create employment opportunities for the local communities
- f)** Responsible investments should diversify livelihoods and provide benefits to the communities especially the poor and other vulnerable groups
- g)** Contracting parties (investors, local and national authorities) should provide comprehensive information to ensure that all relevant persons are engaged and informed in negotiations and that the negotiations are non-discriminatory and gender sensitive
- h)** Investments should not contribute to food insecurity and environmental degradation

### Box 1: Procedure for applying for a wetland resource use permit

1. Applicant completes Form A (specified in the First Schedule of the NEMA Act, 2000) and attaches the following documents
  - Approval/ disapproval of District Environment Committee.
  - A map and detailed information showing area directly or indirectly affected by proposed activity
  - Comments and report of the LC 1 Secretary for Production and Environment Protection.
  - Executive Summary of Environmental Impact Assessment
  - Proof of payment of the prescribed fees
2. Applicant submits the complete set of documents to the Executive Director of NEMA
3. The Executive Director refers the application to the Wetland Resource Committee for further consideration and comments.
4. Application is approved (once NEMA & the Wetland Resource Committee are satisfied with the documentation) and assigned a registration permit number (using Form B specified in the First Schedule to the NEMA Act, 2000)

#### Note:

Where the Executive Director rejects an application made by the applicant, he/she shall—

- a) state reasons, in writing, to the applicant; and
- b) give the applicant the right to be heard either orally or in writing or both.

In terms of agriculture and food systems, responsible investment contributes to sustainable development by generating positive socio-economic and environmental impacts, enhancing food security and nutrition. It requires progressively respecting, protecting and fulfilling human rights. Within this context, the voluntary, non-binding CFS-RAI Principles approved by the Committee on World Food Security in 2014, address all types of investment in agriculture and food systems and recognize that responsible investment is essential for enhancing food security and nutrition and supporting the realization of the right to adequate food (**Achieving Responsible Land-based Investments: A manual for Communities**). Through 10 broad principles (see Figure 3), the CFS-RAI encompass the entire agricultural value chain including farmers, inputs, production in the farms, processing, packaging and distribution of agricultural products (**Achieving Responsible Land-based Investments: A manual for Communities**).

To achieve responsible investment in land requires the incorporation of responsible investment principles into business plans and practices, which includes an inclusive and meaningful multi-stakeholder engagement throughout the investment life cycle. The consultation and multi-stakeholder engagements must be carried out in an environment where FPIC principles are followed before, during and after the investment.

## Box 2: Free, Prior and Informed Consent

This principle states that any investment affecting the land or resources of indigenous peoples should not proceed without the free, prior and informed consent (FPIC) of those affected by the proposed project or investment. The right to FPIC is derived from the International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries and the United Nations Declaration on the Rights of Indigenous Peoples. It gives indigenous communities a veto – the right to say no – to a project being implemented in their territory. This power may extend over the lifetime of the project if the nature or scope of the investment changes over time.

The four elements can be described as follows:

**Free.** Those deciding whether to consent to a project should do so without coercion, intimidation or manipulation.

**Prior.** Consent must be sought well before any authorization or the beginning of project activities. The timetable must allow sufficient time for culturally appropriate consultation and for completion of local decision-making processes.

**Informed.** People receive all relevant information about the project. The information provided must be objective, accurate and presented in a manner or form that is understandable to those receiving it.

**Consent.** The people have agreed to the activity that will take place on their land. The right to consent includes the right to say no to the project or to offer to consent only under certain conditions.

While international law and the VGGT explicitly call for FPIC only where indigenous peoples are involved, many argue that the most prudent risk management approach for investors is to insist on FPIC in all cases. There is a strong case for using it in any situation where an investor requires land where there is a local population living and working.

*Source: FAO 2014b.*



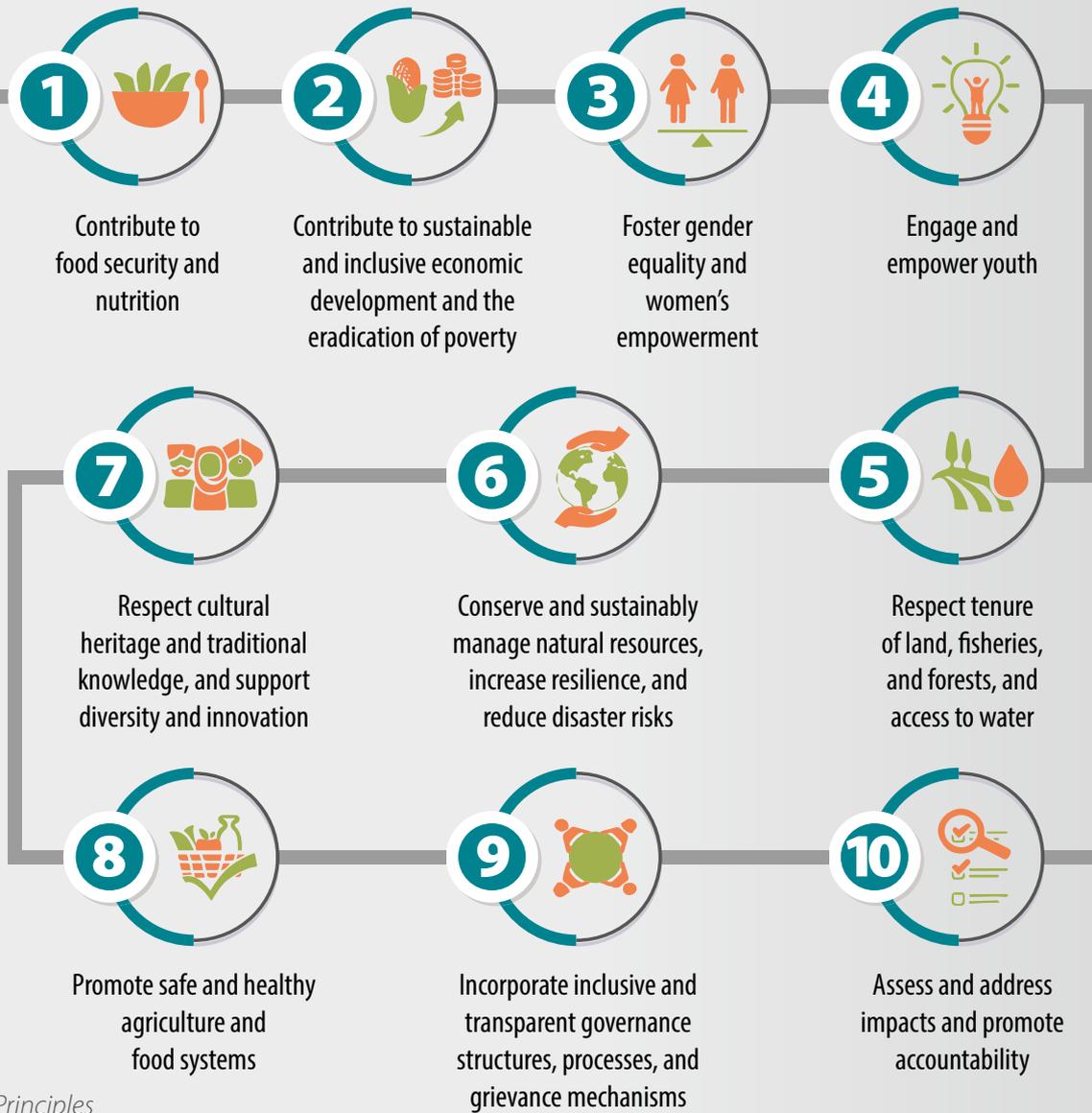


Figure 3:  
CFS-RAI Principles



### 3. LAND TENURE SYSTEMS IN UGANDA

The Constitution of Uganda in Section 237(1) states that land in Uganda belongs to the citizens of Uganda and is vested in them in accordance with the following land tenure systems:

1. Freehold tenure
2. Mailo tenure
3. Customary Tenure
4. Leasehold tenure

On the following pages we explain the different systems and how rights can be documented and recorded in each system

#### 3.1 What is Freehold tenure?

Freehold tenure is a system of land owning in which the landowner owns the land forever and can do anything s/he wants with the land (e.g., building, selling, renting, disposing off by will, etc.) unless there are specific restrictions that may limit the landowner's rights.

The government, through the National Physical Planning Board, the District Physical Planning Committee and the sub-county Physical Planning Committees, exercises regulatory power on freehold tenure in compliance with physical planning standards, regulations and guidelines for orderly development.

Freehold tenure has the following characteristics:

- i) The owner owns registered land for an unlimited period
- ii) The owner of the land has full powers of ownership. The owner can do anything with the land as long as it is not against the law
- iii) The landowner is entitled to a freehold certificate of title on making an application to the District Land Board.

##### 3.1.1 How to acquire a freehold title

Sections 10, 11, 12 & 13 of the Land Act spell out the detailed procedure through which a Ugandan citizen goes through to apply for a freehold title. The steps are summarized below:

1. The Applicant goes to the District Land Office or Area Land Committee to pick the Application Form 4, fill it, attach 3 passport photos and copy of his/her national identity card and submit all the documents to the Area Land Committee after paying the required fees.
2. The Area Land Committee issues a 14 days' Notice for a public hearing (using Form 10) to the applicant(s), owners of the adjacent land and other interested parties fixing the date and time of inspection of the land.
3. On the day and time of inspection of the land, the committee walks round the land, traces, ascertains, verifies, determines and marks the boundaries of the land in the presence of the applicant(s), neighbours, owners of adjacent land and any other interested parties. After inspection, the

committee, the local council chairperson, the applicant(s) and neighbours sign the Demarcation Form 23, which is retained by the committee for eventual submission to the District Land Board.

4. The Area Land Committee compiles an Inspection Report and submits the documents to the District Land Office. The file from the committee is submitted to the Responsible Physical Planning Committee for planning comments/representations, then routed through the District Land Officer (DLO) to the District Land Board (DLB) for consideration.
5. The DLO prepares a report and forwards the file to the DLB for approval, after which, the file is forwarded to the Ministry Zonal Office for issuance of Freehold Title.

### Box 3: Required documents at this stage

- i) Fully completed Forms 4, 10, 19 and 23
- ii) Area Land Committee Report
- iii) District Land Officer's Report
- iv) 3 passport photos
- v) A letter by the DLO forwarding the file to MZO
- vi) Receipts of payment of Application fees
- vii) Copy of National Identity Card
- viii) Physical Planning Minutes Extract and PP Form 1
- ix) District Land Board Minutes Extract

## Procedure at the Ministry Zonal Office

### Step 1

- The Applicant presents the full set of original Documents and a photocopy to the receiving intake clerk at the Ministry Zonal Office for intaking.
- The Applicant is issued with an acknowledgement receipt and/or photocopy is stamped received and returned to the applicant.
- The Applicant checks after 10 working days to confirm approval or rejection.

### Step 2

- The documents are scanned and forwarded to the Physical Planner for issuance of site plan and then the file is forwarded to the Land Officer to check compliance.
- The file is then sent to the Staff Surveyor to issue Instruction to Survey (IS).

### Note:

- The Instruction to Survey is issued to a private Registered Surveyor contracted by the Applicant(s) for the purposes of surveying the land in question.
- The Registered Surveyor is expected to inspect, demarcate and survey the land in the presence of the applicant(s), local council leaders, neighbours and owners of adjacent land.

- Thereafter, the Registered Surveyor prepares a Job Record Jacket (JRJ), which includes the measurements he/she took on the land in question and any other relevant information concerning the land.

### Step 3

- The JRJ is submitted to the intake clerk, scanned and forwarded to the Staff Surveyor, who forwards it to the Cartographer for plotting and is returned to the Physical Planner for checking compliance with national physical planning standards and guidelines.
- Once approved, Payment for Deed Plan and checking fees are made and deed prints issued.

### Step 4

- The file is sent to the Senior Land Management Officer to check for final compliance and the file is forwarded to the Senior Registrar of Titles, who approves the transaction and issues freehold title to the Applicant

### Note:

When the transaction is differed or rejected by the above officers at various stages of the transaction, a letter explaining rejection/deferral is written and all documents returned to Applicant for correction and re-submission.

For approved transaction, the Applicant goes on to fees payment at Uganda Revenue Authority (URA).

#### Box 4: Required documents at the MZO

- i) Form 4, 10, 19 and 23
- ii) Set of Deed plans
- iii) Set of Passport Photographs
- iv) General receipts of payment
- v) Forwarding letter from the DLO

#### Box 5: Fees

The statutory fees enshrined in PART A, B & C of The Second Schedule of the Land Regulations, 2004 payable by the applicant(s) are

- i) Registration fees 10,000/=
- ii) Assurance of Title 20,000/=
- iii) Issuance of the Title 20,000/=
- iv) Application fees 20,000/=

## 3.2 What is Customary Tenure?

**Customary tenure** is a system of customs and practices common to a particular community or clan about how persons and families own, use and occupy land. Customary tenure has the following characteristics:

- i) Ownership of the land is controlled by the common and respected rules about land among the community living on the land, as long as the rules are not against the rights of women, people with disabilities, or children or are not otherwise against the law;
- ii) Persons or communities share ownership or use of land for purposes like grazing lands, water sources, etc.;
- iii) A person, a family or community own land for an unlimited time.

### 3.2.1 Communal Land Association (CLA)

Section 15 of the Land Act 1998 (as amended), provides for the establishment of a **Communal Land Association** (CLA) by any group of persons for any purpose connected with communal ownership and management of land, whether under customary law or otherwise.

The Land Act defines communal land as that land held by a specific indigenous community or group of people recognizing individual rights in that land and regulating its use and management. Within such a community, any clan or sub-clan or family can communally own, occupy, use and manage land. Grazing grounds, hunting grounds, forests, rock outcrops, spiritual sites, rivers, lakes and wetlands are some of the examples of communal land in Uganda.

### Procedure for formation of a Communal Land Association

#### Step 1

- a) A group of persons who wish to form themselves into a CLA, normally people from a clan, sub-clan or village shall convene a meeting for the purpose of forming a CLA.
- b) At the said meeting, the minutes of the meeting must be properly taken and signed by all members present prior to making an application to the Registrar of Titles (RT) at the MZO.

#### Step 2

- a) Following the group meeting and an agreement to register their land through a CLA by the group, a selected group of persons delegated by the bigger group can pick the application forms (Form 44) for the formation of a CLA from the RT
- b) The forms must be filled in triplicate (3 copies) by the group and returned to the RT

#### Step 3

- a) The RT on receipt of an application issues a public notice using Form 45 to convene a meeting at the land
- b) A copy of the notice shall be put in a prominent place on the land and in other prominent places such as places of worship, schools, market places and administrative offices in the parish where the land is located.
- c) The notice shall indicate the place and time of the meeting, being not less than twenty-one (21) days from the date of the notice.

**Step 4**

- a) The RT convenes and presides over a meeting of the group of persons to determine whether the group is to incorporate themselves into an association.
- b) This determination process can refer to the minutes of the group/ meeting to incorporate a CLA and needs to ensure that not less than 60% of members of the CLA have agreed to form themselves into an association

**Step 5**

- a) The group will then announce for and convene another meeting to elect officers (leaders who will act on behalf of the group with their consent) of the CLA.
- b) In the CLA, democratic processes means that the CLA is organized according to the principle that everyone has a right to be involved in making decisions.

**Step 6**

- a) The elected officers prepare the constitution of the association, with the assistance of the RT who may provide the officers with a model constitution.
- b) The constitution should be able to take care of individual members' interests as well as group interests. It should indicate
  - how special interest groups (widows, women and girls, youths, People With Disabilities (PWD), elders, orphans, etc.) will be managed and considered in the constitution since most times these groups are neglected;
  - clearly state that individual members will not lose their individual user rights to their homestead and farmland unless such places have some resources for the benefit of the group as a whole and such persons will be compensated and/ or reallocated land on request for the greater good of the group;
  - clearly state how the shared/communal land will be managed and how each individual member will benefit from this;
  - the management structure, how leaders are to be elected and how they can be removed in case of mismanagement; and
  - that leaders cannot take decisions on behalf of members without 60% of members being in agreement.

**Step 7**

The officers of the CLA shall submit the prepared constitution to the RT for certification so that it complies with the prescribed matters and provides a transparent and democratic process of management of the affairs of the association.

**Step 8**

- a) Where the RT is of the opinion that the constitution does not comply with matters as prescribed, he or she shall, within not more than thirty (30) days of receipt of the constitution, return it to the officers of the group with reasons for the rejection. A rejected constitution may be revised and resubmitted for certification.
- b) Where a constitution complies with the matters as prescribed, the RT shall issue a certificate of compliance using Form 46.

**Step 9**

A constitution that has been certified by the RT shall be voted on and approved by an absolute majority of all members i.e., 60% of members of that association at a meeting specifically convened for that purpose which approved constitution shall be binding on all members of the association.

**Step 10**

The officers of the association shall pick forms (Form 47) for incorporation of officers of a CLA, fill the forms which must be confirmed by selected members of the association and submitted to the RT to incorporate the association into a CLA.

**Step 11**

The RT on receiving an application for incorporation, and being satisfied that the requirements and regulations has been complied with by the group, issues a certificate of incorporation using Form 48.

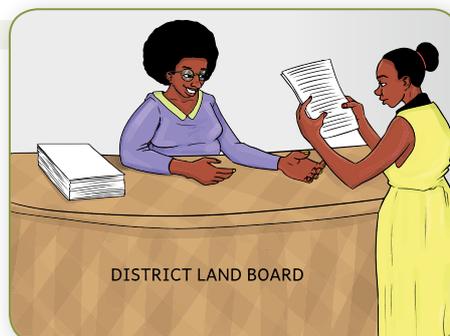
**Step 12**

The persons named in the certificate of incorporation as the officers (elected leaders of the CLA) become a body corporate, with the name of the association specified in the certificate, and shall have perpetual succession and a common seal. Upon incorporation, these officers (elected leaders of the CLA) shall become the managing committee of the association.

### 3.2.2 How to acquire a Certificate of Customary ownership (CCO)

**Step 1**

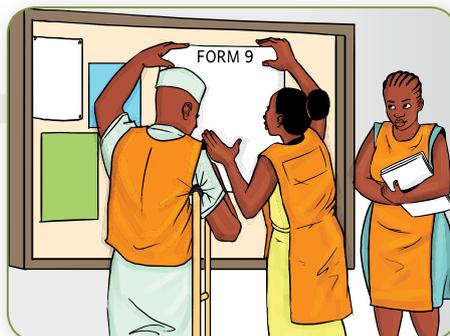
The Applicant(s) picks the application forms (Form 1), from the District Land Office or the MZO after paying the prescribed fees.

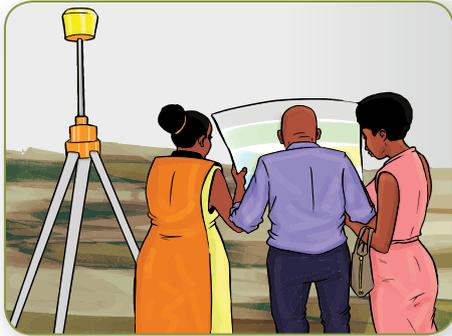
**Step 2**

The applicant fills in the forms in triplicate (3 copies) and submits them to the Recorder at the sub-county (sub-county chief), gazetted urban area (Town Clerk) and/or division of a city (Assistant Town Clerk).

**Step 3**

The Area Land Committee puts up a public notice at the Local Council 1 office notice board where the land is located (Form 9) on behalf of the District Land Board of applicant's intention to acquire a certificate. The aim of the notice is to inform the public of the applicant's intentions.





**Step 4**

The Area Land Committee using Form 23 goes ahead to mark boundaries, rights of way and other forms of easements witnessed by owners of adjacent lands and LC1 Chairperson.

The committee also makes a sketch map of the area and prepares an inspection report.



**Step 5**

The committee then makes a decision to the legitimacy of such using customary law as guidance.



**Step 6**

The decision of the Area Land Committee is put into writing. Three copies are made.

The original is forwarded to the District Land Board together with a sketch map of the area.



**Step 7**

It is a recommendation, which the board considers and may either accept or reject with reasons for rejection. When the board accepts, its acceptance is put into writing and it is sent to the Recorder who then issues the certificate at the sub-county.



**Step 8**

A customary Land Identification Number, Instrument number and portion numbers are given to each certificate of customary ownership issued and the prescribed fees are paid.

The applicant is then issued with a certificate subject to land use rights and physical planning regulations.

### 3.3 What is Mailo Tenure?

**Mailo tenure** is a system of owning land in which there is an owner of the land, called a landlord, and there are recognized occupants (lawful and bonafide occupants) on the land, called tenants. It is common in Uganda's Central Region and in the Buganda Kingdom. Mailo tenure has the following characteristics:

- i) Permits the separation of ownership of land from the ownership of developments on land made by a tenant. While the landowner owns the land, the tenants have the right to build on and farm the land.
- ii) Allows the landowner to own the land for an unlimited time and allows the tenants to use the land for an unlimited time. Landowners can pass their rights to own land to their children. Tenants can also pass their rights to use land to their children.
- iii) Gives the landowner similar powers as if s/he owns freehold land. These powers should not be used against the interests of bona fide occupants or lawful occupants.

Section 29(1) of the Land Act CAP 227 defines a **lawful occupant** as

- a) A person occupying the land by virtue of the repealed Busuulu and Envujjo Law of 1928; Toro and Ankole Landlord and Tenant Laws of 1937
- b) A person who entered the land with the registered owner's consent, and includes a purchaser
- c) A person who had occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owners at the time of acquiring the leasehold certificate of title.

Lawful occupants are expected to have evidence of Busuulu (Busuulu receipts) paid to the registered owner and includes a successor

Section 29(2) of the Land Act CAP 227 defines a **bonafide occupant** as

- a) A person who has stayed on and used, or improved the land for not less than 12 years before the coming into force of the Constitution on 8<sup>th</sup> October, 1995 without being challenged or asked to leave by the owner;
- b) A person who has been settled on to the land by government or an agent of the government which may include a local authority;
- c) Any person who bought or otherwise acquired registrable interest of a bonafide occupant shall be taken to be a bonafide occupant

Lawful and bonafide occupants (referred to as tenants by occupancy) are guaranteed security of occupancy and have the right to a Certificate of Occupancy if they have paid the ground rent (Busuulu) for the land. Ground rent (Busuulu) is a nominal payment by the tenant to the landlord and is supposed to be set by either the District Land Board or the Minister of Lands, Housing and Urban Development (MLHUD).

#### Box 6: Nominal Ground Rent fixed by MLHUD (2012)

Cities = UGX 50,000  
 Municipalities = UGX 40,000  
 Town Councils = UGX 30,000  
 Town Boards = UGX 20,000  
 Rural Areas = UGX 5,000

**NOTE:** The nominal ground rent is fixed by the DLB with the approval of the Minister in charge of lands

Tenants by occupancy have the right to make any legal transaction on the land (e.g., selling, leasing, dividing, mortgaging, bequeathing, etc.) but must obtain the owner's consent. Additionally, tenants looking to sell their tenancy must give landlords the first option to buy. The Land Act also requires a court order for a lawful or bonafide tenant on Mailo land to be evicted.

In the context of recognizing informal tenure rights, Section 30(1) of the Land Act CAP 227 defines a squatter as a person who has occupied and utilized or developed any land without permission and without paying ground rent. Squatters have less tenure rights as compared to tenants by occupancy and are prone to evictions without compensation at any time. For responsible governance of investments in land, squatters' rights and interests must also be considered before, during and after the investment as highlighted by the VGGTs, which recognize that having tenure rights does not necessarily mean being the owner of the land and encourages National Governments to acknowledge informal tenure (see Box)

### Box 7: Legitimate tenure rights in the Guidelines

The Guidelines are directed at the full range of people's tenure rights. That is why the Guidelines speak of 'legitimate' tenure rights, which extends the concept of tenure rights to cover all valid rights, whether these rights are formal and registered, customary, traditional, undocumented and unregistered.

The Guidelines mandate National Governments to acknowledge informal tenure where it exists in a manner that respects existing formal rights under national law and in ways that recognises the reality of the situation on the ground and promotes social, economic and environment well-being.

*Source: FAO (2017a, 2012)*

### 3.3.1 How to acquire a Certificate of Occupancy (CO)

#### Step 1

Get Busuulu Receipt from landlord: The land occupant (tenant) will pay annual nominal ground rent (Busuulu) to the landlord for security of their Kibanja/Plot. This confirms occupancy of the Kibanja.



#### Step 2

The tenant plans to get a Certificate of Occupancy (CoO) and acquires and fills the CoO application form 2 from the Sub County.

**Step 3**

Seek consent from the landlord to accept the offer of a CoO to the applicant (tenant). The landlord then notifies the Area Land Committee (ALC) about the application by the tenant on his/her land.

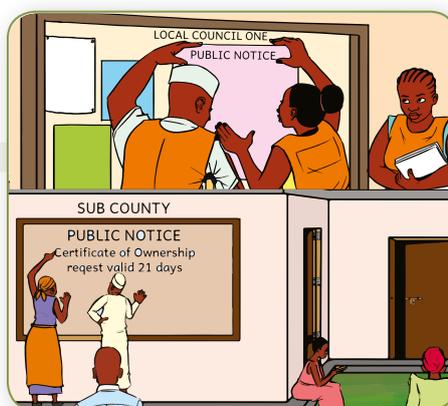


**Step 4**

Submit the CoO application form 2, with all the required information to the ALC office at the Sub County

**Step 5**

The ALC Chairperson issues public notice. Public notice using form 22 is displayed both at the Sub County and Local Council one office valid for 21 days from the issue date.



**Step 6**

CoO sensitization meeting by the Senior Assistant Secretary (Recorder) to answer queries (if any) raised by the community and the Landlord after the display of the public notice.

**Step 7**

Land inspection: The ALC members, landlord and owners of adjacent Bibanja/plots will mark boundaries and other forms of easements using form 24.

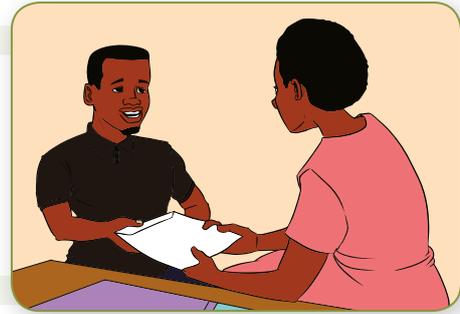


**Step 8**

The ALC compiles the inspection report detailing their decision and a sketch map of the area is drawn. Three copies are made.

**Step 9**

The ALC Chairperson submits the fully filled CoO application that has been verified and signed and where ownership is confirmed for consideration by the District Land Board (DLB).

**Step 10**

The DLB will consider the applications from the ALC. The applications are either accepted or rejected giving reasons in case of rejection. The acceptance by the DLB is sent in writing to the Recorder for the issue of CoO.

**Step 11**

The Recorder will then issue the CoO to the applicant (tenant).



### 3.3.2 How to transfer a Mailo land certificate of title

The Applicant must have in his/her possession the following documents:

- a) A transfer form, which must be signed by both the buyer and seller
- b) Two consent forms
- c) Photocopy of the duplicate certificate of Title
- d) Two Passport photographs of the buyer and seller
- e) Photocopies of the National IDs of the buyer and seller

**Step 1**

- The Applicant presents the full set of original Documents and a photocopy to the receiving intake clerk at the Ministry Zonal Office for intaking.

#### Box 8: Required documents

- a) A transfer form, which must be signed by both the buyer and seller
  - b) Two consent forms
  - c) Photocopy of the duplicate certificate of Title
  - d) Two Passport photographs of the buyer and seller
  - e) Photocopies of the National IDs of the buyer and seller
- The Applicant is issued with an acknowledgement receipt and/or photocopy is stamped received and returned to the applicant.

**Step 2**

The property or land is assessed at market value for purposes of the Applicant paying stamp duty which is 1.5% of market value.

**Step 3**

The Applicant pays the Stamp Duty and registration fees in the bank and gets a receipt and transfer form is embossed by Uganda Revenue Authority (URA).

**Step 4**

- The Applicant submits all documentation together with the Duplicate Certificate of Title, Receipts and Photocopies of all documents to the Ministry Zonal Office.
- The Photocopy is stamped 'Received'
- The Applicant is asked to check after 10 working days to collect the Title.

### 3.3.3 How to carry out a subdivision on Mailo land

**Step 1**

- The Applicant presents the originals and photocopies of the documents to the Ministry Zonal Office for checking and approval of the subdivision, in order to proceed.

**Box 9: Required documents**

- a) Duplicate Certificate of Title
  - b) Mutation Form, which must have been filled and signed by the registered owner, stamped and signed by a private Registered Surveyor contracted to carry out the sub-division.
  - c) Two Passport photographs of the owner (seller)
- The documents are received and the photocopies are stamped 'Received' and returned to the Applicant.

**Step 2**

The documents are scanned and forwarded to the physical planner for issuance of site plan and then forwarded to the Staff Surveyor to issue Instruction to Survey (IS).

**Step 3**

- a) The Registered Surveyor is expected to inspect, demarcate and survey the land in the presence of the Applicant(s), local council leaders, neighbours and owners of adjacent land.
- b) Thereafter, the Registered Surveyor prepares a Job Record Jacket (JRJ), which includes the measurements he/she took on the land in question and any other relevant information concerning the land.
- c) The JRJ is submitted to the intake clerk, scanned and forwarded to the Staff Surveyor, who forwards to the Cartographer for plotting and is returned to the Physical Planner for checking compliance.
- d) The Applicant pays checking and deed plans fees and certified deed plans are issued

**Step 4**

The deed plans, fully completed mutation form and Duplicate certificate of title are forwarded to the Registrar of Titles, who approves the transaction and issues Mailo certificates of title for all new plots. The new titles are issued to the Applicant.

### 3.4 What is Leasehold tenure?

Leasehold tenure involves a land owner giving another person, called a tenant, the right to possess or control the land in exchange for payment. Leasehold tenure has the following characteristics:

- i) It is usually for a limited period of time, the start and end of which are clearly stated in the lease agreement;
- ii) It is mostly in exchange for money, which is paid either once or at certain agreed-upon intervals; and
- iii) It is created either by law or an agreement made by the owner of the land and the tenant. They will agree on how the tenant may use the land and what the payment will be.

The land in question can be held in any of the freehold, customary or Mailo tenure systems.

### 3.4.1 How to acquire a leasehold title

#### Step 1

- The Applicant goes to the District Land Office or Area Land Committee to pick the Application Form 8, fill it, attach 3 passport photos and copy of his/her national identity card and submit them to the Area Land Committee after paying the required fees.
- Area Land Committee issues a 14 days' notice for a public hearing using Form 10; and visits the site, and together with the neighbors fill and sign the Demarcation Form 23.
- The Area Land Committee compiles an Inspection Report and submits the documents to the District Land Office.
- The District Land Officer prepares a report and forwards the file to the District Land Board for consideration. If approved, the file is returned to the District Land Officer for Lease offer using Form 18, who forwards to the Ministry Zonal Land Office to process a Leasehold Land Title.

#### Box 10: Required documents at this stage

- i) Fully completed Forms 8, 10, 18 and 23
- ii) Area Land Committee Report;
- iii) District Land Officer's Technical Report;
- iv) 3 passport photos;
- v) A forwarding letter;
- vi) Receipts of payment of Application fees, Premium and Ground rent;
- vii) Physical Planning Minutes/ PP Form 1;
- viii) Copy of National ID;
- ix) District Land Board Minutes extract;
- x) Instruction to Survey (IS) letter.

### Procedure at the Ministry Zonal Office

#### Step 1

- The Applicant presents the full set of original Documents and a photocopy to the receiving/ intake clerk at the Zonal Office for intaking.
- The Applicant is issued with an acknowledgement receipt and/or photocopy is stamped "received" and returned to the applicant.
- The applicant checks after 10 working days to confirm approval or rejection.

#### Step 2

The documents are scanned and forwarded to the physical planner for issuance of site plan and then the file is forwarded to the land officer to check compliance. The file is then sent to the Staff Surveyor to issue Instruction to Survey (IS).

**Note:**

- The Instruction to Survey is issued to a private Registered Surveyor contracted by the Applicant(s) for the purposes of surveying the land in question.
- The Registered Surveyor is expected to inspect, demarcate and survey the land in the presence of the Applicant(s), local council leaders, neighbours and owners of adjacent land.
- Thereafter, the Registered Surveyor prepares a Job Record Jacket (JRJ), which includes the measurements he/she took on the land in question and any other relevant information concerning the land.

**Step 3**

- The JRJ is submitted to the intake clerk, scanned and forwarded to the Staff Surveyor, who forwards to the Cartographer for plotting and is returned to the Physical Planner for checking compliance with physical planning regulations.
- Once approved, it is sent to the Valuer for assessing market value of the land. Payment for Deed Plan and checking fees are made and deed prints issued.

**Note:**

When the transaction is deferred or rejected by the above officers at various stages of the transaction, a letter explaining rejection/deferral is written and all documents returned to Applicant for correction and re-submission.

For approved transaction, the Applicant goes on to fees payment at URA.

**Box 11: Fees****Fees paid at URA;**

1.5% of the Premium and Ground Rent

**The statutory fees enshrined in PART A, B & C of The Second Schedule of the Land Regulations, 2004 payable by the applicant(s) are**

- i) Registration fees UGX 10,000;
- ii) Assurance of Title UGX 20,000;
- iii) Issuance of the Title UGX 20,000;
- iv) Preparation of Lease UGX 10,000.

**Bibliography**

FAO 2012, Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) of Land, Fisheries, and Forests in the context of National Food Security. Rome (<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>).

FAO, 2017a, Why is Governance of Tenure important? <https://elearning.fao.org/>

FAO, 2017b, The Voluntary Guidelines on Responsible Governance of Tenure, <https://elearning.fao.org/>

The Constitution of the Republic of Uganda, 1995, [Constitution of the Republic of Uganda | Ulii](#)

The Land Regulations, 2004, [The-Land-Regulations-2004.pdf \(mlhud.go.ug\)](#)

The Land Act, 1998, [Land-Act-1998-as-amended-CAP-227.pdf \(mlhud.go.ug\)](#)

Trocaire, The Step by Step Guide to Customary Land Registration in Uganda : Easy Steps to Secure Customary Land Tenure, [180419 the step by step guide to customary land registration in uganda.pdf \(trocaire.org\)](#) – accessed on 21<sup>st</sup> July, 2021



**Published by:**

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

**Registered offices:**

Bonn and Eschborn, Germany

Department Rural Development, Agriculture

Friedrich Ebert Allee 36 + 40

53113 Bonn, Germany

T +49 228 44 60-0

E [GlobalvorhabenLand@giz.de](mailto:GlobalvorhabenLand@giz.de)

I [www.giz.de/responsiblelandpolicy](http://www.giz.de/responsiblelandpolicy)

**Responsible:**

Dr. Klaus Ackermann

[klaus.ackermann@giz.de](mailto:klaus.ackermann@giz.de)

**Author:**

Dr. Ronald Ssengendo, NIRAS-IP Consult

**Contributors:**

Alex Muhumuza, Lorenz Jenni, NIRAS-IP Consult

**Design, layout and illustrations:**

Milorad Vidovic, contracted by NIRAS-IP Consult under the RGIL project

James Mbogga, Seasonz Harvest Illustrations, contracted by NIRAS-IP Consult under the RGIL project

**Photo credits:**

p. 6 © GIZ, Sofi Lundin; p. 8 © GIZ, Sofi Lundin; p.10/11, free image, p.27 © GIZ, Sofi Lundin

**URL links:**

Responsibility for the content of external websites linked in this publication always lies with their respective publishers. GIZ expressly dissociates itself from such content.

**Disclaimer:**

This publication was produced as part of the Responsible Governance of Investments in Land (RGIL) project, with the financial support of the European Union and the German Federal Ministry for Economic Cooperation and Development. Its contents are the sole responsibility of GIZ and do not necessarily reflect the views of the EU or the Federal Ministry for Economic Cooperation and Development.

RGIL is implemented under three country projects (S2RAI in Ethiopia, ELTeS in Laos, RELAPU in Uganda) within the Global Programme Responsible Land Policy as part of the German Special Initiative "One World – No Hunger" of the German Federal Ministry for Economic Cooperation and Development (BMZ).

The project aims to ensure that investments in land are productive, contribute to sustainable land management, and respect the rights and needs of local populations in particular vulnerable groups and women.

GIZ is responsible for the content of this publication

Bonn, November 2022