

Meeting Summary

Proparco Offices | Paris, France

15 March 2018

Participants:

- Andy White – RRI (Co-chair)
- Mark Constantine (Co-Chair)
- Pierre Van Asbroek – Proparco
- Edouard Buffiere – Proparco
- Clement Marchand – Proparco
- Karoliina Lindroos – Finnfund
- Kate Mathias – Illovo Sugar
- David Bledsoe – Resource Equity
- Lou Munden – TMP Systems
- Chris Penrose-Buckley (by phone) – DFID
- John Nelson (by phone) – TFT
- Claire Biason – RRI
- Mikhail Tarasov – IKEA
- Roger Steinhardt – IKEA
- Julie Greene – Olam International
- Christian Graefen – GIZ
- Martin Geiger – DEG
- Christina Healy – RRI
- Dave Gibson – IFC
- Larissa Luy – IFC
- Samantha Lacey – CDC Group
- Anna Turrell – Nestlé
- Chloe Christman – Oxfam America
- Helen Ripmeester – Oxfam America
- Natasha Schwarzbach – PepsiCo
- Freddy Shaoul – EBRD
- Robert Cole – EBRD
- Karin Verstralen – FMO
- Jildau Boerma – Rabobank
- George Boden – Global Witness
- Mina Manuchehri – Landesa
- Brent Wilton – Coca-Cola
- Mikael Bjornsen – PIDG
- Samuel Nguiffo – CED
- Sophia Murday – TMP Systems

Background

The Interlaken Group (IG) met on March 15, 2018 at Proparco’s offices in Paris, France. The purpose of the meeting was to discuss and identify potential next steps for the Group on four topics: the ongoing development and use of next generation due diligence tools to recognize and address land tenure risks; the different models, scaling, and wider use of alternative land use agreements; the value-add for the IG on gender; and a new strategic initiative to take stock of and facilitate SDG objectives and 2020 sustainability commitments.

Overview

The **Co-Chairs welcomed the group and thanked Proparco** for hosting the meeting. The co-chairs noted that Joan Carling, member of the IG Advisory Group, was absent because she has been accused of being a “terrorist” by the Filipino government due to her being a CSO leader and long-standing engagement in favor of human rights. 600 others are also on this list put forward by the Duterte government. The Co-Chairs indicated that this was a good reminder of the importance of the Interlaken Group’s work and how contentious land issues can be. After reviewing the agenda, they thanked the Steering group for their contributions to the program.

A **Tour de Table** then followed, in which participants updated one another on recent experiences including: implementing new tools, guidelines and policies in areas such as responsible sourcing, “Living

Landscapes”, responsible land acquisition guidance, and supply chain transparency; quantifying land tenure risks; new research on women’s land rights and the need to incorporate gender in due diligence practice; support for community empowerment initiatives; and issuance of a new corporate report on sustainability. Other key points made included:

- the need to make more explicit what a rights-based approach to due diligence looks like;
- the tragic truth that now more environmental defenders are killed in connection with agriculture projects than natural resource extraction;
- stronger financial incentives are needed to change harmful land use practices;
- few social consultants are aware of the VGGT and Legacy guidance prepared by the IG and thus we should consider inviting some of these consultants to join the next IG meeting (or otherwise reach out to them).

New Due Diligence Tools

The Group learned about three new due diligence tools: GMAP, GeoDesk, and IIT. The Group discussed how they could support the evolution and wider use of these due diligence tools, and associated challenges for implementation.

During the discussion notable observations from members and presenters included:

- calls to pilot the use of GeoDesk and IIT with both DFI’s and companies once they are further developed;
- the challenge of ensuring reliability and quantity of data to feed these due diligence tools;
- using the tools for both ex-ante due diligence, as well as portfolio review;
- a suggestion that available tools and their most appropriate use be posted on the IG website; and,
- whether the tools under development would/should eventually be consolidated and shared as a public good versus a paid subscription model.

Other Key Discussion Points:

The discussion highlighted both the importance of making these tools more broadly available (most of them remain “pay to play”), the need to create financial incentives to get higher quality data, and to address data gaps. To address these gaps, some suggested that a joint request or initiative, such as a letter, could be sponsored by multiple DFIs, to encourage increased data availability and spur data collection. A joint request could be more influential than individual requests and investments; the Interlaken Group suggested they could play a role in testing and developing these tools.

Using the IG guidance

The Group discussed opportunities to improve the Land and Forest Rights Guide and the Land Legacy Guide, in addition to ways to increase their dissemination and use. Companies and DFIs shared their experience using the two guides published by the Interlaken Group. Some corporate members have shared the guidance with their suppliers, but overall relatively few have used the guidance to any great extent so far. While those tools have been appreciated and deemed helpful, some limitations have been identified and are summarized here:

- The guides are too lengthy for some key company audiences to absorb and should be better adapted to these audiences (ex. Procurement and other non-E&S specialists) in written form and potentially using different mediums (e.g., podcasts, video). In general, the customized versions of the guidance should be visually adapted to the intended audience
- Consider incorporating “decision trees” to improve suitability and uptake.

- They are helpful to establish a diagnostic but less so for remediation
- There is a plethora of other guidance aimed at companies (ex. IFC Performance Standards, RSPO remediation framework). None can be used as a standalone but they should be used in conjunction with others.
- The pool of consultants DFIs rely on to conduct work on land issues are generally unaware of these guides and how to identify and remediate land rights issues.

Alternative Land Use Agreements

The Group discussed a series of alternative land use agreements/models between communities and companies and how the IG could support the scaling and wider use of these models in practice. To initiate the discussion, the most common alternative land use agreements were listed as follows:

- Joint ventures with communities;
- Charitable trusts;
- Block farming;
- Leasing land from local authorities; and
- Integrated out-grower schemes, among others.

One participant indicated that to come up with a fair and equitable deal, it is critical to identify the parties involved, the terms, and the scope of the interest being transferred (including the livelihood value of forgone use), as well as work with local CSOs to understand the local context (see attached annex for more details on these 4 “principles”). A preliminary assessment of the issues, risks, and benefits from both the communities and companies was provided. In addition, participants highlighted the following best practices:

- Clarify landowner’s rights and work with the rights-holders on the ground (even if those in practice are different from those in the law);
- If the host country government is a signatory to the agreement, that is generally cause for concern because it puts communities in second tier status;
- Consider the length of the lease before it can be potentially renegotiated;
- Consider the full value of the livelihood that is foregone by the rightsholders because when compensation is limited to market value or statutory schedules of value per hectare, communities do not get what they are due.
- Agree on fair compensation or benefit-sharing systems;
- Develop a grievance mechanism; and
- Ensure a fair negotiation process by hiring a community liaison officer and ensuring communities receive independent advice (e.g., finance their legal assistance if needed).

Some successful examples of community engagement in Ghana, Sierra Leone, and Liberia were shared.

Future gender-related work

Participants were supportive of addressing issues of inclusivity especially as it related to gender in the work of the Interlaken Group, and confirmed that this was also a concern within their organizations. Some wondered if they could share their internal policies with each other as a way to improve collectively, and it was suggested that the Group should collect examples of approaches that have been successfully used (e.g., UNWOMEN).

New strategic initiative to take stock of and facilitate the SDG objectives and 2020 sustainability commitments

The Co-Chairs presented a new concept note entitled “Transforming Social and Economic Development to Meet the SDGs: Enhancing Corporate Performance and Strengthening Public-Private Coordination”. They recalled it was prepared as a follow up to the discussions held at the last meeting in Stockholm, and the [new vision and agenda](#) which call for improved coordination and collaboration of leading actors. The gathering was envisioned to include a relatively small group of senior level participants from companies, civil society, DFIs and donors. It was emphasized that the objective of the proposed approach was two-fold:

1. Convene a meeting in late 2018 to take stock of the current state of progress of companies who have made 2020 commitments and identify key impediments to making good on these commitments. The meeting would be supported by a paper identifying the current state of play.
2. Convene a “blue-skies” meeting in 2019 to review potential new means and mechanisms for helping companies achieve their commitments.

Participants’ feedback varied and included the following recommendations:

- Consider that the IG’s role is to ensure focus on land rights linkages to 2020 commitments, and ensure they are prioritized in pursuit of the full suite of SDG/other commitments.
- Approach/partner with actors already involved in this effort such as the UN Global Compact, Tropical Forest Alliance, and the Consumer Goods Forum and ensure land rights is given adequate visibility/priority as a linchpin/driver of the other SDG issues—but that the IG by itself was not the right sponsor on its own.
- It was emphasized that the concept will only be feasible if it appeals to a critical mass of leading companies.
- Caution was expressed—given limited resources-- about ensuring that any new initiative not come at the expense of the work the IG is already doing at the global and country level.

Update on Country Level Activities

The Co-Chairs recalled that engagement in Cameroon and Kenya was piloted in 2017 and that there is still high demand for follow up in Cameroon. As agreed upon at the last meeting, engagement in Malawi was also investigated and a scoping study was conducted by Terra Firma. Conclusions show that the country presents us with interesting challenges but the added value the Interlaken Group would bring requires further discussion.

- Other countries the Interlaken Group is planning activities in include: Indonesia, Lao PDR, and Myanmar.
- The group expressed interest in country-level activities in Ivory Coast, Liberia and Mozambique.

Next Steps

The Interlaken Group agreed to consider/work on several possible initiatives over the coming months.

- Support further development of Geodesk and explore possibilities facilitating access and collaboration with other DFIs.
- Add on the Interlaken Group website a table listing existing due diligence tools and appropriate users/uses.

- Serve as a bridge between local actions, intelligence, and international databases and tools. Advocate for more robust data and encourage the linkage of currently available datasets (e.g. LandMark).
 - Write a letter to LandMark to inform them that participants of the IG are consulting their platform regularly in order to support their fundraising efforts.
 - Ask the FAO to create downloadable databases for the Forest Resources Assessment.
- Make the IG guides more user friendly for dissemination to relevant corporate audiences (e.g. procurement and other non- E & S specialists).
 - Include an annex to guide consultants, emphasizing key messages relevant for their work.
 - Consider preparing a shorter, decision-tree like guidance for specific audiences.
- Prepare a typology of the most common alternative land use agreements between companies and communities and their respective innovations and best practices for community engagement as well as models of models of community negotiation, organization, and preparedness.
- Share case studies and consider other means of encouraging support to empower communities during the contractual/negotiation process.
- Update the Interlaken Group guides to include gender, such as emerging practices on how to strengthen women’s rights, and sharing tip sheets and guidance on incorporating tenure relevant gender considerations.
- Consider bringing in a “gender expert”, as well as sharing gender approaches followed by different IG members to facilitate a deeper discussion at the next IG meeting.
- Circulate the IG vision statement for interested participants to publicly endorse and disseminate.
- Further build out the global strategy stocktaking and group initiative, and pursue interest/feasibility with companies, investors, and NGOs.
- Socialize/disseminate the “4 key principles” (see annex) identified by one of the IG members attending the meeting:
 - Who are the parties?
 - What is the scope of the land or natural resource conveyance?
 - What is the value/compensation for the deal?
 - What does the governance framework and the state’s capacity to deliver it look like?

Note: These four principles will not always hit or call out all the issues that are out there, but they do encompass many of them.

1. **Who are the parties?** The deal/transfer might include the investor, individual men and women rightsholders, communities as rightsholders, national or local government, or others. I/some would argue that, when the government is a party to the deal, the individual or community rights holders don't get as good/fair a deal because the compensation is limited or the state otherwise captures some benefit that ought to accrue to the rights holder. In such cases, to hit best practices, an investor might have to add something more to the deal for the rightsholders. I'd also alert any investor to make sure that customary/traditional/informal powers (chief, community leaders, Paramount Authority, or whoever) don't do the elite capture thing. Finally, when looking at individual smallholders as parties to land deals, we want to be aware if we are only thinking of the household (usually just a male is included in this case), or the spouses/women as well, which should be the best practice.
2. **What is the scope of the land or natural resource conveyance?** This is about how many rights the rightsholder (individual, community, whatever) is going to transfer to the other party/investor. This could be all the rights, as when a sale forever of all rights occurs. Or it could be just some of the rights, like when a community retains some rights to use a forest but otherwise gives it up to conservation or consumption or whatever. Or just some of the rights like when a lease is only for a term of years. (Thinking of the duration of the rights is also about the term of the deal – the length of time. A 99-year lease at a fixed payment for sure isn't going to be a good deal for an individual or community rights holder. Having a shorter lease term is sort of the same as having a requirement that the compensation amount be revisited every so often. A landlord in Seattle or D.C. jacking up the lease cost of an apartment every year is the other side of the coin – a rightsholder benefiting from the ongoing appreciation of the value.) Or the rights conveyed could be just the right to purchase the crop that the land rightsholder grows on the land. This would be an out-grower scheme. Finally, women's land uses are often not recognized and may get transferred during a deal without anybody but the women noticing. So women's land uses need to be recognized and elevated to the status of recognized rights. Only then can they be equitably transacted.
3. **What is the value/compensation for the deal?** Best practices would include a bunch of stuff, like the full value of the livelihood that is foregone because the land became unavailable to the rightsholder when she or the community gives it up. Plus, the replacement cost of the land and structures. When governments limit the compensation to things like "market value" or statutory schedules of values per hectare, folks usually don't get what they are (arguably) due. Here too, women need to be kept in mind. Since women's land uses/rights are often not recognized, they are often left uncompensated. These need to be valued as well, and fair compensation paid – directly to the women in safe and real way.
4. **What does the governance framework and the state's capacity to deliver it look like?** This sort of overlaps some of the other three things, in that the laws might say the government will be part of the deal. Or that compensation should be limited in a certain way – like to market value. Or that the land transfer is going to happen for sure, be called an expropriation, and be justified by a "public purpose." Other laws might call for consultation and engagement. A good thing. Or that a social assessment be done. Another good thing. Many legal frameworks inadequately address women's land uses and rights. If the investor is committed to best practices, the investor will need to supplement the legal framework with improved approaches. In sum, the investor needs to look at this legal/regulatory/governance stuff pretty carefully or get somebody to do it for them.