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Dear Colleagues,

Thank you for providing the opportunity for public comment on two related documents now under development by the FAO: (1) “Implementing Improved Tenure Governance in Fisheries: A technical guide to support the implementation of the voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security,” and (2) “Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication.”

Secure tenure for fisheries is vital to the sustainability of ocean resources and communities that depend on the oceans. Well-designed tenure systems can be used to achieve and balance multiple objectives and demands on ocean resources, and empower fishermen and fishing communities to practice responsible stewardship of marine resources. Tailoring such systems for the needs and specificities of small scale fisheries is essential. The guidelines and the technical guidance can work together to offer a framework for progress in ensuring the needs and equities of small scale fishermen are addressed.

EDF has a proven track record in research and direct engagement with small scale fisheries. For two decades we have worked alongside fishermen and fishery managers to develop successful tenure systems in a variety of contexts. Our staff has conducted extensive research and has authored peer-reviewed articles and practical guides on sustainable fisheries management, including this comprehensive [toolkit](#) for fishery managers, fishermen, and other stakeholders.

Based on our research and experience implementing tenure systems, EDF offers the following comments on the two FAO’s documents. We provide comments in this consolidated format to illustrate how similar issues pertain to both of these related documents:

I. Building blocks for successful systems of secure tenure for fishermen

EDF’s Catch Share Design Center has systematically surveyed the literature and consulted experts around the globe to identify where fishery tenure systems are in place, to evaluate their effectiveness in achieving environmental and social results. Our experience, and continuing research suggest that environmental, economic, and social objectives for fishery use are best met when tenure systems exhibit as many as possible of the following core set of attributes:

- Secure and exclusive tenure rights, allocated for a sufficient length of time to incentivize stewardship, and defensible by law or custom.

- Appropriate controls on fishing mortality to support sustainability of fished stocks. These controls should be informed by the best available science (and traditional knowledge) and should address all major sources of fishing mortality.
- A structure for holding fishers accountable for complying with the customs, rules and regulations of the fishery. Compliance is often required in exchange for tenure rights.
- Appropriate scaling of tenure rights to account for the sociopolitical and biological characteristics of the fishery.
- Transferability of rights, as appropriate for meeting the goals of the tenure system.

These attributes are present in [many successfully managed fisheries](#) around the world, appropriately tailored to their size and such factors as the degree of fishery data available. Additional fisheries are adopting these best practices to meet biological, economic, and social goals in diverse contexts.

II. Comments on the Technical Guide to Support the Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)

In the *Technical Guide to Support the Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)*, hereinafter referred to as the “VGGT Implementation Guide,” the FAO appropriately emphasizes some of these important features of successful tenure systems, which we strongly support and which we encourage you to retain in the final document. Specifically, we support the emphasis on:

- The critical role of tenure rights—including legal recognition of rights, clear definition of rights, and long-term duration—in encouraging responsible resource use to achieve social, economic, and environmental objectives.
- The importance of effective monitoring, control, and surveillance to hold fishers accountable for complying with rules and regulations.
- The potential value of transferability in tenure systems, as well as the importance of appropriate limits on transferability to support community stability.

While supporting the elements described above, EDF does offer the following recommendations for modification of the VGGT Implementation Guide in order to ensure the guidelines for tenure governance are implemented to most effectively achieve the objective of supporting food security.

1. Redistribution of tenure rights: Like the FAO, we place a high value on fair and equitable allocation of tenure rights. Fishery management systems typically face trade-offs between social, economic, and biological objectives, and making the right allocation decisions is critical to achievement of those objectives.

Recognizing fishery sustainability as *essential* to meeting social and economic goals, we recommend revisions to the guidance provided on redistributive reforms. Redistribution of tenure rights critically interferes with rights-holders' sense of security, and thus greatly reduces their incentives for sustainable resource use. Indeed, it is small scale and marginalized fishermen who are most likely to be harmed by redistribution in systems where their power and influence is less than that of large scale fishermen.

We recognize that redistribution of rights may be necessary in some cases, as noted in the document. But a more positive way to frame this issue is to highlight aspects of tenure system design that can reduce the need for redistribution. Incorporating these considerations in the initial design of the tenure system can reduce the likelihood that the security of rights will be undermined by subsequent redistribution. For example:

- Tenure rights may be set aside for future allocation to marginalized groups
- Mechanisms may be established to appropriately incorporate individuals without tenure rights into tenure-allocated groups.

We recommend the following addition to the VGGT Implementation Guide in the section titled "Reallocation of Tenure Rights and Competition Among Users":

To the extent possible, States should design tenure systems to minimize the potential need for readjustment reforms. This may be accomplished by (1) setting aside a portion of current fishing opportunities to prepare for future allocation needs and simultaneously allow for more rapid recovery of fish stocks; (2) setting aside a portion of future allocations based upon new fishing opportunities associated with recovered fisheries for future allocation; (3) appropriately incorporating fishers or fishworkers into tenure-allocated or eligible groups, or (4) through other mechanisms.

2. Express identification of rights and responsibilities: Co-management is a key element of success for small-scale fisheries, and we commend FAO for describing appropriate co-management structures for tenure governance. We believe, however, that the VGGT Implementation Guide should be more specific in spelling out the specific role of fishermen in managing the resources that they are granted the right to use. Moreover, we believe the responsibilities of fishers in managing resources should be intrinsically tied to the rights being allocated. As such, we recommend incorporating the following language--taken from the *Voluntary Guidelines for Securing Sustainable Small Scale Fisheries in the Context of Food Security and Poverty Eradication*--into the "Capacity and Institutional Structures" section of the VGGT Implementation Guide:

"All parties should recognize that rights and responsibilities come together; tenure rights are balanced by duties, and support the long-term conservation and sustainable use of resources and the maintenance of the ecological foundation for food production."

3. Restoring depleted fisheries to benefit fishermen and fishing communities and to bolster food security: An essential element of effective marine tenure is the elimination of overfishing and rebuilding overfished stocks to sustainable levels. As such, we strongly encourage FAO to include guidance in the VGGT Implementation Guide on setting appropriate controls on fishing mortality within tenure systems. Whether set by the government, by rights-holders

themselves or ideally by the two together, controls on fishing mortality are critical for ensuring stocks are sufficiently robust to support the livelihoods and food provision of coastal communities.

We recommend the following addition to the section of the VGGT Implementation Guide titled “Biologically Sustainable and Economically Efficient Resource Utilization,” at the end of the second paragraph:

“To ensure sustainable resource use, tenure rights should be paired with responsible fisheries management in accordance with the Code of Conduct for Responsible Fisheries. Appropriate controls on fishing mortality should be applied to tenure fisheries to avoid (or eliminate) overfishing and to maintain or restore stocks at levels capable of producing maximum sustainable yield.”

Conclusion: We appreciate the opportunity to provide comments on the VGGT Implementation Guide. We look forward to implementing the guidelines with FAO and many other partners.

III. Comments on the *Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication*

As discussed above, the environmental, economic, and social objectives for fishery use are best met when tenure systems exhibit as many as possible of the following core set of attributes:

- Secure and exclusive tenure rights, allocated for a sufficient length of time to incentivize stewardship, and defensible by law or custom.
- Appropriate controls on fishing mortality to support sustainability of fished stocks. These controls should be informed by the best available science (and traditional knowledge) and should address all major sources of fishing mortality.
- A structure for holding fishers accountable for complying with the customs, rules and regulations of the fishery. Compliance is often required in exchange for tenure rights.
- Appropriate scaling of tenure rights to account for the sociopolitical and biological characteristics of the fishery.
- Transferability of rights, as appropriate for meeting the goals of the tenure system.

We recommend the following modification to the Small-Scale Fisheries Guidelines, consistent with the VGGT Implementation Guide, in order to ensure that they best support the objectives of food security and poverty eradication:

§5.7

EXISTING (bracketed) TEXT: States may consider redistributive reforms in accordance with national legislation when these can facilitate equitable access to fishery resources for small-scale fishing communities in accordance with the provisions of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Contexts of National Food Security [as long as it is in the public interest]].

PROPOSED ADDITION: *Redistributive reforms should be avoided where possible. When necessary to achieve stated objectives, reforms should be made in consideration of the*

important role of security of tenure in promoting responsible use of fishery resources. States should minimize the risk that tenure rights will be taken away from users in order to preserve incentives that tenure instill in users to manage fishery resources sustainably.

An essential element of small-scale fisheries management is the elimination of overfishing and the rebuilding of overfished stocks to sustainable levels. As such, we strongly encourage FAO to include guidance on setting appropriate controls on fishing mortality within tenure systems to support the rebuilding and/or maintenance of abundant fish stocks that can sustainably support small-scale fisheries. Whether set by the government or by fishery stakeholders themselves, controls on fishing mortality are critical for ensuring stocks are sufficiently robust to support the livelihoods and food provision of coastal communities. We recommend the following addition to the Small-Scale Fisheries Guidelines:

EXISTING TEXT: §5.11 *States and all those engaged in fisheries management should adopt measures for the long term conservation and sustainable use of fisheries resources and to secure the ecological foundation for food production. They should promote and implement appropriate management systems, consistent with their existing obligations under national and international law and voluntary commitments including the Code of Conduct for Responsible Fisheries, that give due recognition to the requirements and opportunities of small-scale fisheries.*

PROPOSED ADDITION: *Appropriate controls on fishing mortality should be applied to tenure fisheries to avoid (or eliminate) overfishing and to maintain or restore stocks at levels capable of producing maximum sustainable yield.*

CONCLUSION: We appreciate the opportunity to provide feedback on the Small-Scale Fisheries Guidelines. We look forward to finalizing the text of the guidelines and implementing them with FAO and many other partners.

Sincerely,

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