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PROCLAMATION NO. 456/2005

Federal Democratic Republic of Ethiopia Rural Land Administration and Use Proclamation

WHEREAS, it is confirmed in the Constitution of the Federal Democratic Republic of Ethiopia that the right to ownership of land is exclusively vested in the state and in the people;

WHEREAS, it has become necessary to sustainably conserve and develop natural resources and pass over to the coming generation through the development and implementation of a sustainable rural land use planning based on the different agro-ecological zones of the country;

WHEREAS, it has become necessary to establish an information database that enables to identify the size, direction and use rights of the different types of land holdings in the country such as individual and federal and regional states holdings;

WHEREAS, it has become necessary to resolve problems that arise in connection with encouraging individual farmers, pastoralists and agricultural investors and establish a conducive system of rural land administration;
WHEREAS, it is deemed necessary to put in place legal conditions which are conducive to enhance and strengthen the land use right of farmers to encourage them take the necessary conservation measures in areas where mixed farming of crop and animal production is prevalent and where there is threat of soil erosion and forest degradation;

WHEREAS, is has become necessary to establish a conducive system of rural land administration that promotes the conservation and management of natural resources, and encourages private investors in pastoralist areas where there is tribe based communal land holding system;

WHEREAS, Article 52 (2) (d) of the Constitution stipulates that the power entrusted to regions to administer land and natural resources is to be implemented in accordance with the law to be enacted by the federal state;

NOW, THEREFORE, in accordance with Article 55(1) of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

Part One

General

1. Short Title

This Proclamation may be cited as the Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation No. 456/2005.

2. Definition

In this Proclamation, unless the context requires otherwise:

1/ "rural land" means any land outside of a municipality holding or a town designated as such by the relevant law;

2/ "rural land administration" means a process whereby rural land holding security is provided, land use planning is implemented, disputes between rural land holders are resolved and the rights and obligations of any rural land holder are enforced, and information on farm plots and grazing Land holders are gathered analyzed and supplied to users;
3/ "rural land use" means a process whereby rural land is conserved and sustainably used in a manner that gives better output;

4/ "holding right" means the right of any peasant farmer or semi-pastoralist and pastoralist shall have to use rural land for purpose of agriculture and natural resource development, lease and bequeath to members of his family or other lawful heirs, and includes the right to acquire property produced on his land thereon by his labour or capital and to sale, exchange and bequeath same;

5/ "family member" means any person who permanently lives with holder of holding right sharing the livelihood of the latter;

6/ "rural land use plan" means a practice whereby the options that give greater economic benefits with out causing land degradation and environmental pollution are determined and implemented from among the different use options a rural land can give on the basis of physical, economic and social information;

7/ "peasant" mans a member of a rural community who has been given rural land holding right and, the livelihood of his family and himself is based on the income from the land;

8/ "pastoralist" means a member of a rural community that raises cattle by holding rangeland and moving from one place to the other, and the livelihood of himself and his family is based mainly on the produce from cattle;

9/ "semi pastoralist" means a member of a rural community whose livelihood is based mainly on cattle raising and to some extent on crop farming;

10/ "minimum size holding" means size of rural land holding the productivity of which can ensure the food security of a peasant and semi-pastoralist and pastoralist family, or which suffices for crop farming, perennial crop farming, grazing, house construction and garden;
11/ "minimum private holding" means rural land in the holding of peasants Semi-Pastoralists and Pastoralists other bodies who are entitled by law to use rural land;

12/ "communal holding" means rural land which is given by the government to local residents for common grazing, forestry and other social services;

13/ "state holding" means rural land demarcated and those lands to be demarcated in the future at federal or regional states holding; and includes forest lands, wildlife protected areas, state farms, mining lands, lakes, rivers and other rural lands;

14/ "holding certificate" means certificate of title issued by a competent authority as proof of rural land use right;

15/ "land registration" means the process whereby information on the expression of rural land use right and holding is gathered and analyzed;

16/ "land information system" means a system whereby rural land related information is gathered, analysed and distributed to users;

17/ "competent authority" means a body established in accordance with the constitution of a region to ensure that a system of rural land administration and utilization is realized in the region;

18/ "person" means a natural or legal person.

3. Gender Reference

The provisions of this Proclamation that are referring to masculine gender shall also apply to feminine gender.

4. Scope of Application

This Proclamation shall apply to any rural land in Ethiopia.
SECTION TWO
THE RIGHT TO HOLD AND USE RURAL LAND

5. Acquisition and Use of Rural Land

1/ In accordance with land administration law:
   a) Peasant farmers/pastoralists engaged in agriculture for a living shall be given rural land free of charge;

   b) Any citizen of the country who is 18 years of age or above and wants to engage in agriculture for a living shall have the right to use rural land; children who lost their mothers and fathers due to death or other situation shall have the right to use rural land through legal guardians until they attain 18 years of age;

   c) Women who want to engage in agriculture shall have the right to get and use rural land.

2/ Any person who is member of a peasant farmer, Semi pastoralist and pastoralist family having the right to use rural land may get rural land from his family by donation, inheritance or from the competent authority,

3/ Government being the owner of rural land, communal rural land holdings can be changed to private holdings as may be necessary;

4/ subject to giving priority to peasant farmers/semi pastoralists and pastoralist:

   a) Private investors that engage in agricultural development activities shall have the right to use rural land in accordance with the investment policies and laws at federal and regional levels;

   b) Governmental and non-governmental organizations and social and economic institutions shall have the right to use rural land in line with their development objectives.
6. Rural land Measurement, Registration and Holding Certificate

1/ The sizes of rural lands under the holdings of private persons, communities, governmental and non-governmental organizations shall be measured as appropriate using cultural and modern measurement equipments; their land use and level of fertility shall be registered as well in the data base center by the competent authorities established at all levels.

2/ Rural land holdings described under Sub-Article 1 of this Article shall be measured by the competent authority and shall be given cadastral maps showing their boundaries.

3/ Any holder of rural land shall be given holding certificate to be prepared by the competent authority and that indicates size of the land, land use type and cover, level of fertility and boarders, as well as the obligation and right of the holder.

4/ Where land is jointly held by husband and wife or by other persons, the holding certificate shall be prepared in the name of all the joint holders.

5/ The information that describes the holder of rural land, the holders of the bordering lands, the types of use, and the rights and obligation of the holder thereof shall be registered in the database and kept by the competent authority.

6/ Any rural land that is held through lease or rental shall be registered by the competent authority.

7. Duration of Rural Land Use Right

1/ The Rural land use right of peasant farmers, semi-pastoralists and pastoralists shall have no time limit.

2/ The duration of rural land use right of other holders shall be determined by the rural land administration laws of regions.
3/ Holder of rural land who is evicted for purpose of public use shall be given compensation proportional to the development he has made on the land and the property acquired or shall be given substitute land thereon. Where the rural landholder is evicted by federal government, the rate of compensation would be determined based on the federal land administration law. Where the rural land holder is evicted by regional governments, the rate of compensation would be determined based on the rural land administration laws of regions.

8. Transfer of Rural Land Use Right

1/ Peasant farmers, semi pastoralist and pastoralist who are given holding certificates can lease to other farmers or investors land from their holding of a size sufficient for the intended development in a manner that shall not displace them, for a period of time to be determined by rural land administration laws of regions based on particular local conditions.

2/ The rural land lease agreement to be concluded in accordance with Sub-Article (1) of this Article shall secure the consent of all the members who have the right to use the land and be approved and registered by the competent authority.

3/ A landholder may, using his land use right, undertake development activity jointly with an investor in accordance with the contract he concludes. Such contract shall be approved and registered by the competent authority.

4/ An investor who has leased rural land may present his use right as collateral.

5/ Any holder shall have the right to transfer his rural land use right through inheritance to members of his family.
9. Distribution of Rural Land

1/ In accordance with land administration laws of the regions farmlands whose holders are deceased and have no heirs or are gone for settlement or left the locality on own wish and stayed over a given period of time shall be distributed to peasant farmers, semi pastoralist and pastoralist who have no land and who have land shortage.

2/ Distribution may be undertaken on irrigable land in order to use irrigable land properly and equitably.

3/ Upon the wish and resolution of peasants farmers, semi pastoralists and pastoralists where land distribution becomes the only alternative, it shall be undertaken in such a way that it shall not be less than the minimum size of holding and in a manner that shall not result in fragmentation of land and degradation of natural resources.

4/ Where peasant farmers, semi pastoralist and pastoralists are evicted from their holdings for purpose of constructing irrigation structure, land distribution shall be undertaken to make them get equitable benefit from the irrigation development to be established.

10. Obligations of Rural Land Users

1/ A holder of rural land shall be obliged to use and protect his land. When the land gets damaged, the user of the land shall lose his use right. Particulars shall be given in the land administration laws of the regions.

2/ Where irrigation canals are constructed, the holder shall have the obligation to allow the construction of irrigation lines and other infrastructures if they cross his land holding.

3/ The holder of rural land shall have the obligation to cooperate when requested by the competent authority to measure and survey his land.

4/ Any rural landholder shall have the obligation to notify the competent authority when he abandons at will his land use right.
11. Determining Minimum Rural Land Holding Size and Encouraging Land Consolidation

1/ Without prejudice to the former holding or farm plot size of a family, the farm plot to be given in the future shall not be less than the minimum size holding.

2/ Where rural land is transferred by succession, it shall be made in such a way that the size of the land to be transferred is not less than the minimum size holding.

3/ In order to make small farm plots convenient for development, farmers are encouraged to voluntarily exchange farmlands.

4/ The information of the size and level of fertility of the farm plots which farmers intend to exchange holding shall be distributed through kebele administration to let other farmers residing in the kebele know about it.

5/ A settlement and villagization program to be undertaken at the request and participation of the community shall be undertaken taking into account the objective of land consolidation.

12. Dispute Resolutions

Where dispute arises over rural land holding right, effort shall be made to resolve the dispute through discussion and agreement of the concerned parties. Where the dispute could not be resolved through agreement, it shall be decided by an arbitral body to account soi type, land form, weather condition, plant cover and socio-economic conditions and which is based on a water shed approach, shall be decided by the parties or be decided in accordance with the rural land administration laws of the region.

PART THREE
RURAL LAND USE RESTRICTIONS

13. Land Use Planning and Proper Use of Sloppy, Gully and Wetlands

1/ A guiding land use master plan, which takes in to account soil type, landform, weather condition, plant cover and socio-economic conditions and which is based on a water shed approach, shall be developed by the competent authority and implemented.
2/ An equitable water use system shall be established between upper and lower watershed communities.

3/ In any type of rural land where soil and water conservation works have been undertaken a system of free grazing shall be prohibited and a system of cut and carry feeding shall be introduced step by step.

4/ The management of rural lands the slope of which is less than 30 percent shall follow the strategy of soil conservation and water harvesting. The details shall be determined by rural land administration laws of regions.

5/ Development of annual crops on rural lands that have slopes between 31-60 percent may be allowed only through making bench terraces.

6/ Rural lands, the slope of which is more than 60 percent, shall not be used for farming and free grazing; they shall be used for development of trees, perennial plants and forage production.

7/ Rural land of any slope which is highly degraded shall be closed from human and animal interference for a given period of time to let it recover, and shall be put to use when ascertained that it has recovered. Unless the degradation is caused by the negligence of the peasant farmers, semi pastoralist and pastoralist the users shall be given compensation or other alternatives for the interim period.

8/ rural lands that have gullies shall be made to rehabilitate by private and neighboring holders and, as appropriate, by the local community, using biological and physical works.

9/ Rural lands that have gullies and are located on hilly areas shall be rehabilitated and developed communally and as appropriate by private individuals.

10/ The biodiversity in rural wetland shall be conserved and utilized as necessary, in accordance with a suitable land use strategy.
14. Utilization of Rural Land for Villagization and other Social Services

A strategy of settlement, villagization and development of social services that helps to bring about a better system of rural land utilization shall be formulated.

PART FOUR
MISCELLANEOUS PROVISIONS

15. Rural Land Administration and use Study

A system of study that focuses on identification of problems on land administration and use, and recommends solutions shall be established.

16. Responsibly of Federal Ministry of Agriculture and Rural Development

The Federal Ministry of Agriculture and Rural Development shall:

1/ have the responsibility to implement this Proclamation by providing the necessary professional support and by coordinating the competent authorities;

2/ initiate, on the basis of the information gathered at national level and those to be obtained from time to time through monitoring and evaluation, development of new policy ideas, and the amendment of the existing policy, as necessary;

3/ create the system for the exchange of information between regions and the Federal Government pertaining to rural land administration and use.

17. Responsibility of Regions

1/ Each regional council shall enact rural land administration and Land use law, which consists of detailed provisions necessary to implement this Proclamation.

2/ Regions shall establish institutions at all levels that shall implement rural land administration and Land use systems, and shall strengthen the institutions already established.
18. Obligation to Cooperate

Any person shall have the obligation to cooperate with relevant bodies for the implementation of this proclamation.

19. Penalty

Any person who violates this Proclamation or the regulations and directives issued for the implementation of this Proclamation shall be punishable under the applicable criminal law.

20. Repealed and Inapplicable laws

1/ The Federal Government Rural Land Administration Proclamation No. 89/1997 is hereby repealed.

2/ No law, regulation, directive or practice shall, in so far as it is inconsistent with this Proclamation, be applicable with respect of matters provided for in this proclamation.

21. Effective Date

This Proclamation shall enter into force on this 15th date of July, 2005

Done at Addis Ababa, this 15th day of July, 2005.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA