

*to improve our understanding and ability to ask the right questions and take effective action on land matters in West Africa*

## **Land Use Charters, a Commitment to Intensive and Sustainable Natural Resource Use**

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*How can farmers, local governments and technical services be encouraged to make more intensive and sustainable use of natural resources and optimise the potential benefits of State investments in hydro-agricultural, pastoral and forestry infrastructures? One way of doing this could be to develop binding decentralised conditions for acceptable productive use. This sheet draws on the Charter for irrigated land formulated in the River Senegal Valley in the late 1990s with support from AFD. It identifies the advantages of collectively defined conditions for using developed land, describes the content of a collective land use charter, and explains how such a Charter can be put in place.*

### **A Consultative Procedure to Create the Conditions for Sustainable Land Use**

Local people will find it hard to make the best use of their land if they don't have secure land tenure or access to the amenities they need for sustainable intensification. Looking at production from another angle, States that have invested heavily in facilitating productive local land use and securing producers' access to their land (especially in hydro-agricultural developments) will expect the areas they have developed to be put to intensive and sustainable use.

If the conditions for using such land are determined at the central level without sufficient negotiation or account taken of local constraints, they are likely to be ignored – opening the way to uncontrolled occupation, degraded amenities, low levels of productive use and poor coordination

between the state services and land users over the maintenance of infrastructures.

### **What Does a Consultative Land Use Charter (LUC) Cover?**

A Land Use Charter is a contractual commitment to use land in a certain manner agreed between the parcel user, the local government and the State. It formalises the undertakings that each of the three partners has made to respect the conditions for land occupancy and natural resource use (quality of the water supplied by the State, producers' growing cycles, etc.). These conditions are defined in a consensual and consultative manner so that the LUC sets standards for productive land use that are adapted to each local context and accepted by local land users.

An LUC may apply to a small area or a vast expanse of land covering one or more regions.

LUCs should not go into the technical details of crop production (fertiliser dosage, sowing times, etc.), but cover more general conditions such as the overall cultivation period and payment of relevant fees.

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### Types of Commitment Defined in an LUC

Although national contexts vary, LUCs generally cover State undertakings to install basic infrastructures that enable producers to put the land to good productive use; local government commitments to secure access to land and natural resources according to the user's actual capacity to use the land productively; and users' pledges to make the most productive use of the land that they can, maintain infrastructures and, if necessary, pay any relevant fees.

### How to Draw Up a Land Use Charter?

The joint procedure for formulating an LUC enables all the partners to have a say in defining and implementing the conditions for land use.

- **It is essential to take account of the social and legal context when producing an LUC.** One of the first parameters to consider is the current land tenure regime, which may be determined by the customary regulations or statutory laws that define land rights, or a combination of the two regimes. The process of preparing an LUC will not necessarily lead to legislative reforms: the objective is to produce and implement a contractual tool, and only then consider any legislative or institutional developments that may be necessary.
- **The second parameter is the type of infrastructure concerned,** as this may determine the particular conditions for productive land use. For example, irrigated agriculture may

involve small- and/or large-scale irrigation systems and varying levels of structural amenities; while different types of irrigation may be associated with different types of producer and land use, with parcels reserved for agri-business, medium-sized private companies, small family farms, etc. The different (and sometimes contradictory) concerns of these different types of producer need to be considered throughout the formulation process.

The consultative process needs to be iterative so that everyone concerned can learn from it. Agreements should be summarised and reviewed throughout the process, clear consensus reached before moving from one stage to the next, and subsequent consultations conducted in strict accordance with the agreements reached during the previous stage. There are six main stages in formulating a Land Use Charter.

#### ● Stage One: Drafting and Sharing a Document on the Issues at Stake

An initial scoping paper justifying the need to collaborate on the conditions for land occupancy and structured resource use should be submitted to every partner. It should describe the current types and levels of land use and their medium- and long-term consequences for the natural resources concerned, existing investments (infrastructures) and the local (and possibly national) economy. Although this document should ideally be based on a preliminary participatory assessment, the initiative to produce the scoping paper may be taken by the administrative structure, NGO, etc. that is best placed to run the formulation process, as the various actors concerned

may not have the skills to organise this kind of initial consultation. The scoping paper should be submitted to all the different partners (local governments, technical services, representative user organisations, etc.) to be amended and validated.

#### ● Stage Two: Preparing and Discussing the First Draft of the Charter

This stage has two objectives: to share the issues and justification for the LUC, and to jointly develop and implement the practical procedure for its formulation. It is important to reach every type of actor who will be affected by the productive use of the resources concerned and invite them to participate in the design process, especially decision-makers and technicians. It can sometimes be hard to involve decision-makers, but it is essential to get them on board before moving on to the next stage.

The various entities that will be involved at the operational level also

### Formulating the Charter for Irrigated Lands in the River Senegal Valley

Local actors in the region agreed on the different stages for developing the Charter for the River Senegal valley: (i) discuss the draft Charter with each local government; (ii) present the Charter to a Regional Development Committee (RDC); (iii) involve the regional governor in the final draft of the Charter; (iv) get the Charter validated by the different ministries and take the relevant administrative measures (Prime Ministerial decree).

need to be included in the process (such as the different local services responsible for the environment or local federations of agricultural producers). Finally, although many of the actors concerned will work to different time-tables that may not easily fit into the one envisaged for the overall process, it is important to keep the consultations going and ensure that every issue is properly discussed.

There may be two or three interlinked levels of consultation depending on the size of the area and the diversity, organisation and level of the actors concerned: local government (commune), department or region. At the end of lower-level consultations, representatives are appointed to participate in discussions at the intermediate level, and the process is repeated at each subsequent level in order to create an unbroken chain of consultation from the lowest to the highest level.

This way of working assumes that different categories of actor at the lowest and intermediate levels will attend

the same workshops. Depending on the context, separate consultations may also be held with different types of actor (local governments, the administration, technical services, professionals) or different socio-professional groups (herders, fishermen, farmers, forest users, etc.).

These discussions shape the structure of the draft LUC and the way that key questions are addressed (including issues that require legal analysis). The first draft should be discussed at the local level and then, if there is one, at the intermediate level.

### ● Stage Three: Legal Validation of the Documents

In this stage, workshops are held so that lawyers and members of the territorial administration can analyse the LUC drafted in stage two, and ensure that the proposed conditions for productive land use agreed during the consultations comply with current legislation and regulations. The legal reading aims to bring them into

One of the points covered by the Charter for Irrigated lands in the River Senegal valley was the timescale for productive land use. When the national development corporation SAED managed lands in the delta, it was understood that producers had a maximum of two years to put their land to productive use.

However, the legal reading of proposals for the new Charter revealed that this was not the case, and that the timescale varies according to the type of land user: private users have 5 years to put undeveloped land to productive use (with half to be under production at the end of 3 years); while producers occupying land that has already been developed by the State have to put it all to productive use from the first year onwards.

line with the relevant texts, use existing regulatory provisions to better frame them and, if necessary, reformulate them.

### ● Stage Four: Institutional Validation (contractualisation)

The consensus reached at the end of the consultation does not always give the LUC sufficient legitimacy to be implemented. It may be necessary to validate the retained provisions through an administrative act with regulatory force or a deed of engagement signed by all stakeholders in the consultations.

### ● Stage Five: Fieldwork

The next step is to present and disseminate the final outcomes of the consultation. It is important to strength-

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en links between different actors and within local structures when the results are presented to local governments, user organisations and local technical and administrative services, to ensure that the standards and rules of the Charter are enforced.

### ● **Stage Six: Establish a Mechanism for Monitoring and Possibly Updating the Charter**

At this stage a tripartite structure involving the State/local governments/representative user groups should be put in place. It should have the necessary resources to monitor compliance

with the provisions of the land use Charter, oversee participatory monitoring and evaluation and, if necessary, review and revise the Charter at a later date.

### **Conditions for Effectiveness**

- **Intervention by a support team.** Existing institutions and local actors should be responsible for the learning process and implementation of the LUC. In the case in Senegal, the formulation process was led by a technical structure (SAED), which also helped implement the Charter.

- **Land Use Charters need to have legal force** (which requires political commitment from the State) and mechanisms for monitoring compliance and sanctioning contraventions of their provisions.
- **All parties should honour their commitments.**
- **Land Use Charters can only be effective** if the necessary financial support for the selected forms of intensive land use is available at the local level (especially systems for appropriate medium- and long-term credit to finance more intensive investments). ●

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