National Multi-Stakeholder Platform Workshop

Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security

Workshop Proceedings

OR Tambo Tsogo Sun Hotel, 28-29 September 2017
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<tr>
<td>AFRA</td>
<td>Association For Rural Advancement</td>
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<td>CFS</td>
<td>Committee on World Food Security</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DAFF</td>
<td>Department of Agriculture Forestry and Fisheries</td>
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<td>DfID</td>
<td>Department of International Development on the United Kingdom</td>
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<td>DRDLR</td>
<td>Department of Rural Development and Land Reform</td>
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<td>FAO</td>
<td>Food and Agriculture Organisation</td>
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<td>ILC</td>
<td>International Land Coalition</td>
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<td>KZN</td>
<td>Kwa-Zulu Natal</td>
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<td>MSP</td>
<td>Multi Stakeholder Platform</td>
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<td>NES</td>
<td>National Engagement Strategy</td>
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<td>PLAAS</td>
<td>Institute for Poverty, Land and Agrarian Studies</td>
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<td>Q &amp; A</td>
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<td>ToRs</td>
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Executive Summary

Background: FAO in collaboration Government of South Africa mainly through the Department of Rural Development and Land Reform (DRDLR) and Department of Agriculture Forestry and Fisheries (DAFF) with financial support from DfID (Department of International Development on the United Kingdom) convened a multistakeholder workshop on the 28-29 September 2017. This followed a series of national level engagements to raise awareness towards implementation of the The Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs) in South Africa. The workshop objectives were to:

- Finalise Terms of Reference, work plan and resource mobilisation strategy for the Multistakeholder engagement platform;
- Finalise the formation of a substantive national engagement Platform for implementation of VGGTs in South Africa;
- Facilitate further discussion on the contents, application, implementation and the required capacity needed to implement the VGGT.

Participants: Participants were from different provinces such as Kwa-Zulu Natal (KZN), Gauteng, Mpumalanga, Limpopo, Western Cape, Free State and Eastern Cape, and represented the Civil Society Organisations, Government, Academia, Development partners and private sector.

Input presentation: To bring the participants to the same level of understanding of the issues, a number of input presentation were made. These were about: 1) International Experience on VGGT’s, 2) The Role of Multi-Stakeholder Platforms: Lessons from the African region, 3) How did we get here: The VGGT journey in South Africa and 4) The draft Terms of Reference for Multistakeholder platform and Ratification.

Main outcomes: After deliberations the following outcomes were achieved:
The **validation or ratification** of the ToRs followed an iteration process that included: The presentation of the draft, Individual reading of the document from A-Z, Small group discussion and input, Synthesis of the group feedback, further presentation to the participants for final input until consensus was reached. Finalisation of ToRs by a smaller group taking into account all the feedback received.

**MSP composition:** It was agreed that the MSP core group should consist of small group with representatives from Government, Civil society organisation (08), Academia (03) and Private sector (03). The core should be kept small for effectiveness; however, there will be working groups that can be drawn for wider stakeholder base to execute specific activities as the need arises.

Issues to be **considered for the nomination** include: Decision making power, Core mandate in line with the VGGT, Resource mobilization ability, Availability, Commitment, Convening power, Legitimacy, Gender balance, For continuity, some from the Steering Committee

The following nomination were made: **Government:** DRDLR will be the chair and other departments as indicated in the ToR will nominate representatives internally. **Civil society organisation** nominated 13 names for representatives that will later be reduced to 8 later, after having checked the availability of the non-present elected. **Academia** nominated PLAAS, University of Pretoria, ARC and with recommendation to strongly consider the university of Limpopo

**Private sector:** The nomination of private sector was based of the individuals that attended the workshop. However, it was indicated that this nomination should be revised to consider private sector organisations with wider membership base for wider representation.

**Core-chair:** Civil Society will be core-chair and the name of Laurel Ottele was elected through a participatory process.

1. **Background**


These Guidelines are the first comprehensive, global instrument on tenure and its administration to be developed by governments through negotiations conducted in the UN system. Represented at the 3 rounds of negotiations were 98 countries from all regions of the world and with diverse political, economic, social, cultural and religious views. The negotiations included the participation of civil society and private sector. As such, the Guidelines represent an unprecedented consensus on tenure.

The purpose of these Voluntary Guidelines is to serve as a reference and to provide guidance to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all and to support the progressive realization of the right to adequate food in the context of national food security.

**VGGT in South Africa:** FAO and its partners have since organized workshops to allow participants to learn about the Guidelines and to discuss their use and implementation. An initial series of 11 regional workshops is now being followed by national workshops where participants discuss how to use the Guidelines in the specific contexts of their countries.
FAO in collaboration Government of South Africa mainly through the Department of Rural Development and Land Reform (DRDLR) and Department of Agriculture Forestry and Fisheries (DAFF) with financial support from DfID (Department of International Development on the United Kingdom) started series of national level engagements to raise awareness towards implementation of the VGGTs in South Africa.

Since 2014, three workshops were held in Johannesburg (9-11 December 2014), in Cape Town (8 to 11 June 2015) and in Durban (1-3 February 2017), with a wide range of stakeholders to kick the discussions around VGGT and identify South Africa’s specific priorities. In this process an interim steering committee was established to keep the momentum. The interim steering committee was also tasked to organise a Multistakeholder Platform that will be a recognised body to spearhead the implementation of VGGTs in South Africa. The draft terms of reference were developed, and there was a need to finalise them and institute the platform. Hence, this workshop held on the 28-29 September 2017 (see more details on the concept note).

About this documentation: This document summarises the discussions and the overall outcomes of the Multi-stakeholder workshop help on the 28-29 September 2017, at OR Tambo Tsogo Sun Hotel, Kempton Park.

2. Setting the scene

To set the scene, a number of activities were initiated that includes: The official opening, presentation of workshop objectives and program overview, agreeing of facilitation principles as well as getting to know each other.

Word of welcome: Mr Lot Mlati officially opened the workshop on behalf of FAO.

Workshop objectives: The workshop objectives were presented as shown below.

Workshop objectives are to:

- Finalise Terms of Reference, work plan and resource mobilisation strategy for the Multistakeholder engagement platform;
- Finalise the formation of a substantive national engagement Platform for implementation of VGGTs in South Africa;
- Facilitate further discussion on the contents, application, implementation and the required capacity needed to implement the VGGT.
Program overview:
The program was organised according to thematic areas in line with the objectives.

Day 1 was dedicated to setting the scene, getting an overview of the VGGT journey so far and review of the Term of reference.

Day 2 was dedicated for the establishment of the VGGT multistakeholder platform and way forward.

Facilitation principles:
The facilitator (Ms Hlamalani Ngwenya) also presented some facilitation principles that would guide engagement during the two days. The principles include:

- Ownership by all
- Inclusiveness
- Transparency
- Integrity
- Appreciation of any contribution
- Informality and relaxed atmosphere
- Open dialogue/multilogue
- Creativity and thinking outside the box

Stakeholder representation
Stakeholder representation was determined using different categories. In order to have a visual idea of the participants composition (geographical origin, gender balance, sector and experience with VGGT). The facilitator asked the participants to move around the room and create groups according to different categories:

Geographical origin: the participants could note that the Kwa-Zulu Natal (KZN) province was quite well represented, followed by Gauteng, Mpumalanga, Limpopo, Western Cape, Free State and Eastern Cape. Northwest province was not represented at all.

Gender: The participants were quite gender balanced, with women slightly underrepresented.
Sector: The civil society organisations were well represented, followed by government, academic (including research institutions and universities), while development partners and private sector were underrepresented.

New attendants: The majority of the participants were new into the VGGT process, with a few having attended all the workshops. Most of these were also part of the interim steering committee.

Implications for discussions: Given the visual presentation of the participants representation, it was clear that the group was so diverse and were at the different levels of understanding of the issues. Like with the picture here, they will be viewing the same issues in different ways. They were therefore encouraged to:

- Understand that all point of views matter
- Ensure they sit with different people they do not know in order to learn from others
- To respect different opinions
- Give priorities to the new ones to better understand the process
- Always put themselves in the shoes of those that are not represented

3. The VGGT Journey so far

In order to bring the participants up to speed with the VGGT implementation, two scenarios were presented. The first one presenting the global case and the second one showcasing examples from the region.

3.1 International Experience on VGGT’s

Dr Ruth Hall, from the PLAAS Institute, presented how the VGGT has been used in different countries and she illustrated two case studies of Bottom-up accountability, where the request of implementing the VGGT came from CSOs.

The first case study was about FIAN - Food First Information and Action Network, an international network that works on food security and gathers NGOs and social movement in different parts.
The highlight of the presentation is captured here (N.B. Full PowerPoint presentation can be requested from FAO):

- In the first case the Tenure Guidelines has been used to stop a process of Land Grabbing on the Lake Malawi and the action was taken in collaboration with a Women Organization of the Lake Malawi.

- In the second case FIAN worked in collaboration with Masifundise, an NGO committed to protect the fisheries community rights in the Western Cape, they took action against the government to have access to the coastal land and to the fisheries areas next to the coast. The access to both the areas has been denied to the community because of the establishment of a Marine Protected Area and of a military area, where weapon tests were conducted.

- These examples demonstrate that the VGGT are an important tool and that it is possible to keep the Government held on to the soft law. It might be better to call the Voluntary Guidelines on Responsible Governance of Tenure just “Tenure Guidelines”, in order to underline the fact that all the Governments and the UN signed the document and they thereby agreed on it. A constant use of soft law tools can turn it in hard law. The actual law should be analysed and tested against the VGGT document.

There are different ways to use the VGGTs:
- To raise awareness
- To self organize and mobilize
- To advocate better reforms

Using the VGGT is possible to:
- Reverse unfair deals
- Change national policies
- Obtain better conditions from investment negotiations

Dr. Hall, gave some examples where some of these results have been obtained

- **Mali:** the CNOP (peasants associations) obtained to reverse the deal between the Government and a Chinese investor, which was about to buy a large portion of land without the consultations of the local community.

- **Nigeria:** the CSO fighting against the illegal logging succeeded in finding allies within the Government who were able to support their cause and promote it among the other departments.

- **Uganda:** the Katosi Women Development Trust, engaged in facilitating women land access, worked with women relying on fisheries for their livelihoods who lost their access to the lake Victoria because of land grabbing investments in the area.

- **South Africa:** the Masifundise association worked with a fisher community in the Western Cape in order to regain access to a coastal area where the community was used to fish. The
access to the area has been denied to the community because a Marine Protected area has been established, as well as a Military area where weapons were tested. Dr. Hall highlighted some of the possible impacts that Large Scale Land Investments could have on smallscale farmers:

- Hamper women land access
- Raise family and community conflict
- Indirectly and Directly dispossess the community of their land (Indirect, in case of rent sharp rising after a big investment has been done in the area)
- Worsen social class division
- Foster youth exodus (The World Bank recently conducted a survey proving the fact that the job creation originated by a Large Scale Investment does not compensate the caused loss in terms of livelihoods)

Therefore, What accountability strategies can be undertaken in order to hold the companies and the Government?

- Developing a local group of Land Rights defenders
- Working with customary authorities
- Making claims against the State
- Training paralegals
- Working with different part of the Governments
- Making claims against companies
- Working with Journalists
- Creating alliances with lawyers and researchers

The second case study presented by Dr. Hall was about the AFRA’s Pathways Project. The project focused on:

1- Counting farm dwellers in
2- Mapping dwellers
3- Secure dweller’s rights in the long term via:
   - State land reform programme
   - Landowner-led options
   - Advocacy 4 statuary recognition of ownership
4- Trying to end the cycle of violations through the MSP engagement

3.2 The Role of Multi-Stakeholder Platforms: Lessons from the African region

The following presentation was delivered by Laurel Oettle, from AFRA (Association For Rural Advancement) and it focused on the International Land Coalition (ILC) initiative to improve land governance at Country Level.

The international Land Coalition is supporting the implementation of a National Engagement Strategy (NES) in different countries. After a brief introduction on the general work of the ILC, Ms. Oettle explained in more details the NES initiative.
● The NES aims at developing a more coherent and inclusive strategy at the national level, where national actors can formulate together a common view and action.

● The NES platform generates a Multi-year action plan, including set priorities and actions to promote people centred land governance, building on and complementing what is already there.

● At the moment ILC supported the NES in 20 different countries. Ms. Oettle gave some examples of Strategic priorities included in the already existing NES:
  1- Policy formulation,
  2- Empowerment of specific groups as political actors
  3- Implementation of existing policies/laws
  4- Building alliances

How have they been addressed?

● Knowledge, policy review and drafting, Capacity building, Advocacy and Dialogue

The implementation of the NES can/should vary accordingly to each country needs, the NES implementation in Togo, Malawi and Madagascar has been given as examples.

Then, the way forward for South Africa has been proposed:

• South African ILC members & others are working with the ILC and VGGT multi-stakeholder platform on formulating the most relevant engagement strategy for South Africa.

• About 4 South African delegates from civil society, DRDLR, DAFF and traditional authorities involved in the VGGT platform invited to attend the Forum on The Contribution of Multi Stakeholders Platforms to Land Governance in Africa in Addis Ababa on November 9 and 10 2017.

3.3 Issues emerging from the International Experience on VGGTs

After the two presentations, the facilitator opened a Q&A session. These are some of the issues that were raised:

Question: One of the participants raised the issue on how to conciliate the principle of environmental conservation and the guarantee of food security for the community and on how to guarantee smallscale farmers land rights without compromising important investments for development.

Question: Another participants stated that the platform should be only for the Civil Society who is the principal victim of land rights violations.

Response: To answer to this latter observation, it has been highlighted that land issues are complex and in order to reflect this complexity is important to establish a multistakeholder dialogue. Therefore it is important that the platform includes all the stakeholders to foster the dialogue between them.

Question: Another participants asked whether there was a land reform that could be taken as a model and replicated in SA.

Response: Dr. Hall answered that the Mozambican Land Reform of 1997 is believed to be one of the best land law and it is the result of a massive CSO process. However, every country
has its peculiarities and specific issues to address, that’s why it’s important to consider and implement the VGGT, which provide a series of universal principles that should be reflected in laws and policies.

Furthermore, it has been noted that in SA exists a precise hierarchy of rights related to land that need to be dismantled.

Some key highlights from the presentations

4. South African experience on VGGTs

The two presentations here are about the South African experience on VGGTs. The first one provides an overview of the series of workshops so far. The second one is about the draft terms of reference for the establishment of the VGGT Multistakeholder Platform.

4.1 How did we get here: The VGGT journey in South Africa

Dr Cuthbert Kambanje (FAO) gave an overview of the FAO engagement in implementing and spreading the VGGT in South Africa (N.B. details can be found on the PowerPoint presentation).

Cuthbert highlighted that the FAO is facilitating the VGGT implementation, however the process should be owned and undertaken by the national stakeholders.

4.2 The Terms of Reference for Multistakeholder platform and Ratification

Draft ToRs input presentation: Finally, Mr. Mathlatsi Seloane from the Department of Agriculture, Fisheries and Forestry (DAFF) presented the draft terms of reference (ToR) of the Multistakeholder Platform for the implementation of the VGGTs.
The draft ToRs has different sections as reflected in the figure here.

**Review and validation of the ToRs:**

To review the ToRs, the participants were first given the hard copy of the draft. They were given time to each go through the document from A-Z individually. They were then divided into smaller mixed groups of 8 to 10 people where they were asked to systematically review and provide feedback on the document. The group discussions were guided by the questions in the box here. Each group was asked to visualise their input using the template below.

**Visualise your discussion**

<table>
<thead>
<tr>
<th>Aspects of ToR</th>
<th>What is new or major highlight</th>
<th>What are the gaps</th>
<th>Additional consideration/suggestions</th>
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<tr>
<td>Preamble</td>
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<td>Key Objectives</td>
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<td>Composition</td>
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<td>General accountability</td>
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Select a rapporteur who presents your outcomes

**Feedback on draft ToRs: Group presentations:**

Each group was given a chance to present their feedback. A smaller group of volunteers was asked to combine the feedback into one document that was further presented to the participants for validation.

**Ratification of ToRs**

The *validation or ratification* of the ToRs followed an iteration process that included:

- The presentation of the draft,
- Individual reading of the document from A-Z,
- Small group discussion and input,
- Synthesis of the group feedback,
- Further presentation to the participants for final input until consensus was reached.
- Finalisation of ToRs by a smaller group taking into account all the feedback received.
Laurel Oettle presented to the plenary the new ToR for the platform, containing the synthesis of all the comments that has been made on the draft by the different groups during the previous session. She read the reviewed ToR in order to make sure that all the comments were included.

Additional input included:
- It is necessary to include a page with the definitions of the key words
- It has been decided that the principles listed should maintain an “African taste”, those listed to remind the South African Constitution principles. It has been noted that the “implementation principles” of the VGGTs are already implicitly included.
- The most controversial point was the Composition of the platform.
  - The “composition section” in the ToR reflects the composition of the Platform Core Group. Besides this, it should be convened once in two years (more or less) a broader platform and ad hoc Working groups might be established to work on specific issues.
  - It has been noted that it is difficult to represent the complexity of the whole civil society, which includes social movements, NGOs, etc.
  - The government representation should be balanced accordingly to the CSOs representation. With regards to government representatives, it has been decided to have a “core group” and an “ad hoc/consultative group” including departments that are not directly involved in land issues and they can be engaged occasionally when needed. Participants solicited the government to share knowledge and communications on the MSP work among the various departments. (The setting of an Interdepartmental committee was suggested). Since the platform was created to improve the governance of land, it is important to well identify who has the effective power to make decision on land at different level. “It shouldn’t be a platform without teeth”
  - It is important to maintain the Core Group quite limited in number in order to keep it efficient and effective.
  - It has been debated if it necessary to include a quorum to take decisions: it has finally be decided to take out the quorum requirement, because the Core group will gather only twice a year and it is better to not give any tools that can be used by whoever, to deliberately or involuntarily hamper the process. However, it is important to consider the balance between stakeholders in every session.
  - The person who is nominated/elected as representative is responsible to nominate a substitute, who should be a person with the same level of decisional power.
  - To elect/nominate someone for the Academia and the private sector is extremely complicated.
  - It has been reminded that the platform has more a coordinating role than decisional.
  - It should be considered also the opportunity to held digital meetings and not only face to face. However, the different level of technological access should be considered.

Finally, all participants agreed on the ToR.

5. Getting organized for action- Multi Stakeholder Platform

The nominate representatives to serve in the Multi-stakeholder Platform Core group, the participants were dived into the groups per sector. They were then asked to nominate their
representatives for the MSP core group, accordingly to the composition previously agreed. The facilitator suggested some of the criteria that the nominated/elected person should have:
- Decision making power
- Core mandate in line with the VGGT
- Resource mobilization ability
- Availability
- Commitment
- Convening power
- Legitimacy
- For continuity, some from the Steering Committee
- Gender balance

A series of accountability rules will be established by each “sector group”.

5.1 Government representation

Every sector group presented the results of the dialogue. All the representatives for the core group has been selected, except for those representing the government. In fact those require an internal and formal procedure to be appointed. However, DRDLR would be the co-chair.

The groups highlighted the difficulties they encountered in choosing their representatives, due to the extreme complexity and variety of their sectors.

5.2 Civil society Organisation Representation

The CSO group reflected on the major land issues that should be cover by the representatives (Land, Forestry, Fisheries, Small scale farmers rights, Farm dwellers rights, water, mining, commonage, housing settlement, etc.)

They named some of the NGOs (present or present) engaged in the mentioned issues.

They tried to have at least one representative fisheries, one for forestry and they make sure all the regions were covered. After an argued selection, they come out with 13 names for representatives. They will shrink the number later, after having checked the availability of non-present elected.
It is important to underline that during the discussion emerged a deep need for the CSO to have a space for “internal” consultation, in order to come up with a common vision and a share strategy, and to be, therefore, more coherent within the MSP. This space can be developed with the support of the ILC National Engagement Strategy sustained.

The representatives’ action will be annually monitored and the elections will be held again after 2/3 years.

**Co-chair**
Laurel Ottele was elected co-chair of the MSP Core Group.

### 5.3 Academia and Private Sector representations

**Academia** nominated
- PLAAS
- University of Pretoria
- ARC
- There was a recommendation to strongly consider the university of Limpopo

**Private sector**
The nomination of private sector was based of the individuals that attended the workshop. However, it was indicated that this nomination should be revised to consider private sector organisations with wider membership base for wider representation.

### 6. Immediate actions and closure

Finally, the facilitator went through the actions required immediately after the workshop:

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<tr>
<th>Immediate action</th>
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<tr>
<td>Finalise Workshop report</td>
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<td>Circulate the WS report to participants</td>
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Closure

The representative from the DRDLR closed the workshop thanking all the participants for their active engagement.

7. List of Annexures

7.1 List of presentations

To bring the participants to the same level of understanding of the issues, a number of input presentations were made. These were about:

1) International Experience on VGGT’s, by Dr Ruth Hall (PLAAS)
2) The Role of Multi-Stakeholder Platforms: Lessons from the African region, by Ms Laurel Oettle (AFRA)
3) How did we get here: The VGGT journey in South Africa by Dr Cuthbert Kambanje (FAO)
4) The draft Terms of Reference for Multistakeholder platform and Ratification, by Mr. Mathlatsi Seloane (DAFF)

7.2 List of participants

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<th>Name &amp; Surname</th>
<th>Gender</th>
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<tbody>
<tr>
<td>1. Mr Thobejane Setlamraogo</td>
<td>M</td>
<td>CONTRALESA</td>
<td><a href="mailto:stmafe@gmail.com">stmafe@gmail.com</a></td>
</tr>
<tr>
<td>2. Mr Siyabulela Manona</td>
<td>M</td>
<td></td>
<td><a href="mailto:siyabu@phuhlisani.co.za">siyabu@phuhlisani.co.za</a></td>
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<td>3. Ms Brigadier Siachitema</td>
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<td>4. Ms Vanessa Ludwig</td>
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<td><a href="mailto:vanessa@spp.org.za">vanessa@spp.org.za</a></td>
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<td>5. Ms Carmen Louw</td>
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<td>Mr Lawrence Bale</td>
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<td>8.</td>
<td>Ms Emily Mohoase</td>
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<td>Dr Nhundu</td>
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<td>Ms Giulia Riedo</td>
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