

SECURING FOREST TENURE RIGHTS FOR RURAL DEVELOPMENT

FOREST TENURE ASSESSMENT TOOL AND USER GUIDE

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ABBREVIATIONS

AF	Analytical Framework
AFD	Agence Française de Développement
APEM	Action pour la Promotion et Protection des Peuples et Espèces Menacés
CBNRM	Community-Based Natural Resource Management
CBPA	Conservation of Biodiversity and Protected Areas Law
CBFP	Congo Basin Forests Partnership
CBTR	Community Based Tenure Rights
CDD	Community-Driven Development
CF	Community Forestry
CFM	Community Forest Management
CFMG	Community Forest Management Group
CHRO	Chin Human Rights Organization
CMU	Country Management Unit
CONAREF	National Commission for Land Reform
CPF	Country Partnership Framework
CRB	Community Resource Boards
CSO	Civil Society Organization
DALMS	Department of Agricultural Land Management and Statistics
DNPW	Department of National Parks and Wildlife
DPF	Development Policy Financing
DPO	Development Policy Operations
DRC	Democratic Republic of Congo
EAO	Ethnic Armed Organization
EIA	Environmental Impact Assessment
ENB GP	Environment, Natural Resources and Blue Economy Global Practice
ESF	Environmental and Social Framework
EURAC	European Network for Central Africa
FAO	Food and Agricultural Organization of the United Nations
FCPF	Forest Carbon Partnership Facility
FD	Forest/Forestry Department
FPIC	Free, Prior and Informed Consent
FREDA	Forest Resource Environment Development and Conservation Association
FREDIP	Myanmar Forest Restoration, Development and Investment Project (World Bank)
FTA	Forest Tenure Assessment
FTAT	Forest Tenure Assessment Tool
GMA	Game Management Area

GRZ	Government of the Republic of Zambia
IPLC	Indigenous Peoples and Local Communities
LGAF	Land Governance Assessment Framework
MATA	Myanmar Alliance for Transparency and Accountability
MECNDD	Ministère de l’Environnement, Conservation de la Nature, et Développement Durable de la République Démocratique du Congo
MERN	Myanmar Environment Rehabilitation-Conservation Network
MLNR	Ministry of Lands and Natural Resources
MoALI	Ministry of Agriculture, Livestock and Irrigation
MoNREC	Ministry of Natural Resources and Environmental Conservation
MRRP	Myanmar’s National Restoration and Reforestation Program
NCA	National Ceasefire Agreement
NGO	Non-Governmental Organization
NLUC	National Land Use Council
NLUP	National Land Use Policy
NRM	Natural Resource Management
NSDI	National Spatial Data Infrastructure
NTFP	Non-timber Forest Products
NWFP	Non-wood Forest Products
PPF	Public Protected Forest
POINT	Promotion of Indigenous and Nature Together
PROFOR	Program on Forests
RECOFTC	Center for Forests and People
REDD+	Reducing Emissions from Deforestation and Forest Degradation
REPALEF	Réseau des Populations Autochtones et Locales pour la Gestion Durable des Ecosystèmes Forestiers
RF	Reserved Forest
RFN	Rainforest Foundation Norway
SCD	Systematic Country Diagnostic
SDG	Sustainable Development Goals
SIA	Social Impact Assessment
UAGO	Union Attorney General’s Office
UNEP	United Nations Environment Program
UNPFII	United Nations Permanent Forum on Indigenous Issues
VFW	Virgin, Fallow and Vacant Farmland Law
WBG	World Bank Group
ZNCRBA	Zambia National Community Resources Board Association





FOREWORD

The mission of the World Bank Group is to end extreme poverty and boost shared prosperity in a sustainable manner. Clarifying and securing forest tenure rights around the world, and the associated management practices and livelihoods of indigenous peoples and local communities in forest areas, is critical to achieving these goals.

Secure tenure is widely recognized as an essential foundation for achieving a range of rural economic development goals. However, forest areas in low- and middle-income countries face particular challenges in strengthening the security of land and resource tenure. Forest peoples are often among the poorest and most politically marginalized communities in their national contexts, and their tenure systems are usually based on customary, collective rights without formal legal protection. Government presence and capacity in forest areas to support and defend local rights may be limited, and forest lands also face competing pressures for other land uses. In the face of increasing global focus on the role of forests in climate change mitigation, there is mounting evidence that securing community tenure and supporting community-based forest management are key strategies to reduce deforestation. Addressing these longstanding challenges has acquired new urgency.

This *Forest Tenure Assessment Tool and User Guide* is a companion piece of the Analytical Framework (AF) published by the World Bank's Securing Forest Tenure Rights for Rural Development program in 2019. The tool, developed to assess the links between tenure security and development goals, and the extent to which key elements of forest tenure security are in place in specific national contexts, was put

to a rigorous test in early 2020 in three countries: the Democratic Republic of Congo, Myanmar, and Zambia. These pilots confirmed the solid analytical foundation of the tool, along with its adaptability, practicality and effectiveness in influencing policy.

With its flexibility and multi-sectoral approach, the tool is a useful instrument for a broad range of applications in different contexts. The tool can be freestanding or incorporated in a range of analytical and financial instruments, including: country diagnostics, development policy and investment financing, environmental and social risk analysis and forest carbon financing. For technical teams and practitioners seeking to resolve tenure challenges in forest landscapes, the tool fills an important gap. World Bank managers and high-level government officials can benefit from the tool as a vehicle to drive policy reform associated with opportunities and risks of forest tenure and its implementation on a global scale.

We are pleased to share this new tool. We hope that it will be useful for those responsible for managing and restoring forest landscapes, while also addressing climate change, food security and poverty reduction, particularly among marginalized indigenous peoples and other local communities.

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INTRODUCTION

The **Forest Tenure Assessment Tool (FTAT) and User Guide** consists of an integrated set of methodologies and guidelines for assessing both *why* it is important to secure community-based forest tenure in a specific national or sub-national context, and *what* needs to be done to strengthen forest tenure in that context. It is a companion piece to the **Analytical Framework (AF)**¹, developed during phase one of the Securing Forest Tenure Rights for Rural Development initiative (published by the World Bank in 2019). The AF highlights the relevance of secure community-based forest tenure to Sustainable Development Goals (SDG), and presents a set of key elements derived from evidence and best practice in securing community forest tenure. Together, application of these instruments is intended to provide the policy rationale and a roadmap to help countries strengthen community-based forest tenure and contribute to achieving SDG in forest landscapes.

Community-based forest tenure is important because tenure security is key in achieving a range of SDGs. As highlighted in the AF, tenure security both underpins positive development outcomes in forest areas and ensures against negative impacts from land-based investment and other interventions. While many countries have implemented forest tenure reforms, research consistently points to gaps in the effective realization of tenure security. An assessment enables stakeholders to:

- understand the links between forest tenure security and related development goals in specific contexts
- identify the strengths and weaknesses of current tenure frameworks, capacities and implementation processes

- build consensus around actions that are needed to strengthen tenure security.

One part of the assessment methodology presented here asks, *why forest tenure reform?* It focuses on consolidating country-specific evidence of the linkages between community-based forest tenure security and several, particularly relevant SDG. The methodology involves exploring *opportunities* to achieve development goals by strengthening tenure security, as well as *risks* to the achievement of development outcomes where tenure is insecure. This part of the methodology is aimed at developing policy rationales for dialogue with high-level decision-makers in governments and the World Bank. Potential government audiences for this work include ministers and deputy ministers with policy and public investment portfolios related to natural resource management, agriculture, poverty reduction, social protection and human rights. Other target audiences include senior Bank management (e.g., country directors, global directors) and other rural development donors. These audiences require assessment results that enable them to understand the inter-sectoral linkages of forest tenure with other sustainable development priorities and assign priority to policy and investment proposals.

A second part of the methodology presented here examines *how to secure collective forest tenure*, and focuses on assessing the current status of community tenure security in forest areas.² The objective is to enable participatory diagnostic assessments of the strengths and weaknesses of current land and forest tenure frameworks, capacities and implementation processes. In particular, it focuses

¹ *The Securing Forest Tenure Rights for Rural Development: an Analytical Framework* publication is available in English, French and Spanish, and accessible at: <https://www.profor.info/content/securing-forest-tenure-rights-rural-development-analytical-framework>; and at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/222361593489512904/securing-forest-tenure-rights-for-rural-development-analytical-framework>

² A particular issue for forest lands is that rights to land and trees are often dealt with separately through distinct (land and forest) laws. Legal recognition of rights to land in some countries does not automatically convey rights to trees or other resources on the land. Conversely, forestry laws recognizing rights to forests may not encompass rights to land.



Photo by Gerardo Segura Warnholtz / World Bank

on the extent to which *key elements* for securing and protecting the land and forest tenure rights of indigenous peoples and local communities (IPLC)³ (as identified in the AF) are, or are not, in place. This assessment is primarily intended to support the efforts of tenure stakeholders and practitioners to inform and promote practical actions to strengthen tenure-related policies and their effective implementation and enforcement. It also responds to particular needs identified by World Bank Group staff to enhance responses to tenure-related challenges in Bank-supported projects and initiatives. This part of the methodology uses a set of indicators to organize the assessment and document the results. In addition to supporting systematic assessments, the use of

indicators allows for comparisons across countries to identify common challenges and provide a basis for sharing good practice solutions.

This assessment tool is designed for anyone interested in understanding and strengthening community-based tenure security in forest landscapes in any country or region. This work responds to particular needs identified by the World Bank. Users of the tool may include not only Bank staff, but also governments and other local stakeholders, including IPLC organizations, NGOs and donors. As discussed below, for any sponsor of the assessment, this tool emphasizes a participatory process that engages key rights-holders, stakeholders and decision-makers. This approach is grounded in the recognition that accurate understanding and successful

³ The term *Indigenous Peoples and Local Communities (IPLC)* is used here as a synonym of the World Bank's term of "*indigenous peoples/Sub-Saharan African historically underserved traditional local communities*" defined for the new Environmental and Social Framework established in 2017.



reforms require inputs from multiple perspectives, as well as a process that promotes dialogue and the building of consensus and positive momentum (Kishor and Rosenbaum 2012). A central element of this participatory methodology is a validation process based on multi-stakeholder events that enable key actors to come together and build a common understanding of strengths, weaknesses and opportunities for change.

The following sections provide an overview of the two-part assessment methodology for understanding the *why* and *how* dimensions of community-based forest tenure (Section II); step-by-step process guidelines for conducting assessments (Section III); a final section that identifies five broad categories of Bank products and services that can benefit from the FTAT and a range of modalities of implementation that vary in cost and duration (Section IV).

Four appendices provide detailed guidance and lessons learned for conducting the assessments. **Appendix 1** supports the *Opportunities and Risks (why)* analysis by providing a set of guiding questions for gathering evidence about the opportunities and risks associated with forest tenure security. **Appendix 2** supports the *Key Elements (how)* analysis by providing a detailed set of 42 indicators, guidance and scoring scales for assessing the current status of forest tenure security. **Appendix 3** contains a condensed synthesis of findings and lessons learned from the three pilot country assessments in the Democratic Republic of Congo, Myanmar and Zambia. Finally, **Appendix 4** provides useful guidance for the process of stakeholder engagement and workshop planning.



OVERVIEW OF THE ASSESSMENT METHODOLOGIES

The FTAT was primarily developed from the Analytical Framework (AF) as a practical tool for assessing the current state of tenure security and identifying key strengths and weaknesses of community-based tenure in specific sub-national or national contexts. The FTAT is intended to work alongside a policy dialogue and to be a primary input for policymakers and stakeholders, providing a diagnostic of the status of tenure security and to show opportunities for moving forward.

Piloting the FTAT in countries with diverse contexts and challenges was critical to test the tool's adaptability, practicality and effectiveness. The selection of countries for the pilot phase was based on the following criteria: (i) relevance and opportunity to inform the World Bank agenda and dialogue with the country (business development); (ii) timeliness of policy intervention (demand-driven); (iii) presence of strong in-country partners; (iv) coordination with other related Bank activities/investments, particularly from the natural resources management (NRM) and land sectors; and (v) strength and availability of a technical team to lead the assessment and policy dialogue with the country. Selected countries included the **Democratic Republic of the Congo (DRC), Myanmar and Zambia**.

Implementation of the FTAT has generated a strong rationale for action, policy-relevant diagnostic information and practical policy guidance in the three pilot countries. These substantive results give immediate insight into the status of forest tenure security in each country and an orientation to the major issues and opportunities for progress. These findings are expected to feed directly into the Systematic Country Diagnostic (SCD) and the policy dialogues conducted by the Bank to develop Country Partnership Frameworks (CPF), the instrument used by the Bank to support its member countries. Other development partners and bilateral donors may also benefit from this process and encourage consensus

about the underlying contextual conditions among stakeholders. Although FTAT implementation may create a unique arena for participants and stakeholders to engage in the material, the assessment is intended primarily as an input into the process, not the process itself. Individual country findings for DRC, Myanmar and Zambia from the pilot implementation are summarized in **Appendix 3**.⁴

This section presents an overview of the two components of the integrated tool: 1) the assessment of **opportunities and risks** associated with forest tenure security; and 2) the assessment of the presence or absence of **key elements** of community forest tenure security.

OPPORTUNITIES AND RISKS ANALYSIS

This component of the tool systematically builds the case for forest tenure reforms through an empirical understanding of the results that can be expected from strengthening forest tenure versus continuing with the status quo. It does this by collecting evidence on the links between secure community-based forest tenure and specific SDG goals (ending poverty and hunger, inclusive and sustainable economic growth, gender equality and climate and forest sustainability, with human rights as an enabling condition).

As highlighted in the AF, there is a substantial body of international evidence on the links between secure community-based forest tenure and a range of sustainable development outcomes. These links include "opportunities" (ways that tenure security can provide enabling conditions for the realization of development goals), as well as "risks" (potential for and experience of negative outcomes where tenure is not secure). The assessment explores these opportunities and risks within specific national contexts.

4 The FTAT Pilot Phase Final Synthesis Report and the complete country reports for DRC, Myanmar and Zambia are available respectively at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/985171598633319925/>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/690411598636444226/>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/383531594388453664/>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/531591598634181781/>.

The methodology is evidence-based and policy-directed. It produces an updated discussion of policy reform options based on a macro-level mapping of opportunities and risks using the SDG goals as points of reference. In each country, the opportunity and risk assessment draws on a structured review of the evidence base, which may be supplemented by tools of geospatial analysis and data visualization, and concludes with stakeholder validation feeding into a policy dialogue. By identifying critical pathways of opportunity and risk, it presents the case for forest tenure policy in national development planning.

The assessment is structured in accordance with the four main sets of development goals included in the AF, as follows:

- A. **Ending poverty and hunger (SDG 1 and 2):** This section of the assessment evaluates evidence about the relationship between community-based forest tenure security and poverty reduction outcomes, including food security.
- B. **Promoting sustained, inclusive and sustainable economic growth (SDG 8):** This section of the assessment consolidates evidence about the potential for secure community-based tenure to contribute to accelerating inclusive and sustainable economic growth in forest landscapes, while avoiding risks of social and environmental harm.
- C. **Achieving gender equality (SDG 5):** This section of the assessment uses the SDG target on women's equal "access to ownership and control over land and other forms of property" as a benchmark for exploring the current status of women's forest tenure rights. It consolidates evidence regarding the contributions of women's tenure security to increased gender equality and other development benefits, with a particular focus on community-based tenure arrangements.
- D. **Combating climate change and sustaining forests (SDG 13 and 15):** This section of the assessment consolidates country-specific evidence on opportunities to invest in securing tenure of IPLC for the management of climate change mitigation and forest conservation, and on risks to forest climate and conservation efforts from failure to address tenure issues.
- E. **Fostering strong institutions and partnerships for Growth (SGD 16 and 17):** This section of the assessment examines the existing tenure arrangement to identify risks and opportunities to

"ensure responsive, inclusive and representative decision-making" through strong and just institutions at local and national level and equitable partnerships between communities and governments or private sector. It consolidates evidence regarding the role of effective, accountable and transparent institutions to improve access to information and justice for all, address tenure issues, and therefore reduce corruption and conflict in the implementation of new economic activity.

The opportunities and risks analysis uses guiding questions to structure the assessment (the full set of guiding questions is presented in **Appendix 1**). These questions provide consistency and a basis for comparing findings across countries, while also remaining adaptable to the context and availing data in each country.

Data sources may include national statistical data such as household surveys covering forest areas, sectoral assessments, World Bank/IMF country diagnostics, project-level socioeconomic assessments and impact evaluations, Forest Carbon Partnership Facility (FCPF) and REDD+ assessments, FAO statistics, Land Governance Assessment Framework documentation, Rights and Resources Initiative's analytical work, PrIndex, analytical work published by NGOs, Civil Society Organizations (CSO) and donors and media reports. It may be possible to leverage emerging geospatially linked data sources such as the Hidden Dimensions of Poverty database in the World Bank, LandMark mapping of community land rights and the Radiant Earth clearing house of spatial imagery for development analysis, among other sources available locally.

Analysis of issues around inclusive and sustainable economic growth may also draw on feasibility studies and investment planning documentation for specific sub-sectors and projects, documentation about pilot projects and consultation with sector specialists in forest products, agroforestry, mining, ecotourism and other specialized areas of economic opportunity.

The final step of this component of the analysis focuses on making the case for the role of secure forest tenure in national development strategies. It synthesizes opportunities and risks within a realistic assessment of political conditions and identifies potential for building constituencies for tenure reform. The synthesis shows where tensions or trade-offs exist and evaluates where openings or synergies can take



Photo by Gerardo Segura Warnholtz / World Bank

advantage of opportunities and limit or manage risks within the national policy process.

ASSESSMENT OF KEY ELEMENTS AND DIMENSIONS OF FOREST TENURE SECURITY

This component of the tool presents guidance for conducting assessments of community-based forest tenure security using the framework presented in the AF. The AF articulates nine “key elements” for secure community-based forest tenure, each of which is further elaborated into a number of “dimensions.”

As noted in the AF, these key elements and dimensions are a distillation of best practices from multiple sources. They draw on elements identified from empirical research as being critical for the contributions of community-based forest tenure to SDGs, as well as on elements found in existing land and forest governance frameworks, guidelines and standards.⁵ Drawing on these two main bodies of work, the integrated set of key elements presented in the AF includes both elements that are important for the achievement of development goals and others that are essential to the overall functioning of the tenure security system. The key elements and dimensions are summarized in Figure 1.










Within each of these key elements and dimensions, this component of the tool uses indicators to structure and guide the assessment. An indicator is “a quantitative, qualitative or descriptive attribute that, if assessed periodically, could indicate direction of change (e.g., positive or negative) in that attribute” (Davis et al. 2013). The use of indicators is a common approach in assessment tools, including land and forest government assessment tools such as the Land Governance Assessment Framework (LGAF) and the PROFOR/FAO Forest Governance Assessment Framework.

Advantages of indicators include:

- **Comprehensiveness:** As noted in Kishor and Rosenbaum (2012): “Using an indicator set brings order and a degree of comprehensiveness to the assessment. In theory, an evaluator could simply describe the state of governance through a narrative, without resorting to any standard outline or plan. Such an assessment might overlook some matters while exploring others deeply. Framing the assessment around the scoring of these indicators prevents the evaluator from overlooking topics and encourages an organized assessment.”
- **Comparability:** Using a consistent indicator set allows the same attributes to be assessed through time and/or across different places/contexts, and

⁵ Existing frameworks, guidelines and standards informing the AF key elements and dimensions include: the World Bank Land Governance Assessment Framework (Deininger et al. 2012, World Bank 2013), the PROFOR Forest Governance Framework (PROFOR and FAO 2011, Kishor and Rosenbaum 2012, World Bank 2009), the World Resources Institute Forest Governance Assessment Framework (Davis et al. 2013), the Voluntary Guidelines on the Governance of Tenure (FAO 2012) and associated technical guides (such as on forests [Mayers et al. 2013] and the Commons [FAO 2016]), FAO forest tenure guidelines (FAO 2013, Gilmour and Fisher 2011), the Securing Africa’s Land program framework (Byamugisha 2013), the Chatham House’s Forest Governance and Legality (<https://forestgovernance.chathamhouse.org/>) and others.

FIGURE 1. KEY ELEMENTS AND DIMENSIONS OF THE ANALYTICAL FRAMEWORK

		KEY ELEMENTS	DIMENSIONS
1.		Legal Frameworks for Tenure Rights	<ul style="list-style-type: none"> • Recognition of all rights and rights-holders, including women • Recognition of a robust bundle of rights • Recognition of a holistic “bundle of resources”
2.		Implementation of Legal Recognition	<ul style="list-style-type: none"> • Accessible, efficient procedures • Formal recognition of indigenous and community lands
3.		Appropriate Regulations for Land and Resource Management	<ul style="list-style-type: none"> • Regulations that are simple and appropriate to management objectives • Efficient implementation of permitting processes
4.		Effective Support from Responsible Government Agencies	<ul style="list-style-type: none"> • Participatory and adaptive processes for decision making • Political will and aligned incentives • Clear and mutually supportive mandates for responsible agencies • Capacities and financial resources for government implementation roles
5.		Empowered and Inclusive Indigenous and Community Governance	<ul style="list-style-type: none"> • Inclusive institutions and decision-making processes, with particular attention to the inclusion of women • Community-defined rules and/or plans for land governance • Capacities and financial resources for tenure security roles of community institutions • Multilevel links to advocacy and support organizations
6.		Systems for Recording Community Forest Tenure Rights	<ul style="list-style-type: none"> • Comprehensive and accurate information • Accessibility of the system—to record, maintain/update, and share information on tenure rights
7.		Enforcement of Tenure Rights	<ul style="list-style-type: none"> • Capacities and mutual support among institutions responsible for enforcement • Effective implementation of monitoring and enforcement systems
8.		Protection of Collective Tenure Rights in Relation to other Forms of Tenure and Land Use	<ul style="list-style-type: none"> • Legal clarity and resolution • Mechanisms for rural policy coherence • Strong safeguards to avoid infringements on communal tenure rights—including Free, Prior and Informed Consent (FPIC) and environmental and social standards
9.		Conflict and Dispute Resolution	<ul style="list-style-type: none"> • Accessible and competent mechanisms to resolve disputes over tenure rights • Effective resolution of disputes

thus allows for a comparison of the results. The pilots demonstrated that the FTAT will be most relevant for comparison of national or sub-national situations at different points in time. The assessment will also enable qualitative comparisons across countries at the level of key elements.

The full set of indicators for this assessment tool can be found in **Appendix 2**. Each indicator has a title and a descriptive question, as well as brief background information and a scoring scale (1-4 scale) for assessing the status of the indicator. The indicators are intended for use during the background study step as guiding questions for gathering/generating and organizing information on each of the key elements of tenure security. During the assessment's multi-stakeholder engagement process, this background information is validated, and indicators are scored by experts and stakeholders using the scoring scales.

Scoring the indicators using a numerical or "traffic light" scale is a powerful way to present complex assessment findings in a concise and accessible manner. At the same time, scoring carries with it some risks as there is often a tendency to focus attention on the score itself instead of using the score as a snapshot of the underlying analysis, as is intended here. In keeping with the approach used by LGAF and other assessment processes, scores are not meant to be aggregated to generate a composite score for each key element or for the overall assessment (World Bank 2013).

For an aggregation to be accurate and meaningful, varying weights would need to be assigned to each indicator, and that has not been done in this tool. Along with cautions about scoring within each analysis, caution is required in using scores by themselves to compare across countries/assessment settings. While the use of a common set of indicators can provide qualitative comparisons across countries, the emphasis in this methodology on stakeholder engagement and bottom-up, country-based assessments means that judgments about the assignment of scores are likely to vary. For this reason, comparisons across countries will be more useful for identifying common challenges and cross-learning than for ranking of performance.

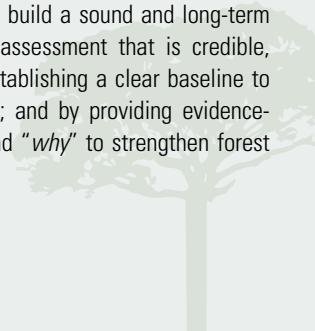
As with the opportunity and risk assessment, the assessment of key elements draws on a structured review of the evidence base (sources of information are included in **Appendix 2**). Through the background study, workshop dialogue and scoring by stakeholders and the policy dialogue, the assessment will identify the strengths and gaps in current tenure arrangements and priorities for action. The outcome of this component of the assessment is an empirical justification and set of recommendations on key aspects that require further investment and strengthening as a foundation for sustainable rural development in forest landscapes. Box 1 discusses the main strengths of the FTAT learned from the pilot operations.

BOX 1: LESSONS FROM THE PILOTS STRENGTHS OF THE FTAT

Lessons learned from the pilot applications of the FTAT in DRC, Myanmar and Zambia demonstrated the value of this instrument to different stakeholder groups, institutional contexts and levels. A carefully planned multi-stakeholder engagement process, using a forest landscape approach, was a major component of the tool application. This effort promoted cross-sectoral policy dialogues and more ownership and accountability of the assessment process by leading government agencies. More specifically, the synthesis of results and lessons from the pilot points to three main strengths of the FTAT:

- **Adaptable** to different geographies, institutional contexts and country objectives, chiefly because the nine elements of the tool's AF have near-universal applicability.

- **Practical** in terms of costs, the capacity of local partners and Bank teams to implement it and timeframe (three to six months is required for the full methodology). Alternative modalities of implementation requiring varying levels of effort are also explored in this document.
- **Effective** by contributing to build a sound and long-term policy process through an assessment that is credible, robust and replicable; by establishing a clear baseline to measure success over time; and by providing evidence-based insights on "how" and "why" to strengthen forest tenure security.





PROCESS GUIDANCE

This section offers step-by-step guidance on the process of conducting a forest tenure assessment. The level of effort anticipated is comparable to that of the pilot assessments conducted in DRC, Myanmar and Zambia. It also incorporates good practice learned from these experiences (see Appendix 3 for more details), as well as other assessment processes developed and tested through initiatives such as LGAF and PROFOR/FAO forest governance tools (for examples of other applications and modalities of implementation including rapid and programmatic-level assessments refer to Section IV).

The recommended steps include:

STEP 1. INITIATE THE ASSESSMENT

In this step, the proponent of the tenure assessment explores the idea of undertaking the assessment with the Bank's local country office (Country Management Unit [CMU]), the main agencies responsible for tenure of forest lands in the client country, a subset of key in-country stakeholders and other development partners. The proponent might be the WBG, an NGO or another development bank or donor agencies convinced of the value of conducting an assessment in a specific context. These discussions should also serve to raise awareness to the various stakeholders at national or sub-national levels.

Securing buy-in and leadership from the relevant government agencies is necessary to ensure the desirable political traction. Initially however, the assessment can be initiated with any level of official support, with the intention of increasing commitment to the process from other relevant government agencies in the course of developing the assessment. Additionally, bringing in the Bank's CMU and other major development partners adds credibility to the process. This co-sponsorship can be especially critical for success in cases where the trust between the communities and the state is fragile.

It is important at this stage to specify the general purpose and expected outcomes of the assessment. This will help teams to define the scope and estimate project costs. The funding source/s for the work should also be identified in this step. Lessons from

the pilot experiences show that assessments can be used for a variety of applications and modalities of implementation that will range in cost and duration (see Section IV).

The provisional timeline and identification of a "window of opportunity" in the policy process for supporting the assessment work should be clarified at this stage. Initial discussions with key partners and other stakeholders will help to identify opportunities to weave the assessment into an ongoing political process or larger scale intervention. Important benefits may be achieved if the assessment can be integrated into a pre-agreed upcoming policy dialogue through this linkage. In the end, the best results of the assessment will evolve from a process that is framed in concrete actions and a follow-up strategy involving multiple participating stakeholders when possible.

Issues related to tenure clarity and security are politically sensitive and affect a variety of stakeholders in different ways. Initial discussions will help get an early feel for who will support the assessment and who might be opposed to it, including the interest and will of the government. This would help initiate a discussion on political economy issues and challenges (see **Box 2**). A more careful political economy analysis is also recommended later in the process when background and stakeholder diagnostic work is more advanced (see Step 6).

STEP 2: IDENTIFY OVERALL OBJECTIVES AND CORE TEAM

Specific country approaches will vary, so the next step is to scope the assessment and define the specific objectives and audiences they should reach. The profiles and terms of reference for the core team conducting the assessment should be assembled to achieve these goals. It is expected that each country will require a senior coordinator (usually an experienced Bank task team leader) with a track record in the field and strong connectivity among policymakers in government, researchers and organizations representing forest communities. Additionally, the opportunities and risks analysis (the "why") requires a strong background in natural resource economics or

BOX 2: LESSONS FROM THE PILOTS POLITICAL ECONOMY CHALLENGES

An important aspect of the assessment is the need for the lead government agency and the World Bank to work together to address political economy challenges, beginning early in the process. A deep structural change such as improving the security of forest tenure through policy reforms will create gainers and losers. The forest communities who see themselves as gainers will be supportive, whereas others who benefit from the status quo will oppose any efforts at reform. Often, this latter group is wealthy and influential, and will exercise its power to obstruct and even derail the reform process. There are no easy solutions to this challenge, but the Bank, through its own convening power,

influence and goodwill with the client, can reach out to the reform-minded stakeholders, in government and outside it, and create a momentum for change. The Bank can make forest tenure security a part of its broader country policy dialogue; specifically, it can identify the improvement of tenure security as a condition for its investments, particularly development policy operations (DPO). Political economy issues are complex and do not get resolved in the short run. However, the Bank is often in a strong position to engage in the long term and seek solutions in cooperation with the client. This is an important reason for the lead agency supporting the assessment to work closely with the Bank.

public policy. The “how” analysis would benefit from a consultant with a strong track record in working at the community level and understanding the concerns and perspectives of forest economics. Depending on the experience of the senior coordinator, additional consultants may be required to address the challenges of more specialized tasks.

A good practice learned from the pilots is to establish a small forest tenure working group or steering committee with representatives from key stakeholder groups to refine objectives and policy relevance of the assessment. Members of this group could also play a role as resource persons during the validation workshops and function as a point of contact to communicate important messages during and after the assessment. In Myanmar, for example, a government-led working group was established early on with representatives from different national and local government agencies and other key representatives and experts. The group developed a central role in convening a broad spectrum of actors and increased the level of trust and local ownership of the pilot assessment process and its outcomes.

The core team should be familiar with the local language, customs and culture, and be able to communicate effectively with forest communities and other stakeholders. The team will also need to recruit an experienced facilitator to run the multi-stakeholder meetings and workshops. Major universities, think-tanks, NGOs or IPO/CBOs with strong analytical capacities or other consultants can provide logistical and research support. The pilot experience shows how

the composition of core teams varied with context and availability of local competencies. Thus, in the DRC, researchers were able to facilitate field work in remote assessment areas of the Mai Ndombe province by organizing expert meetings to provide inputs into the background study. In Myanmar, the government took the lead and ownership of the process. In Zambia, consultants with deep experience, connections and institutional knowledge were able to blend aspects of the FTA process into other ongoing efforts and attract participation by a diverse range of stakeholders.

STEP 3: DEVELOP A PLAN FOR THE ASSESSMENT PROCESS BASED ON AN INITIAL SCOPING OF KEY STAKEHOLDERS AND ISSUES

Once the overall objectives have been defined and a core team put in place, it will be necessary to develop a more detailed plan for the assessment process. One dimension of this planning is substantive and involves consideration of the key stakeholders and issues that should be considered. The other dimension of planning is operational and involves preparation of a detailed work plan for the subsequent steps of the process.

Multi-stakeholder engagement is fundamental for success. Thus, an early initial scoping is recommended to identify key stakeholders and issues. This can be conducted by convening an informal brainstorming meeting or reaching out individually to people and organizations that are themselves stakeholders or experts on community-based forest tenure. For

example, these may include representatives from: indigenous peoples organizations; community forestry networks; women's groups and other civil society organizations working on community land and forest issues; and relevant government agencies (**Appendix 4** provides more information on how to identify and engage with stakeholders).

One output of these scoping activities should be the identification of key groups of rights-holders and stakeholders and ways to engage them. While a multi-stakeholder validation workshop is the main platform recommended for this engagement, additional activities could include conducting interviews with representatives of different groups as part of the background study and identifying a working group of representative stakeholders.

A second output of scoping activities should be to identify key challenges or opportunities that should be considered in the assessment. The aim here is not to limit the scope of the analysis. Instead, one benefit of a comprehensive analysis is that it may reveal challenges or opportunities that are less prominent in current national discussions of community-based tenure. Identifying key issues ensures that important aspects of the tenure situation are not missed and may result in focusing effort on research into specific issues.

The core team should develop a work plan for the assessment process from the scoping activities. The plan would normally include: (i) steps to conduct the background studies; (ii) dates and location for the stakeholder engagement process, including the validation workshop and other related outreach activities; (iii) a detailed definition of roles and responsibilities of core team members and consultants; and (iv) a detailed costing of activities.

STEP 4: CONDUCT BACKGROUND STUDIES

(4A) BACKGROUND STUDY ON OPPORTUNITIES AND RISKS

The team assigned to conduct the opportunities and risks analysis will prepare a scope of work and outline for the background study based around the thematic areas of the analytical framework. They should systematically cover the opportunities and risks in each area using the most current literature and evidence available. This examines the "why" question of forest tenure in the

specific context of the focus country.

Teams can use geospatial tools for spatial analysis and integrate spatial and socioeconomic data and visualization of evidence related to key research questions. The team should also work closely with the Bank's CMU, technical teams from related global practices and units⁶ working in the country, key rights-holder and stakeholder groups, government agencies and other development partners identified through the initial scoping. The team may also reach out to other national and international researchers and practitioners to fill out the analysis and explore the critical inter-sectoral linkages identified in the AF and detailed in the guiding questions of **Appendix 1**.

(4B) DESK-BASED ASSESSMENT ON KEY ELEMENTS OF FOREST TENURE SECURITY

The objective of this assessment is to summarize the current status of community-based forest tenure using the key elements, dimensions and indicators of the AF (**Appendix 2**) to define priority topics and organize the material. It should summarize available published information, informal studies and reports; it may be supplemented by interviews with key experts.

The team working on this assessment should avoid "reinventing the wheel" by drawing on existing data and information relevant to the assessment topics. This study should be shared with relevant stakeholders two or three weeks ahead of the validation workshop (see Step 5), so stakeholders have enough time to hold opinion-based discussions and score indicators against current on-the-ground evidence. The assessment should not express opinions on needed reforms but might include a general set of initial policy recommendations as topics for discussion.

To serve effectively as a foundation for the validation workshop, this assessment should carefully document sources of information and present them in a balanced and objective way. While the team should follow the organization of the nine key elements, the final scoring of indicators should be left up to workshop participants, drawing on their multiple perspectives and areas of expertise.

Experience from the pilots shows that rigorously prepared and well-supported background documents had the most impact when shared with other

⁶ These may include: Agriculture, Climate Change, Development Economics, Environment and Natural Resources, Infrastructure, Land and Geospatial, Social Development and Water.



Photo by Gerardo Segura Warnholtz / World Bank

stakeholders well ahead of the validation exercise. The case presentation of the “why” forest tenure security is important, and its linkages to SDG, was well received by stakeholders as a useful element to guide collective discussions on the “how,” including the scoring of individual indicators. Experience also suggests that the “why” aspects of tenure security, when accompanied by a robust “how” analysis from an inclusive, multi-stakeholder platform, can have a more significant contribution to the policy dialogue.

STEP 5: CONVENE A STAKEHOLDER AND EXPERTS’ VALIDATION WORKSHOP TO REVIEW AND ELABORATE ON FINDINGS AND RECOMMENDATIONS

The *validation workshop* is a central opportunity to bring a wide range of rights-holders, stakeholders and other experts together in the assessment process. Full and meaningful participation that includes multiple perspectives, insights and areas of knowledge contributes to a successful outcome. This will also help to add to the credibility of the process and further support assessment results and recommendations.

While participants need to be identified in the local context, the workshop will typically include several groups:

- representatives of the IPLC whose tenure rights are the main focus of the assessment
- stakeholders responsible for taking action on various key elements of tenure security and/or who would be the focus of recommendations from the assessment. (These will include representatives from government, legislators, forest community representatives, clan leaders, the private sector and donors. Participants should be experts, stakeholders and practitioners who are knowledgeable about the full range of topics to be discussed.)
- experts from academic and research institutions and NGOs/CSOs working on community forest tenure.

While it is crucial to engage with a wide spectrum of stakeholders, it is also important to be selective. A large number of participants could make the workshop unwieldy. If some participants perceive that they are not being allowed to speak freely, they could become disruptive and make the engagement counterproductive. *It cannot be overemphasized*

that stakeholder identification and selection should be a strategic step taken as early in the assessment process as possible.

The scoring of indicators is a key objective of the validation workshop⁷. For the process to be useful, the 42 indicators (**Appendix 2**) need to be carefully studied, and, if needed, customized to the context of the country in focus. Participants must see that indicators are relevant to their own local context. The core team should customize the indicators, drawing on the information from the two background studies, in consultation with key experts. Scoring of the customized indicators may be tested before the workshop to ensure relevance and clarity. This would also ensure that semantic problems of questionnaires and score descriptions are minimized when working with workshop participants (**Box 3**).

Scoring the indicators is on a 4-point scale, with 1 representing the indicator is weak, and 4 strong. Final scoring should be determined by consensus. One suggestion is to organize workshop participants into small break-out groups, with each group responsible for scoring only a small number of indicators. This ensures sufficient time to air all views in the group and reach consensus. If consensus cannot be reached, it is suggested that the dissenting opinion and score

be recorded. **Box 4** focuses on experience in scoring from the pilot country assessments. Further guidance on scoring is included in **Appendix 4**.

The suggested length of the validation workshop is two and a half to three days. This includes about one day for introductions and presentation and discussion of the opportunities and risks analysis (“why”); one and a half days for the analysis of key elements and scoring of indicators (“how”); and a half day for discussion and refinement of recommendations (see **Appendix 4** for additional guidance on workshop planning).

The workshop discussions, indicator scores and policy recommendations should be carefully documented and integrated with the background studies into a final assessment report. Before the end of the workshop, the organizers should clearly communicate plans for using the information generated – such as for subsequent policy dialogues – and sharing of the assessment report with the participants. An effort should be made to circulate the draft report to all participants with the opportunity to provide their comments inputs to the final document.

An effective and transparent continuity of next steps in the political process leading to concrete actions to improve tenure security is a critical action

BOX 3: LESSONS FROM THE PILOTS CUSTOMIZATION

Experience from country assessments suggests important benefits from customizing the FTAT to local contexts. In Myanmar, the implementation team determined early in their assessment that some elements of the methodology would need to be modified to better fit language and other local conditions. Not only were several key element indicators revised and adjusted to fit the local context, but an ad-hoc working group was also established to lead the process. The group also contributed to build capacities to understand the premises and apply the concepts of the AF. As a result, the government in Myanmar now has an energetic team of more skilled staff to lead the dialogue on tenure security and move forward.

Customization showed that some revisions were needed to increase the specificity of indicators in response to local conditions. The near universality of the AF allows for some

modifications of the tool to meet specific needs of users. Local experts were able to review and adapt key indicators to best fit their needs while continuing to reflect the key element of the AF to which they point. Customization was most effective in Step 3 of the assessment, during the initial scoping of stakeholders and issues. In Myanmar, this process was highly participatory and structured to receive extensive feedback from stakeholders. These adaptations allowed the assessment to better capture local stories and support the policy process.

When needed, customization was targeted to adapt to specific national and sub-national conditions and improve ownership and participation of local stakeholders. Comparability of scores at any level could be maintained in most cases by framing the results in terms of the nine key elements of the AF. Customized assessments were more useful and comprehensive for policymakers and key local stakeholders.

⁷ In this workshop, participants could score the indicators by considering the desk-based assessment scores as reference (i.e. validation of previous scores), or they could score without reference to the previous scores.

BOX 4: LESSONS FROM THE PILOTS SCORING

In the pilots, scoring the 42 indicators in the FTAT was one of the most important elements of the process, but also one of the most complex. Several important results were derived from this stage, including group consensus validation of the indicator scoring, a high degree of detail and feedback on the local status of each indicator and a rich discussion amongst representative stakeholders. The indicators themselves proved to be a productive element for deriving detailed, rich data on the situation of forest tenure security, and clarified discussion about the on-the-ground situation. These positive results were partially due to balanced stakeholder representation, strong facilitation by people familiar with the FTAT and the indicator customization prior to the workshops.

The scoring process promoted a rich discussion among representative stakeholders and generated a high degree of detail and feedback on the status of each indicator. Depending on each case, the experience suggests that one or more scoring approaches can be used, particularly when these are complementary and can contribute to enrich the final outcome:

- Pre-scoring can be conducted by the core team and expert consultants during preparation of the background studies

as a useful step to gain familiarity with relevant national evidence. When needed, pre-scoring is also important for articulating the customization of indicators before they are presented to other stakeholders. This exercise also helps to develop an agreed-upon process for scoring reconciliation to improve the consensus-based scoring discussions during the validation workshop.

- The formal scoring by stakeholders at the validation workshop can take different forms. When possible, individual scoring can be done online before the workshop. This increases the familiarity of participants with the indicators and the methodology, leaving more time for substantive discussions during the workshop.
- At the workshop, scoring can also be done in several ways, where individual participants, homogeneous groups or diverse groups are assigned to either a subset or all indicators. The choice of one or a combination of these approaches should be used as the basis for a successful discussion and to reach a scoring consensus toward the end of the workshop.

for maintaining and improving the dialogue with stakeholders. The core team, and later, the working group (Step 2), should continue to function as the point of contact and source of information for the participants in any future activities, including the development and implementation of a forest tenure policy roadmap.

STEP 6: DRAFT A POLICY ROADMAP BASED ON THE ASSESSMENT REPORT TO FACILITATE A DIALOGUE AMONG RELEVANT GOVERNMENT AGENCIES

Priority actions and policy interventions should be drafted based on the diagnostics and recommendations from the validation workshop. This facilitates an informed dialogue among relevant government agencies and results in the development of a coordinated policy and implementation roadmap. To promote ownership, political uptake and continuity of actions, preparing the roadmap should be the main responsibility of the lead government agency

undertaking this assessment, with help from the core team, if needed. When established, the working group should also be involved in the development of the roadmap and continue to communicate the developments to the different stakeholder groups.

An in-depth political economy analysis is recommended at this stage of the assessment process. Drawing from the discussions of political economy challenges initiated in Step 1, this analysis should provide insights into the position of various stakeholders on the proposed action to improve tenure security. Identifying the “supporters” and “opposers,” and their influence in the reform process, will help develop a strategy to strengthen consensus.

The final policy and implementation roadmap should be widely disseminated to workshop participants and to a wider group of stakeholders and experts working on forest tenure. The roadmap should also be put on the website of the lead government agencies so it is in the public domain.



Photo by Logan Sander

STEP 7. ENSURE THAT ASSESSMENT FINDINGS AND RECOMMENDATIONS INFORM RELEVANT NATIONAL POLICY DIALOGUES AND REFORMS

Even when the assessment process has produced a clear and consensus-based policy roadmap, moving from a roadmap to actual actions is not guaranteed. The outcomes of the assessment will directly inform the dialogue of the Bank with its client countries, particularly by identifying priorities for the SCD and the subsequent preparation and negotiation of the Country Partnership Strategy (CPF)⁸. Agreement on priorities to improve tenure security would justify the financial support to conduct targeted reforms and investment programs.

On the government side, relevant agencies would need to work energetically to create conditions favorable to a pro-reform agenda. Forest tenure concerns identified in the roadmap should feed into national policy dialogues to increase the prospect of moving from assessment to action. Agencies will also need to work closely with stakeholders, especially pro-reform groups. Using the “why” element of the assessment, the case should be made to have priority actions included in the overall development agenda of the country, and link these to international commitments (e.g., SDG, NDC). In some cases, there will be the need to raise the urgency of undertaking reforms with other branches of government, such as the ministry of planning and/or development. Finally, the government could also consider doing the assessment periodically to measure the impact of interventions and the progress made from the initial baseline.

⁸ The Country Partnership Framework (CPF) builds selectively on the country's development program and articulates a results-based engagement with client countries. A Performance and Completion, Learning Reviews (PLR) are conducted every two years, at mid-term or at the end to summarize progress in implementation and assess performance.



APPLICATIONS AND MODALITIES OF IMPLEMENTATION

Motivations for undertaking the assessment and deepening policy engagement on forest tenure will vary by time and place. In places where there is already general consensus about the direction of forest tenure reform, the “how” sections of this integrated methodology may be the main emphasis in order to identify key areas for greater attention or investment. In other contexts in which forest tenure reform is incomplete or unclear in national policy dialogue, the “why” aspects of the methodology may be the primary focus initially. In this case, the “how” elements of the methodology will follow after diagnostic inputs on the key directions for change are developed.

APPLICATIONS

The FTAT has been designed with the flexibility to connect and inform a range of different interventions and processes. Although the following five broad categories of Bank products and services have been identified to directly benefit from its application, the tool can also be used by governments, local stakeholders and donors working on tenure security at national or sub-national levels.

1. **Country diagnostics and policy dialogues.** In its engagement with client countries, the Bank identifies a set of development priorities through the Systematic Country Diagnostic (SCD) and other sector and policy analyses. These efforts are used to develop an agenda and stimulate an open and forward-looking dialogue between client governments, the private sector and the broader public. The SCD process culminates in a Country Partnership Framework (CPF), with performance evaluated regularly against a results framework. In the review of constraints and opportunities, the analysis may identify community-based and/or forest tenure security as an instrumental need or key condition to achieve those goals. In this context, the FTAT can contribute by: (i) organizing and structuring existing data; and (ii) identifying

data gaps in key areas related to tenure security and comprehensively addressing these gaps. In countries where an FTA has been implemented, the diagnostics and background documents are already useful inputs. In contexts with no prior engagement with the FTAT, a modality of rapid assessment (checklist, rapid desk review and limited expert consultation) would likely be an appropriate level of effort for ongoing diagnostic work. These kinds of comprehensive country assessments can also provide a basis for cross-country comparisons and learning.

2. **Development Policy Financing (DPFs).** The FTAT can support the design of development policy operations (DPO) operations by utilizing its diagnostic elements (“how”) to identify specific policy reforms and results indicators (for example, strengthening community-based tenure objectives and sustainable financing for institutions critical for tenure security). Because DPOs are rapidly deployed, the rapid-assessment modality of the FTAT could be carried out, unless a prior project-level or programmatic-level FTA had already been completed to draw from.

Other examples may include informing the identification and development of targeted reforms at obsolete and counterproductive rules and regulations that perversely affect tenure security goals; and instead, redirect financial support to critical government institutions charged with tenure security activities. In addition, new policies may be supported, such as developing and implementing a framework for public consultations around infrastructure development involving the forest sector.

3. **Investment Project Financing and Program for Results Lending⁹**

A. **Forestry and agriculture projects:** The governance and accountability dimensions of forestry and agriculture projects is particularly

⁹ **Investment Project Financing** includes loans, credits and grants provide financing for a wide range of activities aimed at creating the physical and social infrastructure necessary to reduce poverty and create sustainable development. **Program-for-Results (PforR)** financing helps partner countries improve the design and implementation of their development programs and achieve lasting results by strengthening institutions and building capacity.

relevant when targeting IPLC in areas dominated by community-based tenure systems. For this type of project, the Bank commonly uses a Community Driven Development (CDD) approach that aims at strengthening community institutions and broad local participation. While few CDD projects focus on policy reforms, an FTA offers a comprehensive view of all components of tenure rights and situates the key aspects of participation and community governance in a broader vision of policy recommendations and action/investments to strengthen tenure security. This approach can contribute to a strong rationale for community and donor investment in CDD projects as components of larger forest rights initiatives built alongside FTA stakeholder participation.

B. Biodiversity conservation projects:

Biodiversity conservation and protected area and wildlife management projects are commonly situated in remote areas where tenure security is precarious. Often these areas are inhabited by IPLC under customary tenure systems not legally recognized by governments. Project teams working in these areas should assess the tenure arrangements needed to support project investments, including defining and enforcing protected area boundaries and identifying if resettlements and economic displacements will be needed. An FTA can be a valuable instrument to understand the local contexts and the gaps to address. Since most local communities in these areas access and manage biodiversity using traditional systems, the FTAT can be used to identify areas of opportunity for co-management with a conservation approach.

C. Land administration and forest reform projects:

This type of work offers another entry point as many countries seek to provide comprehensive approaches to land rights across both urban and rural landscapes. In these cases, the tool can be used to gain greater understanding of the situation and needs in forest landscapes governed through customary, collective tenure. An assessment could also be linked to a land governance assessment framework or forest governance assessment as a specific module focusing in greater depth on community-based forest tenure.

D. Infrastructure operations in the transport, energy and mining sectors:

Many infrastructure projects involve land and forest tenure considerations during the acquisition of easements or land directly impacted by development. For example, linear infrastructure (e.g., roads, railroads and power lines) or dam projects may require exclusive use of extensive land/forest areas, potentially impacting customary lands and community rights. Project/programmatic-scale assessments would be focused on all land areas impacted by a larger project, and would include detailed feedback from diverse stakeholders as to the actual tenure security context the project is operating within. On a more limited scale, the rapid-assessment modality of the FTAT would provide diagnostic information regarding IPLC tenure rights over a region informed by a comprehensive desk review.

4. Environmental and Social Risk Assessment.

As part of the broad and systematic strategy to assess and mitigate environmental and social risks and impacts in investment project financing, the Environmental and Social Framework (ESF) functions as a core input into Bank project planning. Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, care is needed to ensure projects do not inadvertently compromise existing legitimate rights (including collective rights, subsidiary rights and the rights of women) or have other unintended consequences, particularly where the project supports land titling and related issues.¹⁰

The FTAT can provide a comprehensive and targeted assessment for the applications relevant to ESF Standards. Land and natural resources tenure security are key components of three of the 10 Environmental and Social Standards (ESS):

A. ESS1 on assessment and management of environmental and social risks and impacts

addresses applicable laws and procedures, along with project design features for: (a) recognition of relevant land tenure rights; (b) transparent and participatory processes for resolving competing tenure claims; and (c) informing affected people about their tenure rights and provide access to impartial advice. Several key elements of the FTAT focus on legal

¹⁰ The World Bank. 2017. Environmental and Social Framework. Page 20.

frameworks, processes, dispute and conflict resolution, governance and Free Prior and Informed Consent (FPIC).

- B. **ESS5 on land acquisition, restrictions on land use and involuntary resettlement** addresses restrictions on land use, such as customary usage, timber and non-timber forest products (NTFP) and other rights, including relocation and compensation.
- C. **ESS7 on indigenous peoples/Sub-Saharan African historically underserved traditional local communities** where the FTAT can be used to understand the linkages of participation, community governance, gender and the interactions of formal and customary institutions.

5. Carbon Finance and REDD+ Operations. A persistent challenge with REDD+ planning and implementation is ownership and benefit sharing related to forest rights. Clarification of tenure rights can provide motivation and incentives for sustainable management, stakeholder participation and strong community institutions and governance. The FTAT is a valuable instrument for REDD+ planning by systematically identifying strengths and weaknesses of community-based tenure security in a given context. For projects financed under the Bank's FCPF's Carbon Fund, the FTA could also contribute to evaluate land and resources tenure regimes contemplated in the Carbon Fund Methodological Framework.¹¹

TABLE 1: APPLICATIONS OF THE FOREST TENURE ASSESSMENT TOOL

TYPE OF PROJECT	MAIN OBJECTIVE OF ASSESSMENT	SCOPE MODALITY (WHY/HOW)	WHERE	MAIN AUDIENCE (WHO)	PROJECT EXAMPLES
<p>1. Country diagnostics and policy dialogues Policy- oriented analytics where tenure security is relevant to sectoral reforms and achievement of rural development goals (e.g., poverty and hunger, economic growth, climate change, sustainable use and restoration of ecosystems).</p>	<p>Help teams address relevant aspects of rural development where tenure security is at risk and/or contribute to improve development outcomes.</p>	<p>Strong emphasis on the "why," focusing on risks/opportunities, taking into account political economy aspects both at national and local levels.</p> <p>Different levels of depth where tenure issues are not well understood but suspected as relevant.</p> <p>May take the form of a checklist or rapid desk review.</p>	<p>Mainly national or sub-national if the focus is specific to a region.</p>	<p>Mainly Bank managers and high-level government policymakers.</p>	<p>Analytical inputs to initial and second generation SCD. May also focus on elements of a sector review or more specific policy notes to inform dialogues with client countries, including high-level policymakers.</p>

¹¹ World Bank. 2016. Forest Carbon Partnership Facility. Methodological Framework. 39 pp. <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>.

TABLE 1: APPLICATIONS OF THE FOREST TENURE ASSESSMENT TOOL

TYPE OF PROJECT	MAIN OBJECTIVE OF ASSESSMENT	SCOPE MODALITY (WHY/HOW)	WHERE	MAIN AUDIENCE (WHO)	PROJECT EXAMPLES
<p>2. Development Policy Financing (DPF) Loan, grant or credit of rapid financing for borrower to address actual or anticipated development financing requirements and promote policy reform.</p>	<p>Help teams identify focused policy reforms and institutional actions for highly leveraged impacts.</p>	<p>Strong focus on diagnostic aspects (“how”) and specific policy recommendations within the scope of the DPF.</p>	<p>Mainly national.</p>	<p>Bank managers, task teams and high-level government policymakers.</p>	<p>May be linked to public finance management; updating obsolete rules, guidelines or regulations; direct support to government institutions facing financial limitations.</p>
<p>3. Investment Project Financing and Program for Results Lending</p>					
<p>3.a Forestry and agriculture projects Investments where tenure security is a primary element of the project objective. Usually specific activities/components are included in the project design to address tenure security gaps.</p>	<p>Help teams frame the specific objectives and activities to improve tenure security and design specific interventions to address it.</p> <p>Particularly useful for CDD Projects.</p>	<p>Focus on the “how.”</p> <p>FTA to be conducted as a key activity of project design, beginning in early stages of project identification/preparation.</p>	<p>National/sub-national and/or project area.</p>	<p>Task teams and other practitioners (e.g., NRM, agriculture, CDD teams).</p>	<p>Forestry and agriculture projects in customary areas, influenced by recent tenure reforms, which need implementation and enforcement to achieve project objectives.</p>

TABLE 1: APPLICATIONS OF THE FOREST TENURE ASSESSMENT TOOL

TYPE OF PROJECT	MAIN OBJECTIVE OF ASSESSMENT	SCOPE MODALITY (WHY/HOW)	WHERE	MAIN AUDIENCE (WHO)	PROJECT EXAMPLES
<p>3.b Biodiversity conservation</p> <p>Investments where tenure security needs to be addressed in project design to ensure project outcomes.</p>	<p>Help teams identify tenure security elements that need to be in place to ensure specific project outcomes.</p>	<p>Focus on the “how.”</p> <p>FTA to be conducted as a key activity of project design, beginning in early stages of project identification/preparation.</p>	<p>Mainly project area focus.</p>	<p>Task teams and practitioners (e.g., biodiversity, NRM).</p>	<p>Biodiversity conservation and protected area projects that need to resolve boundary issues and invest in alternative livelihood opportunities of IPLC in neighboring customary areas.</p>
<p>3.c Land Administration and Forest Reform. Projects where investing in improving tenure security is the main primary focus.</p>	<p>Informs sectoral reforms and programs to transfer tenure rights and strengthen TS of IPLC.</p> <p>Help teams to identify gaps and investments priorities leading to improve FTS</p>	<p>Focuses on both the “why” and “how”. Assessment to be conducted as an important activity of project design beginning in early stages of project identification.</p> <p>The assessment could complement other ongoing diagnostic efforts (e.g. LGAF) or focus on previously identified gaps where attention is a priority.</p>	<p>National/Sub-national</p>	<p>TTs/practitioners TTs (e.g. Land, Forests, Agriculture)</p>	<p>Land administration projects addressing broader land sector objectives, where community-based forest tenure is an element of.</p> <p>Land or Forestry project focusing on tenure security in rural landscapes.</p> <p>Forestry Projects promoting devolution of tenure rights to IPLC.</p> <p>May include forest land registration/regularization titling as a main component of the project (e.g. DGM and FIP Programs in the Peruvian Amazon)</p>

TABLE 1: APPLICATIONS OF THE FOREST TENURE ASSESSMENT TOOL

TYPE OF PROJECT	MAIN OBJECTIVE OF ASSESSMENT	SCOPE MODALITY (WHY/HOW)	WHERE	MAIN AUDIENCE (WHO)	PROJECT EXAMPLES
3.d Infrastructure operations in the in the transport, energy and mining sectors	Informs project planning of FTS elements, especially related to safeguards, FPIC and the protection of community tenure rights in relation to other forms or tenure and land use.	Focuses on the “ <i>how</i> ” and the diagnostic strengths of the FTAT.	Project area focus; for rapid-assessment, desk review of national context may be more practical	Task teams and practitioners (e.g., linear infrastructure and mining).	Infrastructure projects involving land acquisition or restrictions to resources access and use rights of IPLC in customary areas.
4. Environmental and Social Risk Assessment. Investment projects where tenure security may be at risk due to specific project activities	Help teams identify potential social and environmental risks of TS and how to manage them in investment project financing scenarios	The focus is on the how Assessment is best conducted as part of project preparation activities and due diligence actions under the ESF. Provides support to ESS1, ESS5, and ESS7.	National with emphasis on high risk project areas	Task Teams (TTs), particularly environmental and social specialist supporting rural infrastructure and large agriculture projects	Large infrastructure and agriculture investment projects that overlap with customary lands with weak or no statutory recognition
5. Carbon Finance/REDD+. Investment projects where one or more elements of tenure security are a key pre-condition to achieve project objectives	Help teams identify what tenure issues need project attention to avoid conflicts towards project outcomes and to maximize positive impacts	Focus on both the “ <i>why</i> ” and “ <i>how</i> ” Assessment to be conducted as key element of project design, particularly when ownership of carbon and benefit sharing arrangements are unclear.	National and with project area focus	TTs/practitioners (e.g. carbon finance, forestry and NRM specialists)	Carbon Finance Projects addressing issues such as carbon ownership and benefit sharing arrangements (e.g. Carbon fiancé projects in DRC, Mexico, Costa Rica)

MODALITIES OF IMPLEMENTATION

Piloted FTAT methodologies included significant stakeholder input and a deep review of a range of available resources. As such, they represent fairly involved approaches to the tenure assessment. The robust and comprehensive underlying AF allowed for flexibility of the assessment process to be simplified to meet different objectives. The broad focus on forested landscapes contributed to understanding a constellation of resources and issues covering land, agriculture, climate change and management of natural resources, landscape restoration, ecosystem services and biodiversity conservation. Based on these experiences, three modalities of implementation of the FTAT methodologies are suggested below (See also Figure 2 below to compare investment and timeframes for each approach).

- i. **Rapid Assessment.** The FTAT can be applied during the project preparation phase, when a task teams need a systematic overview of forest tenure security in a particular context. Additionally, this assessment can be an input to social and environmental analyses leading to risk management solutions as part of the ESF due diligence process. In this modality, stakeholder participation and feedback would be limited to key expert informants. The team and/or expert consultants would use the AF and FTAT methodologies to guide a rapid desk-based assessment focusing on specific project needs.
- ii. **Project-Level Assessment.** Similar in resourcing and time to the three FTAT pilot interventions, the level of effort and commitment of this option should lead to inform and assess national or sub-national level initiatives. This option can generate a standalone product useful to inform policy dialogues with client governments. It can also be used to produce specific knowledge products to inform project scoping and preparation. The stakeholder engagement efforts of this option can also serve as a platform to socialize and consult with other aspects of the project's design.
- iii. **Programmatic-Level Assessment.** A more in-depth assessment can be conducted for larger projects that need to focus on priority areas of interest or where a separate assessment of multiple sub-national areas (i.e., provinces or districts) is required. If embedded in a long-term program, the FTAT process, including stakeholder workshops and feedback, could strengthen social capital and institutional capacity relevant to program outcomes. A larger program could also incorporate an FTA to support policy dialogues seeking consensus on new legislation or policies.

FIGURE 2: RELATIVE INVESTMENTS IN ASSESSMENT APPROACHES (THOUSANDS OF DOLLARS)





CONCLUSIONS

Achieving the 2030 Agenda for Sustainable Development will require increased attention to the rights of forest peoples around the world who govern their lands and resources through customary, collective tenure. Increasing the security of community-based tenure offers significant opportunities as it establishes a critical enabling condition for the achievement of goals on poverty reduction, food security, gender equality, human rights, forest sustainability, biodiversity conservation, and climate change. Tenure security also plays a significant role in guarding against risks and negative impacts that undermine the achievement of these goals.

The FTAT is distilled from a robust analytical framework. It is built from evidence of recent research about the relevance of tenure security to the achievement of SDG, as well as a set of best practice elements for realizing the security of community-based tenure rights in practice. As originally intended, the framework was the basis to develop the tool to assess opportunities, risks and needs at the country

level, and to inform initiatives for strengthening tenure security. The pilot application of the tool in the DRC, Myanmar and Zambia provided valuable findings and lessons. These experiences have led to a solid and improved instrument for the World Bank and its client governments, as well as for IPLC organizations, wider civil society and supportive development partners, to secure natural resources, rights and sustainable livelihoods across forest landscapes worldwide.

The country pilot experiences demonstrated success in achieving their objectives and confirmed the high adaptability, practicality and effectiveness of the tool. As presented in this publication, the instrument is sufficiently robust and readily available to assist in a wide variety of forest landscape initiatives. Future applications will yield new valuable insights and lessons. As the tool is rolled out to other countries in the coming years, the Bank will continue to systematize these experiences to update and upgrade its methodologies, outcomes and promote its political relevance.

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SECURING FOREST TENURE RIGHTS FOR RURAL DEVELOPMENT

FOREST TENURE ASSESSMENT TOOL



GUIDANCE FOR OPPORTUNITIES AND RISKS ANALYSIS

BUILDING THE CASE FOR SECURE FOREST TENURE

INTRODUCTION

This component of the tool is intended to help build the case for forest tenure reforms by identifying:

- points of entry and windows of opportunity
- the interest groups involved in reform
- justifications and benefits (and the cost of inaction).

Through an initial analysis of political economy of forest tenure reform and description of the most relevant projects or policy processes, it is possible to highlight where the results of the assessment could be utilized. By using evidence about the links between secure, community-based forest tenure to development goals, this part of the tool can strengthen the identification of entry points and windows of opportunity.

Each country context will determine the nature of engaging in forest tenure reforms. However, it is recommended to make explanatory linkages of the benefits and risks of securing community forest tenure with the framing of the SDG in order to deepen long-term commitments and find common cause with related policies and programs. Following the AF, this component of the tool identifies the critical opportunities for achieving benefits through increased security of forest tenure, as well as risks to the achievement of development goals where tenure is insecure.

It should make the strongest case for understanding the results that can be expected from strengthening forest tenure or continuing with the status quo. The analysis first should set out the context of forest tenure reform in the country (who is involved, in which areas, under what legal and social conditions), then identify points of entry and windows of opportunity for reform.

A political economy analysis will augment the case. It should support these analyses with relevant justifications for benefits in the context of development goals (including reducing poverty and hunger, fostering inclusive and sustainable economic growth, improving gender equality, contributing to climate change mitigation and forest sustainability, and contributing to improving women's rights and human rights).

The opportunities and risks analysis suggests a set of guiding questions to structure the assessment. The full set of guiding questions is presented in **Appendix 1**. These questions are intended to provide consistency and a basis for comparing findings across countries, while also remaining adaptable to the context and availability of data in each country.

Data sources for building up the justification for forest tenure reform and the costs and benefits of different scenarios may include:

- national statistical data, including household surveys covering forest areas
- sectoral assessments
- Bank/IMF country diagnostics
- project-level socioeconomic assessments and impact evaluations
- FCPF/REDD+ assessments
- FAO statistics
- Land Governance Assessment Framework documentation
- PRIndex
- analytical work published by NGOs
- media reports.

It may be possible to leverage emerging geospatially linked data sources such as the Hidden Dimensions

of Poverty database in the World Bank, the LandMark mapping of community land rights and the Radiant Earth clearinghouse of spatial imagery for development analysis.

Analysis of issues around inclusive and sustainable economic growth may also draw on feasibility studies and investment planning documentation for specific sub-sectors and projects, documentation about pilot projects and consultation with sector specialists in forest products, agroforestry, mining, ecotourism and other specialized areas of economic opportunity. Women's tenure rights data may draw further on ethnographic and qualitative studies and reports about women's status in forest tenure and on emerging data from the Research Consortium on Women's Land Rights operated by Resource Equity in some countries. Assessment of forest climate and conservation issues may extrapolate from existing studies of FCPF and REDD+ planning, including related tenure/governance assessments.

Making the Case for the Role of Secure Forest Tenure in National Development Strategies

The final step of the analysis is to synthesize the opportunities and risks in all these areas within a realistic assessment of political realities and potential for building constituencies for forest tenure reform. This synthesis will identify where tensions, trade-offs and synergies exist; and it will find openings to take advantage of opportunities and limit risks within the national policy process.

GUIDING QUESTIONS FOR OPPORTUNITIES AND RISKS ASSESSMENT

This appendix presents a set of guiding questions for conducting assessments of **opportunities** to achieve development goals by strengthening forest tenure security as well as **risks** to the achievement of development outcomes where tenure is insecure. These questions develop in further detail the set of topics presented above in Section 2 and summarized in **Box 1**.

This is a qualitative assessment, supported by quantitative and statistical evidence, and will be unique to each country and sub-national context. The main aim is to identify the channels and institutional processes in which forest tenure reform can be discussed and enacted by assembling evidence, and make the case for reform clear and relevant for a variety of actors in national development strategies.

To do this, the assessment may choose to incorporate a variety of thematic approaches and evidence, such as the linkages of forest tenure reform with poverty and food security, economic growth, gender equity and climate change adaptation and mitigation and sustainable environmental management. This appendix provides guiding questions useful for orienting the qualitative assessment and evidence-gathering on specific forest tenure reforms to areas of national development strategies.

These questions are intended to guide and structure the opportunities and risks analysis. This appendix can be used as a template for documenting the assessment findings.

1. GUIDING QUESTIONS FOR ASSESSING OPPORTUNITIES AND RISKS: IDENTIFYING ENTRY POINTS AND ACTORS AND MAKING THE CASE FOR SECURE FOREST TENURE:

- What are the ongoing processes through which forest tenure reform is being discussed at a national policy level and at sub-national levels?
- What are the most relevant points of entry for achieving action in forest tenure reform?
- Are there specific windows of opportunity (projects, programs, legislative engagements, policy fora) to achieve action in forest tenure reform?
- Who are the interested parties in forest tenure reform (government agencies, communities, civil society organizations, private sector actors, international organizations and others)? What are their interests? Who supports forest tenure reform and who opposes it, and on what grounds?
- How can the forest tenure reform agenda be clarified? how can agendas for action be established within the entry points and windows of opportunity identified?
- What are the linkages of forest tenure reform with broader national development strategies and commitments, for example under the SDG?
- Can these linkages be exploited to leverage attention, resources and commitments for forest tenure reform? If so, how? How can the forest tenure reform agenda be included into the indicators, monitoring and reporting by countries for national development and the SDG?



Photo by Gerardo Segura Warnholtz / World Bank

The following thematic area questions are intended to provide guides to potential linkages between the opportunities and risks of forest tenure reform with different types of development goals and their relationship to SDGs. In each national and sub-national context, each of these thematic areas may have relatively greater or lesser relevance for the interested parties in the forest tenure reform debate. The assessment should be flexible and selective to decide in which, if any, of these thematic areas to deploy evidence for benefits or costs from forest tenure reform (depending on the framing of the discussion in the given context and points of entry, the availability of data and evidence and the potential for leveraging commitments and resources through the linkage with the thematic area).

a. Thematic Area: Poverty and hunger (SDG Goals 1 and 2)

Guiding Questions: Opportunities and risks in linkages between poverty reduction and forest tenure reform:

- Which groups are most heavily dependent on forest-based natural resources for their livelihoods and food security? What is their tenure status? What is their status in terms of poverty and food security?
- How are current tenure arrangements enabling or impeding access to critical livelihood resources? Are common property resources a key asset for local livelihoods?

- What are the best sustainable development opportunities in these forest areas for reducing poverty and hunger? How can improved recognition of community-based forest tenure support these opportunities? If possible, can the magnitude of these opportunities be estimated?
- Are insecure tenure rights contributing to the physical and/or economic displacement of local people? What are some of the drivers? Infrastructure development; concessions for agribusiness; timber; extractive industries such as mining, oil and gas; and/or the establishment of state-protected areas for conservation?
- Given the above, are insecure rights creating risks of land loss to communities that directly impact livelihoods? If so, where and how, and by whom?
- Is there scope for incorporating forest tenure policy steps into national development strategies related to poverty and food security (for example through linkages to national commitments under SDG Goals 1 and 2 leading, to no poverty and zero hunger)?

b. Thematic Area: Promoting sustained, inclusive and sustainable economic growth (SDG Goal 8)

Guiding Questions: Opportunities and risks in linkages between forest tenure and economic growth and employment:

- What are the main economic activities of community and small-scale producers in forest areas? What are estimates of the economic output of these activities? How many people are employed in these activities?
- Do existing tenure arrangements create enabling conditions for communities to pursue inclusive and sustainable economic activities to their full potential? If not, how could tenure arrangements support expanded economic activity? How do tenure arrangements establish the rights of access to and benefits from production of agricultural commodities, timber harvesting, non-timber forest products, minerals, water and payments for environmental services?
- Are there opportunities in forest tenure reform to create a foundation for equitable partnerships for economic activities between communities and governments or the private sector? What

are those opportunities and what kinds of partnerships might be developed?

- Do existing tenure arrangements create a risk of conflict in the implementation of new economic activities, particularly between communities and investors, or communities and governments?
- Are existing tenure arrangements incentivizing the type of economic activities that are sustainable in the long term from social and economic points of view? Are there data available to estimate the economic value of alternative scenarios of development in forest areas under different tenure and land use policies?
- How can forest tenure policy steps be incorporated into national development strategy for economic growth, (for example through linkages with SDG Goal 8 for decent work and economic growth)?

c. Thematic Area: Achieving gender equality (SDG Goal 5)

Guiding questions: Opportunities and risks in the linkage between secure forest tenure and women's equality:

- Do women benefit equally from rights to forest land and resources; are women's rights and roles in forest tenure governance equal to men's?
- What are the impacts of existing/proposed forest tenure arrangements on women's livelihoods, family well-being and productive activities, and their social and political status?
- How do existing tenure arrangements, including community-based tenure, contribute to and/or impede aspects of women's equality, particularly in relation to decision-making structures, i.e., women's inclusion in, and rights to participate in, decision-making processes and benefit equally as men from these processes?
- Is there evidence available (quantitatively or qualitatively) of women's tenure security contributing to wider development benefits, such as family health and well-being, food security and/or increased investment in the productivity and sustainability of natural resources?
- How can forest tenure policy steps be incorporated into national development strategy gender equality (for example through linkages

to national commitments under SDG Goal 5 on gender equality)?

d. Thematic Area: Combating climate change and sustaining forests (SDG Goals 13 and 15)

Guiding questions: Opportunities and risks in linkages between secure tenure by indigenous peoples and local communities (IPLC) and the sustainable management of forests and forest carbon:

- What are the estimated areas of forest and amounts of forest carbon stored and managed (formal or informal) by forest communities under community-based tenure?
- Do these community lands include areas of high biodiversity and/or areas with potential for forest restoration?
- What is the current experience/evidence with forest and climate outcomes where tenure is secure (or not secure)?
- Are there current or planned payments for environmental services or REDD+ payments related to the forest areas, and to what extent do current tenure arrangements enable (or potentially impede) the ability of communities to influence, participate in and benefit from such initiatives?
- Are there areas in the country, either currently or planned, designated for habitat or species protection, which contain human populations using the area under community-based tenure arrangements?
- Do existing forest tenure arrangements contribute to negative outcomes in terms of deforestation and conservation that could be ameliorated by tenure reforms?
- Is there data available to provide estimates be made of the magnitude and costs of those potential negative outcomes?
- How can forest tenure policy steps be incorporated into the national development strategies for environmental management and climate change adaptation and mitigation (for example through

linkages to national commitments under SDG Goals 13 and 15 on climate action and life on land)?

e. Thematic Area: Strong institutions and partnership for growth (SDG 16 and 17)

- Are there opportunities in forest tenure reform to create a foundation for equitable partnerships for economic activities between communities and governments or the private sector? What are those opportunities and what kinds of partnerships might be developed?
- Do existing tenure arrangements create a risk of conflict in the implementation of new economic activities, particularly between communities and investors, or communities and governments?
- How can forest tenure policy steps be incorporated into the national development strategies for ensuring strong and just institutions and robust partnerships (for example through linkages to national commitments under SDG 16 and 17 on effective, accountable and inclusive institutions and partnership for growth)?

2. GUIDING QUESTIONS FOR INITIAL EXPLORATION OF POLITICAL ECONOMY ISSUES LINKED TO FOREST TENURE REFORMS

- What opportunities and risks are present within these processes to build constituencies and political support for forest tenure reform?
- Who are the supporters and opponents of a forest tenure reform agenda, and why?
- Where do tensions or trade-offs exist for the forest tenure reform agenda among these supporters and opponents?
- Where do potential policy openings exist to take advantage of opportunities and limit risks within these national policy processes? How can those policy openings be engaged in short and medium term?



KEY ELEMENTS INDICATORS

The following draft indicators (sequentially numbered in red) are organized in relation to each key element and dimension in the AF. Each draft indicator includes:

- a label/title and indicator question
- background notes on how to interpret and use the indicator. Many of these contain explanatory information from the AF (in boxes).
- sources of information (in some cases) where there is information/data related to that indicator from international studies and databases, beyond national laws and other in-country sources of information
- 1-4 point scoring scale. Generally the scales follow the following sliding sequence:
 - 4 = Indicator is largely fully met
 - 3 = Significant process toward the indicator, though with substantial gaps and areas for improvement
 - 2 = Some progress toward the indicator
 - 1 = Very limited to no progress toward the indicator.

Information on related indicators from four related indicator frameworks (LGAF, PROFOR/FAO Forest Governance Assessment Framework, WRI Forest Governance Assessment Framework and LandMark) are noted in parentheses.

The following considerations informed the development of indicators for this tool:

- Keeping the indicators to a manageable number while also ensuring that the indicators are specific enough to be assessed. Large numbers of indicators increase the length and complexity (and accordingly the cost) of assessments, especially since generic indicators are often further elaborated in particular assessment contexts. At the same time, specific indicators are generally more useful for purposes of assessment and scoring. This initial list draws on the experience of other frameworks to formulate indicators that are specific enough to be assessed, while also erring on the side of fewer indicators (anticipating that the indicators are more likely to increase than decrease in number as they are further developed). This version includes **42 indicators**.¹²
- Achieving a balance between fully addressing each AF dimension and making use of available information. Tailoring indicators to available information, especially quantitative data, can increase the objectivity and comparability of an assessment. However, available information/data often does not fully address the attributes that are most relevant to the assessment. As noted by Kishor and Rosenbaum (2013), "In these cases, it is often better to measure the subcomponent more directly, by using a well-designed and calibrated opinion-based measure, such as a score on a 4-point scale. An indicator based on subjective, qualitative information, which addresses a subcomponent directly is better than a quantitative indicator which addresses it poorly."
- Including a mix of different types of indicators. A common distinction is made among indicators of inputs (e.g., resources, capacity-building activities), outputs (the immediate products or results of those interventions, e.g., increased capacity), and outcomes (the longer-term results or changes achieved). While outcomes are most significant, they are also more difficult to measure, and are usually assessed using perceptions or expert opinions (Deininger et al. 2012).

¹² As points of comparison, the LGAF includes 80 "dimensions" (comparable to the indicators in this framework as the dimensions are the most specific unit and are what is scored); the PROFOR/FAO Forest Governance framework includes 130 indicators, and the WRI Forest Governance assessment framework includes 122 indicators.

The following box – reproducing definitions included in the AF – is intended to clarify understanding of terms used in the indicators.

BOX 1: DEFINITIONS

Tenure: Tenure is a broad term for the social relationships and institutions that determine “who is allowed to use which resources, in what way, for how long and under what conditions, as well as who is entitled to transfer rights to others and how” (Larson and Springer 2016; Larson 2012).

Bundle of rights: Tenure is often described as a bundle of rights which, in particular circumstances, may include rights to *access, use, manage, exclude others from, and/or alienate land and resources* (Schlager and Ostrom 1992). While the terms tenure and ownership are sometimes used interchangeably, ownership is only one form of tenure characterized by a combination of all or most of the rights in the bundle (Gilmour and Fisher 2011; Meinzen-Dick et al. 2017).

Communities and indigenous peoples – the following definitions are adapted from LandMark (LandMarkmap.org/data/definitions):

Communities are “groupings of individuals and families that share common interests in a definable local land area within which they normally reside. Communities vary in size, identity, internal equity, and land use systems, and may distribute rights to land in different ways. However, communities are similar in these ways: 1) They have strong connections to particular areas or territories and consider these domains to be customarily under their ownership and/or control... 2) They themselves determine and apply the rules and mechanisms through which rights to land are distributed and governed... 3) Collective tenure and decision making characterize the system.”

Indigenous peoples “are the sector of the world’s communities who identify themselves as indigenous peoples. They adopt this definition on various grounds, such as having stronger relations to their land than other nationals, longer origins in the locality or distinctive cultures and ways of life that run special risks of being denied or lost in modern conditions. “Indigenous peoples’ rights may be subject to special national legislation and their rights to collective land and natural resources are also recognized in international instruments including International Labour Organization Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

Community-based tenure: Community-based tenure systems refer to those in which the overall land area of indigenous peoples or communities is held collectively, often with rights derived from custom and with governance through customary institutions. Lands and resources within such community tenure systems may be managed as common property (see below) and/or allocated to individual households, and most community lands include a combination of both common property and individually held land (RRI 2015; Fitzpatrick 2005). The terms **collective tenure, indigenous and community tenure** and **communal tenure** (Alden Wily 2011) are also used to refer to community-based tenure systems.

Common property. Common property – or the **commons** - is land or property held under collective tenure to which all members of the community have a guaranteed right of use (Giovarelli et al. 2016; FAO 2016). It differs from land within community-based tenure systems that is allocated to individual households.

Formal and informal tenure: As detailed in Gilmour and Fisher (2011), “Formal tenure is recognized by statutory law, by precedent (in English law) or by regulation. Informal tenure refers to locally recognized rights without formal state recognition.”

Customary tenure: In customary tenure systems, rights to lands and resources are derived from customary laws and institutions (Freudenberger 2013). Customary tenure may or may not be recognized in formal law.

Forest landscape: A landscape is an area of land containing a mosaic of interacting ecosystems and human land uses (Sayer, J. et al. 2013). A forest landscape is a landscape that is primarily composed of forests though may include other land types and land uses that extend beyond forests as officially defined.



Photo by Gerardo Segura Warnholtz / World Bank

Community-based forest tenure: Community-based forest tenure is used here as a broad, inclusive term for community-based tenure rights that exist in forest landscapes. These rights may be held by indigenous peoples or local communities (IPLC). Depending on the context, this tenure may be formal or informal. The specific bundle of tenure rights may vary, as may the specific resources over which rights are held (e.g., land vs. trees vs. water – see “bundle of resources,” below).

Bundle of resources is used here to refer to the specific resources to which communities have rights. For example, a bundle may include land, trees (non-timber and timber resources), water and/or wildlife.

Formal recognition of community tenure rights may involve a differentiation among these resources, for example with land laws recognizing rights to land (without necessarily recognizing rights to trees on the land) and forest laws recognizing rights to trees (without necessarily underlying lands rights).

Tenure security. This analysis adopts an inclusive definition of tenure security that highlights the practical realization of tenure rights. Following Meinzen-Dick and Mwangi (2009), tenure security is, “the ability of an individual to appropriate resources on a continuous basis, free from imposition, dispute or approbation from outside sources, as well as the ability to claim returns from investment in the resource.” While many discussions of tenure and tenure security focus on the status of legal recognition, a fundamental premise of this work is that a more comprehensive set of factors – encompassing legal recognition, relevant capacities, implementation, and enforcement - need to be in place to secure tenure.

Recognition (of land and resource rights): Use of the term recognition calls attention to the existence of customary land and resource rights prior to the enactment of statutory laws. Where customary rights already exist, statutory laws do not establish or grant those rights, but rather recognize them.

Devolution is a more general term that is used here to refer to the transfer of tenure rights from state to community-level institutions.

Continuum of rights: The concept of a continuum of rights calls attention to the diversity of tenure rights that exist in practice and must be accommodated in land management systems and constituted as legally enforceable claims (Du Plessis et al. 2016).

Secondary rights refer to rights to seasonal uses (e.g., for herding) or specific resources (such as collection of firewood, medicinal plants, wild foods and building materials) that are agreed with primary rights-holders, or those with more permanent and/or holistic rights to land and resources (Byamugisha 2013).



CONIF	
FOMENTO RURAL	
QUORUM	
SI	
NO	
ABSTENCION	
BLANCO	
TOTAL	

LEGAL FRAMEWORKS FOR COMMUNITY-BASED FOREST TENURE RIGHTS



1

RECOGNITION OF ALL LEGITIMATE TENURE RIGHTS AND RIGHTS-HOLDERS

1.1 1 **COMMUNITY TENURE REGIMES:** ARE LEGAL FRAMEWORKS IN PLACE TO RECOGNIZE COMMUNITY-BASED TENURE RIGHTS, INCLUDING CUSTOMARY RIGHTS?

(Related indicators: PROFOR 15; LGAF 1.2, 1.3; WRI 1; LandMark 1)

From AF: Legal frameworks for recognition of community-based forest tenure are a fundamental basis for tenure security. While historically customary tenure systems have often served to secure local rights without formal, legal recognition, growing pressures on forest land – such as for commercial investments - have increased the risks that tenure rights lacking legal backing will be challenged or eroded [(FAO 2016, Gilmour and Fisher 2011, Byamugisha 2013).

Sources of information: National laws. Rights and Resources Initiative forest tenure data include information on legal frameworks for community-based tenure in approximately 52 countries (RRI 2014).

Scoring scale:

DESCRIPTION OF SCORE	SCORE
Legal frameworks are in place to recognize the collective tenure rights of all IP/LC that hold lands/resources under customary, collective tenure	4
Legal frameworks are in place to recognize the collective tenure rights of some but not all IP/LC that hold forest lands/resources under customary/collective tenure	3
No current laws but laws are in the process of being developed	2
No provision for any Indigenous Peoples/communities to secure their customary forest lands as community property without conversion of those rights into non-community based forms of ownership	1

1.2 2 **AUTONOMY:** DO LEGAL FRAMEWORKS FOR IPLC TENURE GIVE COMMUNITIES AUTONOMY IN THE CONTROL AND MANAGEMENT OF THEIR LAND AND FOREST RESOURCES?

(Related indicators: LandMark 4 & 5)

Definitions of communities and indigenous peoples are given in Box 1. Based on these definitions, the universe of IPLC in the assessment needs to be spelled out in each national context.

One characteristic that determines the security of collective land rights is the degree to which IPLC have autonomy and authority to govern lands and resources in accordance with their own institutions and decision-making processes. Best practices include (Wily et al. 2016):

- “legal personality” - recognition of IPLC as legal persons for purposes of landholding without requirements to create and register new legal institutions, and

- “legal authority” - recognition of the authority of IPLC to govern their lands in accordance with their customary norms.

Sources of information: National laws. The LandMark platform national data layer includes legal personality and legal authority among its indicators for legal frameworks. Studies for some countries posted on the platform may include information on these topics.

Scoring scale:

DESCRIPTION OF SCORE LANGUAGE ADAPTED FROM LANDMARK LEGAL INDICATORS (COMBINES 4 & 5)	SCORE
The law recognizes the right of IPLC to govern their interests in accordance with their customary norms provided these are in accordance with human rights and good governance provisions stipulated for all citizens (LandMark)	4
The law recognizes IPLC as legal persons for purposes of landholding (LandMark) – but places some limits on the extent of their legal authority	3
The law recognizes IPLC as legal persons for purposes of landholding [so that they are not obliged to form and register legal entities in order to have legal standing or to secure formal entitlement] (LandMark) – but significantly limits their legal authority	2
The law does not recognize IPLC as legal persons for purposes of landholding, but requires that they form new legal entities to secure tenure rights	1

1.3 3 PROTECTION FOR WOMEN’S RIGHTS: ARE LEGAL PROTECTIONS IN PLACE TO SECURE WOMEN’S RIGHTS TO ACCESS COMMON PROPERTY RESOURCES AND PARTICIPATE EFFECTIVELY IN DECISION-MAKING PROCESSES WITHIN COMMUNITY-BASED TENURE SYSTEMS, INCLUDING TO ACCESS COMMON PROPERTY RESOURCES AND PARTICIPATE EFFECTIVELY IN DECISION-MAKING PROCESSES?

(Related indicators: LGAF 2.7)

From AF: While customary tenure systems often enable women to secure rights and access to natural resources, including common property resources, such systems may also have strong biases against women’s land holding and participation in decision making regarding land and resource management (Landesa 2012; Giovarelli et al. 2013).

The RRI Power and Potential Analysis identifies eight indicators for use in assessing the strength of women’s tenure rights in community-based forest tenure systems (see Box 1) referred to in the assessment. It is important to reflect on the actual implementation of these legal protection for women and their participation in the decision making on the ground for the purposes of identifying potential policy interventions. With regards to women’s influence, it is also important to question whether the existing socio-political system allows women to form a women’s group; and whether the decision-making bodies at community level encourage women to voice their concerns and respect their opinions.

Sources of information: RRI legal analyses of the eight indicators have been completed for 30 countries (RRI 2017).



BOX 2: POWER AND POTENTIAL: RRI INDICATORS FOR ASSESSING WOMEN'S RIGHTS TO COMMUNITY FORESTS

The Rights and Resources Initiative has identified a set of eight indicators for use in assessing the legal status of women's rights to community forests. Three "overarching" indicators apply to all women in a country and an additional five focus on rights of women within community-based tenure regimes.

The three overarching indicators are:

- Constitutional equal protection
- Legal affirmation of women's property rights
- Inheritance rights in overarching laws

Indicators specific to community-based tenure regimes include:

- Membership – explicit definition of women as members of the community
- Inheritance rights specified in community-based tenure regimes
- Voting – guaranteeing that women have rights to vote in community decision-making bodies
- Leadership – requirements for women's participation in executive bodies
- Dispute resolution provisions specific to women

Scoring scale:

DESCRIPTION OF SCORE	SCORE
Laws include all applicable provisions (overarching and CBTR-specific) on women's rights to community forest lands	4
Laws include 5-7 of the applicable provisions (overarching and/or CBTR-specific) on women's rights to community forest lands	3
Laws include 1-4 of the applicable provisions (overarching and/or CBTR-specific) on women's rights to community forest lands	2
Laws do not include specific provisions on women's rights to community forest lands	1

1.4

4

PROTECTION OF SECONDARY AND MINORITY RIGHTS: DO LEGAL FRAMEWORKS FOR COMMUNITY-BASED TENURE INCLUDE PROVISIONS FOR PROTECTING SEASONAL/ SECONDARY AND MINORITY RIGHTS? (RELATED INDICATORS LGAF 3.3)

In cases in which forest tenure is managed by national authorities and in cases in which authority for governance of forest tenure is devolved to community institutions, these institutions take on responsibility for ensuring that the full range of tenure rights to those forest lands are respected and protected. This range of tenure rights may include rights of individuals within the community, secondary or seasonal resource rights of community members and/or secondary or seasonal resource rights of people outside the community, such as nomadic pastoralists. While the wide diversity of local situations means that it is not possible to be prescriptive regarding the specific tenure rights requiring protection, legal frameworks may include broad provisions regarding the types of institutions and procedures that can promote accountability and inclusivity, so as to avoid risks that customary laws may discriminate against some rights-holders, or provide insufficient checks on the authority of leaders. (Note: The principle and practices this indicator addresses are similar to those for women's rights above, but women's rights are highlighted separately due to the prominence of women's rights issues in collective tenure systems and the fact that a specific set of elements has been developed to for assessing them.

DESCRIPTION OF SCORE	SCORE
Legal frameworks include adequate provisions to enable all legitimate rights-holders to have a voice in community decision making regarding tenure rules/regulations	4
Legal frameworks include substantial but still insufficient provisions to enable all legitimate rights-holders to have a voice in community decision making regarding tenure rules/regulations	3
Legal frameworks include limited provisions to enable all legitimate rights-holders to have a voice in community decision making regarding tenure rules/regulations	2
Legal frameworks do not include provisions to enable all legitimate (e.g., secondary, minority and individual) rights-holders to have a voice in community decision making regarding tenure rules/regulations	1

RECOGNITION OF A ROBUST BUNDLE OF RIGHTS

1.5 5 BUNDLE OF RIGHTS: DOES THE “BUNDLE OF RIGHTS” INCLUDED IN LEGAL FRAMEWORKS PROVIDE A BASIS FOR TENURE SECURITY?

(Related indicators: WRI 2; LandMark 2)

The “bundle of rights and responsibilities” refers to the specific rights as well as the associated responsibilities and liabilities established within a tenure regime. Tenure security rights in the bundle (based on RRI 2012) and their definitions are:

- Access: the right to enter or pass through a forest
- Withdrawal or use: the right to use and benefit from a forest’s resources (these may be further differentiated based on whether the use is direct or for commercial purposes)
- Management: the right to make decisions about the management of a forest area and use of forest resources
- Exclusion: the right to regulate and refuse access to and use of the forest by others
- Alienation: the right to transfer the forest to another by sale, lease or other means¹³
- Duration: the length of time a community may exercise its rights – either limited or in perpetuity
- Extinguishability: the right to due process and compensation in the face of government efforts to extinguish rights.

The strength of the bundle of rights is an important determinant of the security of rights. Following RRI (2012, 2014, 2017), rights of access, use and management are considered here as first-level rights that enable IPLC to manage and control their lands and resources, while the additional rights of exclusion for an unlimited duration and with protections against actions to extinguish rights together enable communities to ensure the security of their rights to forests.

Sources of information: RRI’s forest tenure data includes analysis of the bundle of rights contained in the legal frameworks for community-based forest tenure in 52 countries (RRI 2014, Annex 3).

¹³ The assessment evaluation indicator excludes alienation because a preponderance of community-managed land is considered a priori inalienable based on community and statutory norms.



Scoring scale

DESCRIPTION OF SCORE	SCORE
Laws recognize the full bundle of rights including rights to access, withdraw, manage and exclude, for an unlimited duration and with requirements for due process and compensation in cases of extinguishment of any rights by the state (corresponds to RRI category 3: "ownership")	4
Laws recognize rights of IPLC to access, use and manage lands/resources and at least one but not all among rights of exclusion, unlimited duration and due process/compensation (corresponds to RRI category 2: "designated for use")	3
Laws recognize rights of IPLC to access, use and/or manage lands and resources but not higher-level rights of exclusion, unlimited duration and due process/compensation (corresponds to RRI category 2: "designated for use")	2
Laws for IPLC forest tenure recognize only basic community access or withdrawal rights that can be extinguished with relative ease by the state (corresponds to RRI category 1: "administered by governments")	1

RECOGNITION OF A HOLISTIC "BUNDLE OF RESOURCES"

1.6 6 **NATURAL RESOURCES ON FOREST LANDS:** ARE RIGHTS TO OTHER NATURAL RESOURCES IN THE COMMUNITY'S LAND AREA (E.G., WATER, WILDLIFE, CARBON, MINERALS) SPECIFICALLY DEFINED BY LAWS?

(Related indicators: PROFOR 14)

Legal frameworks differ in their treatment of natural resources and ecosystem services within or tied to IPLC forest lands, such as water, wildlife, carbon, hydrocarbons and minerals. Frequently a distinction is made between land rights and rights to trees, and these may be dealt with separately in land laws and forest laws, respectively. Devolving these resource rights to IPLC provides a stronger basis for local livelihood benefits and reduces the risk of conflicts arising from overlapping rights and uses. Where states retain certain resources, as is frequently the case with sub-soil resources, best practice calls for clarity in the assignment of these rights as well as safeguards on resource use to avoid negative impacts on wider tenure rights to collective forest lands. [Note: the issue of legal clarity/safeguards connects with element 8 below.]

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Legal frameworks recognize rights to both land and trees/vegetation, and devolve rights to IPLC and/or define safeguards for other resources tied to the land (e.g., carbon, wildlife, water, minerals)	4
Legal frameworks recognize rights to both land and trees/vegetation, and devolve rights to IPLC and/or define safeguards for at least some other resources tied to the land (e.g., carbon, wildlife, water, minerals)	3
Legal frameworks recognize rights to both land and trees/vegetation on the land, but does not clarify rights to other resources tied to the land (e.g., carbon, wildlife, water, minerals)	2
Legal frameworks only recognize tenure rights over single resources, particularly to trees, without rights to land, or vice versa	1



IMPLEMENTATION OF LEGAL RECOGNITION OF COMMUNITY FOREST LANDS



2

ACCESSIBLE AND EFFICIENT PROCEDURES FOR LEGAL RECOGNITION

2.1 7

CLEAR, ACCESSIBLE PROCEDURES: DOES THE LEGAL FRAMEWORK ESTABLISH CLEAR AND ACCESSIBLE PROCEDURES FOR THE FORMALIZATION OF COMMUNITY-BASED TENURE RIGHTS?

(Related indicators: WRI 5; LandMark 3)

From AF: Beyond the enactment of laws, tenure security requires that they be implemented through the recognition and transfer of legal rights over specific areas of forest land to specific IPLC. One constraint to the active implementation of legal frameworks for community-based tenure is procedures for legal recognition that are complex and/or inaccessible to communities. In some countries, such as in Papua New Guinea and Mozambique, the law avoids this challenge by automatically recognizing customary tenure rights without requirements for titling or registration (with the option for communities to register their land if they so choose) (Almeida 2017). In other countries, where the law requires procedures such as mapping, provision of evidence of customary use and/or institutional developments as a basis for demarcation and titling, it is important that these procedures remain simple and accessible – both in terms of costs and technical requirements (Almeida 2017; Blomley 2013; Fitzpatrick 2005). Even where not required, registration of community land has become increasingly important to avoid allocation of overlapping rights and guard against infringements.

The following box – with material from LandMark Legal Indicator 3 – highlights several criteria for assessing procedures for the formalization of land rights:

From LandMark (Wiley et al. 2016): “Best legal practice does not require IPLC to formalize their collective properties but does provide an easy route for their rights to be formalized in an official registry if they wish. As example, these elements need to be considered in scoring this indicator:

- **_Provision of procedure:** Does the law provide a clear procedure for IPLC to follow, or is this left up to themselves to find a way to register their collective rights?
- **_Voluntary or compulsory?:** Is the procedure obligatory in order for IPLC to be recognized as owners of their lands? Compulsory is usually accompanied by a time limit and failure to register those rights can further jeopardize tenure security.
- **_Accessibility:** Is the procedure accessible to even the remotest IPLC? This may be assessed by whether or not the law or regulations under the law enable registration to occur in genuinely decentralized centers, including in community government or local commune and district offices.
- **_Assistance:** Does the law make it obligatory for local governments or other state actors, or encourages civil society organizations (e.g., NGOs) to assist IPLC to make applications, such as where most members are illiterate and cannot easily complete forms? Does the law establish institutions, planning procedures or other administrative measures designed to facilitate the registration of IPLC property?
- **_Affordability:** Without reading reports on the country, it will be difficult to assess this, but an indication of costs may be provided in regulations, or the main law itself may specify that the procedure is cost-free for IPLC or to be set at very low levels.
- **_Tangible evidence:** Usually the primary evidence of registration is what is recorded in the land register, and from which an evidential title deed is issued. It is important for IPLC to receive paper evidence, along with a reasonably scaled map, that shows the location and boundaries of the territory in a clear, georeferenced and not easily disputable manner.”

Sources of information: National-level analyses available on the LandMark platform that include information on legal personality and legal authority for some countries.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Procedures are clear and accessible, available in the local language, and are accompanied by mechanisms to assist communities with the formalization process	4
Procedures are clear and accessible, but no mechanisms are in place to provide or encourage proactive assistance to IPLC with the formalization process	3
Procedures are established but do not meet most of the criteria of accessibility, affordability, voluntary basis, etc.	2
No procedures are established under law	1

2.2 8 OVERLAPPING RIGHTS: DO PROCEDURES FOR THE REGISTRATION AND MAPPING OF COMMUNITY FOREST RIGHTS INCLUDE EFFECTIVE MEASURES TO RESOLVE OVERLAPPING CLAIMS (I.E., RIGHTS ASSERTED BY PARTIES WHO ARE NOT COMMUNITY MEMBERS OVER PART OR WHOLE AREAS IN WHICH COMMUNITY FOREST RIGHTS ARE ASSERTED)?

Scoring scale:

DESCRIPTION OF THE SCORE	SCORE
Measures are in place and are generally effective in resolving overlapping claims	4
Measures are in place, but they are only partially effective	3
Measures are in place, but they are not able to resolve conflicts in a majority of cases	2
No measures are in place to resolve overlapping claims	1

IMPLEMENTATION OF LEGAL RECOGNITION TO ELIGIBLE AREAS AND GROUPS

2.3 9 EXTENT OF AREA FORMALLY RECOGNIZED: TO WHAT EXTENT HAVE FOREST LANDS BEEN FORMALLY RECOGNIZED UNDER FRAMEWORKS FOR COMMUNITY-BASED FOREST TENURE?¹⁴

(Related indicators: LGAF 3.1 & 3.4, PROFOR 104, WRI 9)


The geographical extent of the area formally recognized under legal frameworks for community-based tenure is a key indicator of their implementation. Scoring of this indicator requires both an estimate of the total area of [customary] IPLC that could be formally recognized as well as information on the area of land that has been formally recognized to date. Since legal best practice does not require that rights be registered, forest lands that are formally recognized without requirements for registration are also included in this assessment of extent. The percent ranges used in this scoring scale are based on LGAF 3.4.

Sources of information: LGAF indicator 3.4 addresses RRI forest data. However, this source does not include estimates of the total area of [customary] IPLC land that could be formalized.

¹⁴ In this indicator, as others that require quantitative data, the assessment calls for the best-available data to be used. In the absence of complete or reliable official data, non-official data sources may be used after evaluation of their accuracy and completeness.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
More than 70% of IP/community forest lands that could be registered under community-based tenure frameworks have been formally registered; or IP/community lands are formally recognized without requirements for registration	4
Approximately 40-70% of IP/community forest lands are mapped and registered	3
Approximately 10-40% of IP/community forest lands are mapped and registered	2
Less than 10% of IP/community forest lands are registered	1




The Forestry Development Authority (FDA)


Notice! Notice! Notice!

Socio-Economic and Reconnaissance Survey


It is your right to Ask!



Community



It is your right to know!



FDA

Community Name:



APPROPRIATE REGULATIONS FOR LAND AND RESOURCE MANAGEMENT



3

SIMPLE AND APPROPRIATE TO THE OBJECTIVES OF THE REGULATION

3.1 10 JUSTIFICATION OF REGULATIONS ON THE BASIS OF PUBLIC INTEREST: ARE RESTRICTIONS ON LAND USE IN COMMUNITY LANDS JUSTIFIED ON THE BASIS OF PUBLIC INTEREST?¹⁵

(Related indicators: LGAF 4.1)

From AF: Even where tenure rights to forest lands are legally recognized, management and withdrawal rights are often subject to further regulation, such as requirements for land use planning, forest management planning and permits for commercial use of resources. While such regulations can help to balance resource use with broader environmental or sustainability interests, they can be so onerous as to constitute a barrier to the ability of communities to generate any significant benefits from the resource. Ensuring that regulations on forest and land use are appropriate is essential for IPLC to realize opportunities for poverty reduction and economic growth from forest lands and resources. Regulations should enable sustainable local uses of forests and forest products, and restrictions on land or forest use should be clearly justified on the basis of public interest (LGAF/World Bank 2013).

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Regulations on land use in community lands are justified on the basis of public interest and required measures are appropriate to the objectives of the regulation	4
Regulations on land use in community lands are justified but required measures are not entirely appropriate to the objectives of the regulation	3
Regulations on land use in community lands are not fully justified and required measures are not appropriate to the objectives of the regulation	2
There is no basis in public interest for the regulations put on land use in community lands	1

EFFICIENT MANAGEMENT OF PERMITTING PROCESSES

3.2 11 EFFICIENT PROCESSES: ARE COMPLIANCE PROCEDURES FOR RESOURCE USE PERMITS HANDLED PROMPTLY, EFFECTIVELY AND COST-EFFECTIVELY?

(Regulations for obtaining permits may include requirements such as preparation of management plans or other compliance procedures. This indicator assesses the extent to which such compliance procedures are handled promptly, effectively and cost-effectively, so as to enable sustainable productive activities that contribute to local livelihoods. Another consideration for the assessment is whether public agencies actively promote and facilitate compliance with permitting requirements by providing tools such as templates and guidance materials).

¹⁵ In cases where more than one set of regulations applies, (for example, regulations for land use planning, and regulations for the management of forest resources such as management plans), the assessment should evaluate each set of regulations and describe the results of each evaluation in the application of the score. The definition of public interest in the set of regulations should also be described and evaluated.

Scoring scale:

DESCRIPTION OF THE SCORE	SCORE
Process enables most communities seeking permits to obtain them	4
Process is generally efficient and many communities seeking permits are able to obtain them, but some improvements are still needed	3
Process is difficult and needs significant changes, though some communities seeking permits are able to obtain them	2
Process extremely onerous – very few communities seeking permits can manage to obtain them	1

3.3 12 EXTENT OF PERMITTING: HAVE MOST COMMUNITIES SEEKING PERMITS RECEIVED THEM?

This indicator assesses the outcome of permitting processes, particularly the extent to which communities seeking permits have been able to obtain them. It requires an estimate of the number of communities seeking permits, as well as information on how many of those communities have received them.

Scoring scale:

DESCRIPTION OF THE SCORE	SCORE
More than 70% of communities seeking permits have received them	4
40-70% of communities seeking permits have received them	3
Approximately 10-40% of communities seeking permits have received them	2
No to almost no IP/community forest landholders permits issued	1



Bystanders may ONLY stand to the operator's right, AT LEAST 25 feet away.



HELVETAS
Swiss Intercoperation

PERU



COOPERACIÓN

AIDSESP Atalaya
CORPIAA



Acciones Tempranas de REDD+ con Comunidades Indígenas en Atalaya (Perú)



OBJETIVO

Desarrollar capacidades sobre la temática de REDD+ en comunidades indígenas de Atalaya para la negociación del carbono no emitido en sus territorios.

IMPACTO ESPERADO

La organización indígena CORPIAA incrementa el conocimiento de sus acciones y en los proyectos en sus territorios para la mitigación al cambio climático.

10 comunidades indígenas de Atalaya participan en acciones de REDD+ en sus territorios.

2 comunidades registran el PDD de un proyecto de REDD+ para la negociación del carbono que no emitido en sus territorios.



EFFECTIVE SUPPORT FROM RESPONSIBLE GOVERNMENT AGENCIES¹⁶



4

PARTICIPATORY AND ADAPTIVE PROCESSES FOR DECISION MAKING ON FOREST TENURE-RELATED ISSUES

4.1 13 **MECHANISMS FOR PARTICIPATION:** DOES THE GOVERNMENT¹⁷ CREATE MECHANISMS FOR THE PARTICIPATION OF IPLC (INCLUDING WOMEN AND MARGINALIZED GROUPS) AND CIVIL SOCIETY (AND ITS ORGANIZATIONS) IN DECISION MAKING ON FOREST TENURE POLICY?

(Related indicators: PROFOR 42, 38, 39)

Participatory processes for the formulation of government laws, policies and regulations regarding IPLC tenure rights help to ensure that the rights and interests of local people are taken into account, and policies are adapted to local realities and needs. This indicator includes assessment of mechanisms for participation in relation to the development of:

- Laws and policies for the recognition and protection of community-based forest tenure
- Regulations on the use of community forest lands and resources (including commercial use)
- Other forms of land tenure and land use affecting community-based forest tenure rights.

Scoring scale

DESCRIPTION OF THE SCORE	IPLC FOREST TENURE	REGULATIONS ON FOREST USE	OTHER LAND USES AFFECTING TENURE RIGHTS	SCORE
Participation is required by law and mechanisms provide genuine opportunities for input to policy making				4
Participation is required by law, but mechanisms remain inadequate				3
Participation is limited: either it is not required by law but informal mechanisms are sometimes provided, or it is required by law but not implemented				2
Participation not required in law and mechanisms for participation are rarely in place				1

¹⁶ Effective means that stated intentions result in the expected, desired outcomes within reasonable timeframes and costs.

¹⁷ Government here refers to all levels of government action relevant to the forest tenure policy process. Many policies are established at national levels. However, policy debate and consultation may include national, provincial and local mechanisms. Community participation for purposes of the assessment focuses on community organizations and organizations representing communities, and encompasses involvement in policy definition and implementation.

4.2 14 GOVERNMENT CAPACITY FOR PARTICIPATORY DECISION MAKING: DO GOVERNMENTS (AT ALL LEVELS) HAVE CAPACITY TO ENGAGE RIGHTS-HOLDERS AND STAKEHOLDERS ON TENURE-RELATED DECISION MAKING?¹⁸

(Related indicators: PROFOR 43)

In addition to establishing mechanisms for participation, governments must have capacity¹⁹ to engage rights-holders and stakeholders for those mechanisms to operate effectively.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Governments at all levels have adequate capacity to engage rights-holders and stakeholders on tenure-related decision making	4
Most but not all arms of government have capacity to engage rights-holders and stakeholders on tenure-related decision making	3
Some arms of government have capacity to engage rights-holders and stakeholders on tenure-related decision making	2
Most arms of government lack capacity to engage rights-holders and stakeholders on tenure-related decision making	1

4.3 15 RIGHTS-HOLDER CAPACITY AND SUPPORT: DO RIGHTS HOLDERS HAVE THE CAPACITIES AND SUPPORT THEY NEED TO PARTICIPATE IN FOREST TENURE DECISION MAKING?

(Related indicators: PROFOR 41, 42)

Rights-holders must also have capacity and support to participate in decision making on forest tenure laws and policies, regulations and other land uses. Considerations for assessing capacity and support include aspects such as legal capacity to formulate inputs and responses to policy proposals, time and resources to organize and financial support to travel to and participate in policy meetings.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Capacities and support are adequate to participate in forest tenure decision making	4
Significant capacity and support, but needs some improvement	3
Some capacity and support, but needs substantial improvement	2
Almost no capacity or support	1

¹⁸ Decision making refers to both decisions about the principles for how forest tenure rights are allocated, and about specific allocation of rights in specific locations and instances.

¹⁹ Capacity refers to the set of resources required to implement the engagement and includes institutional mandates within operational systems of governance, trained personnel, facilities for working, communicating and convening, and available budget over the course of the engagement.

POLITICAL WILL AND ALIGNED INCENTIVES

4.4 16 **FREEDOM FROM CONFLICTS OF INTEREST:** ARE AGENCIES (INCLUDING KEY AGENCY PERSONNEL) RESPONSIBLE FOR FOREST TENURE POLICY AND IMPLEMENTATION FREE FROM CONFLICTS OF INTEREST?

(Related indicators: LGAF 26.1; PROFOR 56)

Agencies responsible for titling, registration and enforcement of community-based forest tenure must demonstrate political will to actively implement their roles. Conflicts of interest - which may stem, *inter alia*, from contrary personal interests/corruption, from inadequate separation of roles (e.g., responsibility for commercial land allocation that competes with support for IPLC tenure) and/or political interference in favor of more powerful constituencies - impede political will and the effective implementation of responsibilities.

Scoring Scale

DESCRIPTION OF THE SCORE	SCORE
Government agencies demonstrate political will in carrying out their tenure-related responsibilities, and are generally free from conflicts of interest	4
Government agencies often demonstrate political will in carrying out their tenure-related responsibilities, but some conflicts of interest remain	3
There are some conflicts of interest that impede the implementation of tenure-related roles by government agencies	2
Conflicts of interest are widespread and significantly impede the implementation of tenure-related roles by government agencies	1

CLEAR AND MUTUALLY SUPPORTIVE MANDATES FOR RESPONSIBLE GOVERNMENT AGENCIES

4.5 17 **CLEAR AND DISTINCT MANDATES (HORIZONTAL):** ARE MANDATES OF AGENCIES RESPONSIBLE FOR FOREST LAND TENURE MUTUALLY SUPPORTIVE AND NOT OVERLAPPING?

(Related indicators: LGAF 26.2; PROFOR 26, 115)

From AF: Clear and mutually supportive mandates are an enabling condition for government agencies to carry out their roles, particularly where implementation and proactive support for community forest tenure has been limited to date. Overlapping mandates are a frequent issue causing confusion and either lack of action or inconsistency in implementation (Segura et al. 2017). Mandates should be clear and mutually supportive both “horizontally” – across institutions responsible for different tenure-related functions – and “vertically” – across institutions at national, sub-national and local levels (LGAF/World Bank 2013; PROFOR/Kishor and Rosenbaum 2012).



Photo by Gerardo Segura Warnholtz / World Bank

Scoring Scale

DESCRIPTION OF THE SCORE (LANGUAGE IS FROM LGAF 26.2)	SCORE
The mandated responsibilities exercised by the authorities dealing with land governance are non-overlapping with those of other land sector agencies	4
The mandated responsibilities of the various authorities dealing with land administration issues are defined with a limited amount of overlap with those of other land sector agencies, but there are few problems	3
The mandated responsibilities of the various authorities dealing with land administration issues are defined, but institutional overlap with those of other land sector agencies and inconsistency is a problem	2
The mandated responsibilities of the various authorities dealing with land administration issues are defined poorly, if at all, and institutional overlap and inconsistency is a serious problem	1

4.6 18 CLEAR AND DISTINCT GOVERNMENT MANDATES (VERTICAL): ARE MANDATES OF AGENCIES RESPONSIBLE FOR FOREST LAND TENURE MUTUALLY SUPPORTIVE AND NOT OVERLAPPING BETWEEN NATIONAL AND SUB-NATIONAL LEVELS?²⁰

(Related indicators: PROFOR 27; LGAF 26.3, 26.1)

Scoring Scale

DESCRIPTION OF THE SCORE (LANGUAGE IS FROM LGAF 26.3)	SCORE
Assignment of land-related responsibilities between the different levels of administration and government is clear and non-overlapping	4
Division of land-related responsibilities between the different levels of administration and government is clear with minor overlaps	3
Division of land-related responsibilities between the different levels of administration and government is characterized by large overlaps	2
Division of land-related responsibilities between the different levels of administration and government is unclear	1

²⁰ Clear and distinct government mandates (vertical) includes not only the definition of mandates in regulations and instructions, but also the appropriate communication of the mandates and orientation of personnel at all levels to the mandate.

CAPACITIES AND FINANCIAL RESOURCES FOR GOVERNMENT IMPLEMENTATION ROLES

4.7 19 GOVERNMENT CAPACITY AND RESOURCES: DO GOVERNMENT AGENCIES HAVE THE CAPACITIES AND FINANCIAL RESOURCES THEY NEED TO IMPLEMENT THEIR ROLES AND RESPONSIBILITIES FOR IPLC FOREST TENURE?

(multiple PROFOR indicators on aspects of government capacity)

This indicator assesses the extent to which government agencies have the skills and capacities they need to fulfill their tenure-related responsibilities, and the extent to which these are backed up with financial resources. Responsibilities include those related to titling or registration, management of land-related information systems, issuing of permits and enforcement of rights. Relevant dimensions of agency capacities and financial resources that should be taken into account in scoring this indicator include:

- the presence of agency offices and services where needed
- staffing with the skilled personnel required to implement their mandates
- the use of appropriate and up-to-date technologies that enable greater efficiency and scale of implementation
- the use of monitoring and adaptive management to assess and improve services provided
- adequate budget allocations to carry out agency responsibilities.

Scoring scale

DESCRIPTION OF THE SCORE	TITLING	INFO SYSTEMS	PERMITTING	ENFORCE-MENT	SCORE
Land agencies generally have the capacities they need to fulfill their responsibilities					4
Land agencies have relevant capacities, though some improvements are still needed					3
Land agencies have some capacity, but it needs substantial improvement					2
Land agencies have very limited capacity to carry out their responsibilities					1



EMPOWERED AND INCLUSIVE INDIGENOUS AND COMMUNITY GOVERNANCE



5

INCLUSIVE INSTITUTIONS AND DECISION-MAKING PROCESSES FOR COLLECTIVE ACTION

5.1 20 **COMMUNITY INSTITUTIONS:** ARE COLLECTIVE GOVERNANCE INSTITUTIONS ESTABLISHED THAT ENABLE ALL COMMUNITY MEMBERS TO PARTICIPATE IN DECISION MAKING ABOUT FOREST LAND TENURE AND GOVERNANCE?

From AF: Inclusive community institutions are the foundation for effective decision making regarding collectively held forest lands. Community governance institutions will often already be in place, but may need new structures or capacities to take account of the interests of marginalized groups and deal with new pressures and challenges such as from commercial activities. Structures such as community assemblies with representation of all members of the community can enable inclusive and democratic decision making. At the same time, where traditional power structures have excluded some groups within the community, such as women, they may need support to effectively participate and call attention to their needs and land uses (FAO 2016).

The scoring scale should be applied to the geographical area defined for the research – e.g., national or sub-national.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Most landholding communities have institutions in place that enable all community members to participate in decision making about local tenure rights and rules	4
Many landholding communities have institutions in place that enable all community members to participate in decision making about local tenure rights and rules, though need to be strengthened	3
Some landholding communities have institutions in place that enable all community members to participate in decision making about local tenure rights and rules, but most do not	2
Most landholding communities do not have institutions in place that enable all community members to participate in decision making about local tenure rights and rules	1



Photo by Gerardo Segura Warnholtz / World Bank

5.2 21 GOVERNMENT SUPPORT: DO GOVERNMENTS PROVIDE SUPPORT FOR THE STRENGTHENING OF COMMUNITY INSTITUTIONS, AS REQUESTED BY COMMUNITIES THEMSELVES?²¹

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Governments provide sufficient support to assist landholding communities in strengthening institutions for collective governance	4
Support is available to assist landholding communities in strengthening institutions for collective governance, but does not fully address community needs	3
Some limited support is available to assist landholding communities in strengthening institutions for collective governance	2
No support mechanisms are in place to assist landholding communities in strengthening institutions for collective governance	1

COMMUNITY LAND GOVERNANCE PLANS²²

5.3 22 EXISTENCE OF COMMUNITY PLANS: HAVE MOST IPLC LANDHOLDERS DEVELOPED GOVERNANCE PLANS FOR THEIR LANDS/TERRITORIES?

From AF: Flexibility to set locally adapted rules for land and resource management are associated with positive forest and livelihoods outcomes (Persha, Agrawal, & Chhatre 2011). Many communities also choose to develop holistic land or territorial governance plans—such as the “life plans” developed by many indigenous communities in South America – that articulate the vision of the community for the stewardship and use of their lands, territories and resources in accordance with community (cultural, social and economic) values and worldviews. Participation by all members of the community in the definition of local uses and rules provides a foundation for sustainable forest management and livelihood outcomes. Community land governance rules or plans also provide the basis for monitoring and enforcement of agreed uses, both within the community and in relation to outsiders. Maps and spatial plans often form a central part of governance plans, enabling visualization of the geographical distribution of resources, uses and management activities.

21 Support refers to the resources required to make community institutions effective in their roles. This may include activities such as training or mediation by extension workers or NGOs, or the presence of officials to pursue and complete the process in an orderly manner. It may include support for travel or mobilization for community organization representatives to participate in discussions, negotiations and official procedures. Community institutions refers to leadership structures, decision-making processes, and organizations representing the community.

22 In this indicator, plans/rules refer to community driven and agreed instruments and not other planning requirements that are required and imposed by the government (e.g., forest management plans, which in most cases are required by law for communities to obtain a permit for using resources commercially).

The scoring scale should be applied to the geographical area defined for the research – e.g., national or sub-national.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Most communities have strong governance plans/rules in place for their collective lands	4
Many communities have local governance plans/rules in place for their collective lands, but gaps remain in coverage and/or in the strength of these plans	3
Some communities have local governance plans/rules in place for their lands, but most do not	2
Communities generally do not have local governance plans/rules in place for their lands/territories	1

5.4 23 SUPPORT COMMUNITY PLANNING: DO COMMUNITIES HAVE ACCESS TO TECHNICAL AND OTHER SUPPORT TO DEFINE THEIR LAND GOVERNANCE PLANS?

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Governments provide sufficient support to landholding communities to develop their land governance plans	4
Support is available to assist landholding communities to develop their land governance plans, but does not fully address community needs	3
Some limited support is available to assist landholding communities to develop their land governance plans	2
No support mechanisms are in place to assist landholding communities to develop their land governance plans	1

CAPACITIES AND FINANCIAL RESOURCES FOR TENURE SECURITY ROLES OF COMMUNITY INSTITUTIONS

5.5 24 CAPACITY AND FINANCIAL RESOURCES OF COMMUNITY INSTITUTIONS: DO COMMUNITY INSTITUTIONS HAVE THE SKILLED PERSONNEL THEY NEED TO CARRY OUT THEIR TENURE SECURITY ROLES?

From AF: As with governments, community institutions need specific skills and capacities, as well as resources, to carry out their tenure-related roles and responsibilities. Some capacities, such as traditional knowledge and practices, are maintained locally, while skills related to new activities or demands may need to be developed with support from service providers. Financial resources may be generated from community economic activities, from benefit-sharing arrangements, and/or from government or other outside support.

As in the indicator on government capacities above, these indicators will need to be applied in relation to each specific role that is relevant to the assessment context. These include (in separate columns): preparation of materials needed for titling/registration, implementation of land governance plans and monitoring/enforcement.

Scoring scale

DESCRIPTION OF THE SCORE	TITLING/ REGISTRATION	LAND GOVERNANCE	MONITORING/ ENFORCEMENT	SCORE
Communities largely have the capacities and resources they need to carry out their tenure security roles				4
Communities have relevant capacities and some level of resources to sustain them, but some improvements are needed				3
Communities have some capacity and resources that need to be increased substantially				2
Most communities have very limited capacities and financial resources				1

MULTI-LEVEL LINKS TO ADVOCACY AND SUPPORT ORGANIZATIONS

5.6 25 **MULTI-LEVEL LINKS:** ARE IPLC AND/OR CIVIL SOCIETY NETWORKS ACTIVELY PROVIDING ADVOCACY CHANNELS AND SUPPORT FOR COMMUNITY-BASED INSTITUTIONS?

(Related indicators: PROFOR 58; WRI 8)

From AF: Securing and maintaining community forest tenure rights often requires ongoing engagement with national or regional policy processes, for example to monitor and shape changes that may impact community rights, and to advocate against rollbacks. Links with representative IPLC organizations—such as IPLC forestry federations, as well as broader coalitions and networks of civil society support, have often been important for this purpose (FAO 2016; Cronkleton et al. 2011; Lawry et al. 2012). At a more technical level, community-based institutions may seek support to build capacities to fulfill various aspects of their tenure-related roles and responsibilities.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Communities are well linked to networks and organizations that can provide support for implementation and protection of tenure rights	4
Communities have some links to wider networks and organizations, but these links need strengthening	3
Communities have limited links to wider networks and organizations	2
Communities have few sources of support	1





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SYSTEMS FOR RECORDING COMMUNITY FOREST TENURE RIGHTS



6

INFORMATION IS COMPREHENSIVE AND ACCURATE

6.1 26 **MANAGEMENT OF INFORMATION ON COMMUNITY-BASED FOREST TENURE: TO WHAT EXTENT DOES THE GOVERNMENT MAINTAIN HIGH QUALITY INFORMATION ABOUT COMMUNITY-BASED FOREST TENURE RIGHTS?**

(Related indicators: LGAF 19, 18.1 & 18.2; PROFOR 106, WRI 7)

Scoring scale

From AF: Maintaining comprehensive and accurate information is essential for land information systems to serve their purpose of avoiding overlapping and conflicting claims. It is particularly important to record community-based tenure rights to protect against allocations of community land to other actors or land uses. In addition to formal rights, information systems should include or link to information regarding customary and informal rights (not yet recognized under statutory legal frameworks) to prevent infringements and conflicts with these rights (WRI/Davis et al. 2012).

DESCRIPTION OF THE SCORE	SCORE
The government maintains a comprehensive and up-to-date record of collective forest tenure rights	4
There is a system for recording collective forest tenure rights, but some gaps remain in terms of comprehensiveness and regular updating	3
There is a system for recording collective forest tenure rights, but it is not comprehensive or up to date	2
Information is not systematically maintained	1

ACCESSIBILITY OF THE SYSTEM

6.2 27 **AVAILABILITY OF LAND INFORMATION AND RELATED DATA RELEVANT TO COMMUNITY-BASED FOREST TENURE: IS INFORMATION ABOUT COMMUNITY-BASED FOREST TENURE ACCESSIBLE AND SHARED TO ENSURE CLARITY OF RIGHTS?**

(Related indicators: LGAF 18.7, 26.4)

From AF: For forest tenure information systems to remain up to date, they must be accessible to users and enable them to record, maintain, update and communicate tenure rights. A critical element of accessibility is low cost, which is best achieved through the use of appropriate technology. This may refer in whole or in part to data sharing arrangements among institutions and also data made accessible to the public through National Spatial Data Infrastructure (NSDI).

Scoring scale

DESCRIPTION OF THE SCORE (LANGUAGE IS FROM LGAF 26.4)	SCORE
Land rights information is available to users at a low cost and is readily accessible, because information is maintained in a uniform way	4
Land rights information is available to users; while this information is available at a low cost, it is not readily accessible because it is not maintained in a uniform way	3
Land rights information is available to users; however, this information is not readily accessible or available at a low cost	2
Land rights information is not available to users as a matter of policy or practice	1





ENFORCEMENT OF TENURE RIGHTS



7

Two dimensions of the assessment relevant for this key element of enforcement of tenure rights are:

- capacities and mutual support among institutions responsible for enforcement activities
- effective implementation of monitoring and enforcement systems.

7.1 28 **SANCTIONS:** ARE SANCTIONS AGAINST ENCROACHMENT AND OTHER VIOLATIONS OF COMMUNITY-BASED FOREST TENURE RIGHTS SUFFICIENT TO DETER CRIMES?²³

Sanctions define the possible consequences for violations of forest tenure rights. They need to be sufficient to suppress and deter violations.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Sanctions are significant and sufficient to deter tenure-related crimes	4
Sanctions deter some tenure-related crimes, but need to be strengthened further	3
Sanctions are limited in deterring tenure-related crimes and need to be strengthened significantly	2
Sanctions for violations of tenure rights are very minor and do not deter tenure-related crimes	1

7.2 29 **LAW ENFORCEMENT IMPLEMENTATION:** ARE ACTIONS TO PREVENT, DETECT AND SUPPRESS ENCROACHMENT AND ILLEGAL ACTIVITIES ON COMMUNITY LANDS CARRIED OUT EFFECTIVELY BY LAW ENFORCEMENT AGENCIES?

(Related indicators: PROFOR 3.2.3/96)

Following PROFOR (Kishor and Rosenbaum 2013), this question considers three classes of law enforcement activities: prevention, detection and suppression – as follows (adapted from PROFOR indicator 96):

- Prevention includes activities to stop crimes from happening. These include forest patrols, and also activities like education of the public about lawful and unlawful forms of access, use and cooperation with forest dependent communities. Cooperation with forest-dependent communities includes actions that encourage the community members to support the law and to bring social pressure against other community members who ignore the law.
- Detection includes actions to make the government aware of when a crime has occurred and to discover who is responsible for the crime.
- Suppression means efforts to stop ongoing offenses; bring present and past offenders into the justice system to seek suitable punishment or restitution; and discourage convicted offenders from committing further offenses.

²³ This indicator refers to both community defined sanctions, and sanctions from the country legal system. The evaluation should take both types of sanctions into account in application of scoring.

A consideration across these types of law enforcement efforts is the extent of cooperation and coordination with community-level enforcement activities.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
The government implements effective processes to prevent, detect and suppress encroachment and other violations of forest tenure rights	4
The government implements significant actions to prevent, detect and suppress encroachment and other violations of forest tenure rights, but some improvements are still needed	3
The government implements some actions to prevent, detect and suppress encroachment and other violations of forest tenure rights but significant improvements are needed	2
The government does not implement actions to prevent, detect and suppress encroachment and other violations of forest tenure rights	1

7.3 30 ENFORCEMENT RESULTS: ARE ILLEGAL ACTIVITIES DETECTED AND STOPPED?

(Related indicators: PROFOR 95, 96, 97)

This indicator assesses outcomes of enforcement activities, with a particular focus on the extent to which enforcement is followed through to effective prosecution and is successful in stopping the illegal activity.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Illegal activities are usually stopped and effectively prosecuted	4
Many illegal activities are stopped and effectively prosecuted	3
Some illegal activities are stopped but remain widespread	2
Almost no illegal activities are stopped	1





RESPECT FOR AND PROTECTION OF COMMUNITY TENURE RIGHTS IN RELATION TO OTHER LAND USES



8

LEGAL CLARITY ON RESPECT FOR COMMUNITY-BASED TENURE RIGHTS

8.1 31 **RESOLUTION OF OVERLAPPING TENURES IN LAW:** DOES THE LEGAL FRAMEWORK ENSURE THAT COMMUNITY TENURE RIGHTS ARE RESPECTED AND PROTECTED IN RELATION TO OTHER FORMS OF TENURE AND LAND USE?

(Related indicators: LGAF 26.5)

From AF: Where legal frameworks for various forms of tenure and land use have been developed at different historical moments, there may be a lack of clarity on how they relate to one another in situations of geographical overlap. For example, protected areas legislation has sometimes preceded the enactment of laws recognizing customary tenure, without sufficient clarity on how to reconcile overlaps in ways that respect IPLC rights (Springer and Almeida 2015). Another form of geographical overlap that requires legal clarity is the situation of overlapping resource rights, such as sub-soil rights often retained by states within formally recognized communal lands. A related issue concerns the extent to which customary or informal land and resource rights are taken into account prior to their formal recognition in statutory law.

This indicator focuses whether legal frameworks clarify how forms of tenure and land use relate to one another (such as whether one or the other takes precedence) in ways that respect and protect (formal and informal) community-based tenure. The following indicator (8.2) focuses on the extent to which measures to resolve overlaps are implemented in practice.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Legal frameworks generally provide guidance on overlapping tenures in ways that respect and protect collective tenure	4
Legal frameworks provide guidance on overlapping tenures in ways that often respect and protect collective tenure, but need to be strengthened in some respects	3
Legal frameworks provide some guidance on overlapping tenures, but these often do not protect community tenure and land use	2
Legal frameworks generally do not clarify how to address overlapping tenures	1

8.2 32 RESOLUTION OF OVERLAPPING TENURE IN PRACTICE: ARE MEASURES TO ENSURE COMMUNITY TENURE RIGHTS ARE RESPECTED AND PROTECTED IN RELATION TO OTHER FORMS OF TENURE AND LAND USE IMPLEMENTED IN PRACTICE?

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Measures to resolve overlaps are consistently implemented in practice	4
Measures to resolve overlaps are often implemented in practice although some gaps remain	3
Measures to resolve overlaps are only implemented in some cases	2
Measures to resolve overlaps are generally not implemented and many conflicts remain	1

MECHANISMS FOR RURAL POLICY COHERENCE

8.3 33 COORDINATION MECHANISMS: ARE EFFECTIVE GOVERNMENT MECHANISMS IN PLACE FOR COORDINATION AND COHERENCE ON POLICIES THAT MAY AFFECT FOREST TENURE RIGHTS?

(Related indicators: PROFOR 24, 117)

From AF: Pressures and demands on communal lands are often driven by policies in other sectors - for example, those focused on rural development, energy, mining, transportation or conservation (Kishor and Rosenbaum 2012). Therefore, countries need to have mechanisms in place for active cross-sectoral coordination between agencies responsible for supporting implementation of community-based tenure and those concerned with other rural policies and land uses. These mechanisms should ensure that other policies and programs for rural development, conservation, REDD+, etc., take account of customary and other legitimate forest rights and promote synergies rather than competing pressures.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Coordination mechanisms are in place and function effectively to promote coherence on policies and plans affecting forest tenure	4
Coordination mechanisms are in place and functioning, but need to be strengthened	3
Coordination mechanisms have been developed but do not function in practice	2
Coordination mechanisms for policies and plans that may affect forest tenure are not in place	1

STRONG SAFEGUARDS TO AVOID INFRINGEMENTS ON COMMUNAL TENURE RIGHTS

8.4 34 **JUSTIFICATION FOR LAND DESIGNATIONS:** ARE CLEAR AND APPROPRIATE STANDARDS/ CRITERIA ESTABLISHED AND APPLIED TO THE DESIGNATION OF LARGE-SCALE CONCESSIONS AND PUBLIC LANDS IN FOREST LANDSCAPES?²⁴

(Related indicators: LGAF 10.1, 14.6, 14.7; WRI 14, 15, 16, 17)]

Large-scale land acquisitions (LSLA) for commercial investment and designation of protected areas are two of the main sources of overlapping tenure/land use and potential conflicts with IPLC forest tenure rights. This indicator focuses on standards for decision making regarding LSLA and public land designation (such as for protected areas), with a particular focus on checks on arbitrary decision making that increases the risk of infringements and conflicts.

Considerations for assessing against this indicator include (Note: most are adapted from WRI 14 & 15):

- Definition and application of clear and appropriate criteria to regulate land allocation and designation decisions
- Land allocations and designation of state lands are in the public interest
- Land allocations and designation take account of existing rights of IP/communities, regardless of registration status
- Prior consultation required and undertaken for decisions that may have social or environmental impacts
- Decisions are subject to effective anti-corruption and oversight mechanisms
- Decisions are consistent with broader national social, environmental and economic objectives.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Standards for land allocation and designation are in place and generally adhered to in practice	4
Standards for land allocation and designation are in place and are often adhered to in practice, but gaps remain	3
Some standards for land allocation and designation are in place but with limited application in practice	2
Standards for land allocation and designation are not in place	1

²⁴ Standards or criteria are usually established by the Government, but in certain cases there may be industry standards or external criteria and monitoring applied.

8.5 35 ARE FREE, PRIOR AND INFORMED CONSENT (FPIC) REQUIREMENTS ESTABLISHED AND APPLIED FOR ANY OUTSIDE INVESTMENT OR RESTRICTIONS ON LAND USE?²⁵

(Related indicators: LGAF 15.3; LandMark 7)

Beyond general standards for consultation for large-scale land acquisitions or establishment of protected areas, FPIC protects customary forest land and resource rights from infringements. FPIC has been adopted in international instruments on the rights of indigenous peoples, such as ILO 169 and the UN Declaration on the Rights of Indigenous Peoples, and is increasingly recognized as best practice for safeguarding the tenure rights of all project-affected people (Oxfam 2010). Well-functioning procedures for FPIC are particularly essential in any situations that may involve relocation or restriction of resource access and use. In addition, in any case where outside actors seek to make (economic or conservation-related) investments in or potentially affecting areas of customary forest land, free, prior FPIC helps avoid conflicts and enable, when desired, the development of partnerships between communities and outside actors.

DESCRIPTION OF THE SCORE	LSLA ²⁶	PA	SCORE
FPIC required by law and generally observed in practice			4
FPIC is required by law but implementation needs to be strengthened			3
FPIC is not required by law, but some consultation processes occur on an ad hoc basis or FPIC is required in law but not observed			2
FPIC is not required by law or observed in practice			1

8.6 36 BENEFIT-SHARING: ARE REQUIREMENTS REGARDING BENEFIT-SHARING LEGALLY ESTABLISHED AND APPLIED TO ACTIVITIES ON OR AFFECTING COMMUNITY FOREST LANDS?

(Related indicators: LGAF 15.4)

Where rights-holders agree to investment or conservation activities on forest lands they hold, benefit-sharing arrangements help to ensure that communities receive a fair share of the benefits arising from those activities and/or that costs incurred receive some compensation. Benefit-sharing arrangements should be freely and transparently negotiated and documented in land use agreements. It is a good practice if the benefit-sharing arrangement includes special provisions to ensure women and other marginalized groups are not discriminated against and receive their fair share.

25 There is no universally accepted definition of FPIC. For the purposes of the Analytical Framework, FPIC is established according to the World Bank's Environmental and Social Framework (ESS7 on indigenous peoples/Sub-Saharan African historically underserved traditional communities), which states that:

(a) The scope of FPIC applies to project design, implementation arrangements, and expected outcomes related to risks and impacts on the affected indigenous peoples/Sub-Saharan African historically underserved traditional local communities; (b) FPIC builds on and expands the process of meaningful consultation, and will be established through good faith negotiation between the Borrower and affected indigenous peoples/Sub-Saharan African historically underserved traditional local communities; (c) The Borrower will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the Borrower and indigenous peoples/Sub-Saharan African historically underserved traditional local communities; and (ii) the outcome of the good faith negotiations between the Borrower and indigenous peoples/Sub-Saharan African historically underserved traditional local communities, including all agreements reached as well as dissenting views; and (d) FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected indigenous peoples/Sub-Saharan African historically underserved traditional local communities explicitly disagree (World Bank 2017).

26 Large Scale Land Acquisition

What is Free, Prior and Informed Consent?

Free, Prior and Informed Consent – known as FPIC for short – is a international human rights standard; which Liberia has agreed to follow and respect. In Liberia FPIC is found in the Community Rights Law of 2009. It is also found in various international best practices standards relating to Liberia, such as the UN Food and Agriculture Organisation’s Voluntary Guidelines on Land Tenure, and the Principles and Criteria of the Roundtable on Sustainable Palm Oil (RSPO).



FPIC is a right that belongs to the whole community. It means that communities have a right to fully participate in decision-making processes that might affect the lands, forest and resources that they customarily own, live on or use – whether the community has a deed or not. This means that

Informed means that all information relating to the activity is provided to communities in advance and that the information is objective, accurate and presented in clear way that the community understand

Consent means that projects can only go ahead if communities have agreed to an activity or project that concerns them. Communities also have the right to refuse their

Photo by Gerardo Segura Warnholtz / World Bank

Scoring scale

DESCRIPTION OF THE SCORE	LSLA	PUBLIC LAND/PAS	SCORE
Benefit-sharing is required by law and benefit-sharing arrangements are usually specified in agreements for investment or conservation activities			4
Benefit-sharing is required by law, but benefit-sharing arrangements are not routinely included in relevant contractual arrangements			3
Benefit-sharing is not required by law, but arrangements are sometimes included in agreements for investment or conservation activities			2
Benefit-sharing is not required by law, and arrangements are rarely included in agreements for investment or conservation activities			1

8.7 37 **EXPROPRIATE AND COMPENSATION:** WHEN EXPROPRIATION OF COMMUNITY LAND HAS BEEN ACTUALLY EXERCISED AS (OR IS SEEN AS) THE ONLY ALTERNATIVE TO SERVE THE PUBLIC INTEREST, HAS IT BEEN (OR WILL IT BE) ACCOMPANIED BY FAIR COMPENSATION?

(Related indicators: LGAF 12.1, 12.2, 12.3, 12.4, 12.5; PROFOR 111)

In light of the severe negative impacts on collective tenure (and related livelihoods and cultures) associated with expropriation of land and involuntary restrictions on resource access and use, significant effort has gone into the development of best practice safeguards to avoid and mitigate impacts. Key considerations for assessment in line with these best practices include (adapted from LGAF Indicator 12):

- Expropriation is avoided as much as possible through exhaustive review of alternatives
- Decisions regarding expropriation and compensation are made with consultation and consent
- Compensation is paid regardless of registration status
- Compensation allows maintenance of previous social and economic status
- Compensation is also paid for loss of rights due to land use changes
- Compensation is paid promptly
- There are independent, accessible and timely avenues of appeal to decisions regarding expropriation and compensation.

Scoring scale

DESCRIPTION OF THE SCORE	LSLA	PAs	SCORE
Standards regarding expropriation and compensation are established in line with best practice and are effectively implemented			4
Standards regarding expropriation and compensation are established in line with best practice but implementation is not yet fully consistent or effective			3
Standards regarding expropriation and compensation are established but need improvements to be in line with best practice and/or implementation is weak			2
Standards regarding expropriation and compensation are not established or are not in line with best practice			1

8.8 38 NATURAL RESOURCE RIGHTS: WHERE STATES RETAIN OWNERSHIP OF LAND, ARE USE RIGHTS TO KEY NATURAL RESOURCES LEGALLY RECOGNIZED AND PROTECTED IN PRACTICE?

(Related indicators: LGAF 3.2)

DESCRIPTION OF THE SCORE (LANGUAGE IS FROM LGAF 3.2)	SCORE
Users' rights to key natural resources are legally recognized and consistently and effectively protected in practice throughout	4
Users' rights to key natural resources are legally recognized, but only some are effectively protected in practice or enforcement is difficult and takes a long time	3
Users' rights to key natural resources are not legally recognized, but enjoy de facto protection in virtually all cases	2
Users' rights to key natural resources are not legally recognized and are often not protected in practice	1

8.9 39 COMPLIANCE WITH SOCIAL AND ENVIRONMENTAL STANDARDS: IS COMPLIANCE WITH SOCIAL AND ENVIRONMENTAL STANDARDS REQUIRED AND ENFORCED EFFECTIVELY?²⁷

(Related indicators: LGAF 16.2, 16.3; PROFOR 37, 62; WRI 21, 22)

Beyond the initial negotiation of agreements regarding investments or other activities on collectively held forest lands, monitoring is required to ensure that such outside investments/activities do not generate negative social or environmental impacts over time. This indicator assesses whether governments require businesses and NGOs operating in forest areas to comply with social and environmental sustainability standards. A key consideration for assessment here is whether compliance is monitored and enforced.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Governments require adherence to social and environmental standards and effectively monitor and enforce compliance	4
Governments require adherence to social and environmental standards and undertake some monitoring and enforcement, but it is not consistent.	3
Governments require adherence to social and environmental standards, but there is limited monitoring and enforcement of compliance	2
Governments do not require that businesses or NGOs meet social and environmental standards for ongoing activities in communal forest areas	1

²⁷ Different standards may be applied depending on the national context and the implementation of specific programs or projects. The assessment should identify which standards are relevant and utilized by government for forest tenure reform.



CONFLICT AND DISPUTE RESOLUTION



9

ACCESSIBLE AND COMPETENT MECHANISMS ARE IN PLACE TO RESOLVE CONFLICTS AND DISPUTES OVER TENURE RIGHTS

9.1 40 **ACCESSIBILITY:** ARE TENURE DISPUTE/CONFLICT RESOLUTION BODIES (INFORMAL AND/OR FORMAL) ACCESSIBLE TO COMMUNITIES?

(Related indicators: LGAF 24.2, PROFOR 110, WRI 12)

Independent, reliable and accessible dispute resolution mechanisms are key to ensuring justice and land tenure security. The mechanisms assessed may be formal (government) and/or informal (customary, community) mechanisms. In recording the assessment data and scores, the assessor should define which mechanism(s) are being assessed.

Considerations to take into account in assessing formal and/or informal mechanisms include:

- The location of the dispute/conflict resolution body, particularly distance from the communities who need to access it²⁸
- The cost of pursuing a mediation or case through the mechanism
- The language used for proceedings of the mechanism and familiarity of the cultural setting and dynamics
- The need for and availability of legal assistance to community members for them to be effectively represented through the mechanism.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
IPLC are able to access mechanisms to resolve land-related conflicts/disputes	4
Mechanisms are in place, but some constraints remain on the ability of IPLC to access them	3
Mechanisms are in place, but they are difficult for IPLC to access	2
No tenure dispute/conflict resolutions available	1

9.2 41 **CAPACITY:** DO DISPUTE RESOLUTION BODIES (INFORMAL AND/OR FORMAL) HAVE THE MANDATES, PERSONNEL, EXPERTISE AND FINANCIAL RESOURCES NEEDED TO RESOLVE TENURE DISPUTES?

(Related indicators: LGAF 24.1, WRI 11)

Effective dispute resolution requires that dispute resolution bodies have the capacity to hear and resolve tenure disputes. Aspects of capacity to consider in assessing against this indicator include (adapted from WRI 11):

²⁸ This indicator refers to both disputes within the community about decision-making processes or their outcomes, or disputes between communities (for example on boundaries/land use conflicts).

- Dispute resolution bodies have the authority to make decisions and have them respected by others
- Dispute resolution bodies have expertise in relevant tenure laws, systems and practices, including customary systems, and in alternative means of resolving disputes, such as mediation
- Dispute resolution bodies have sufficient human resources to handle their case volume
- Dispute resolution bodies have sufficient financial resources to handle their case volume.

Scoring Scale

DESCRIPTION OF THE SCORE	SCORE
Dispute resolution bodies have sufficient capacity to resolve issues regarding IPLC tenure rights	4
Dispute resolution bodies have substantial capacity, but remain limited in some ways	3
Dispute resolution bodies have some capacity	2
Dispute resolution bodies have very limited capacity	1

9.3 42 EFFECTIVENESS OF DISPUTE RESOLUTION: ARE DISPUTES REGARDING TENURE RIGHTS GENERALLY RESOLVED IN A TIMELY, FAIR AND TRANSPARENT MANNER?

(Related indicators: LGAF 24.3 & 24.4; PROFOR 102 & 103; WRI 13)

Considerations for the effectiveness of dispute resolution include (adapted from WRI 13):

- Timeliness of the dispute resolution process
- Fairness: decisions are based on the evidence and arguments presented by all parties, and parties see the decisions as legitimate and not inappropriately influenced by unfair power relations
- Transparency: decisions are documented and disclosed
- Enforcement: decisions are enforceable and enforced in a timely manner.

Scoring scale

DESCRIPTION OF THE SCORE	SCORE
Dispute resolution processes are generally effective, with a low incidence of unresolved conflict	4
Dispute resolution processes are often effective, but some conflicts remain unresolved	3
Dispute resolution processes are somewhat effective, but many conflicts remain unresolved	2
Dispute resolution processes are generally ineffective/most conflicts remain unresolved	1





PILOT COUNTRY FINDINGS

DEMOCRATIC REPUBLIC OF CONGO, MYANMAR AND ZAMBIA²⁹

Implementation of the Forest Tenure Assessment Tool (FTAT) has generated a strong rationale for action, policy-relevant diagnostic information and practical policy guidance in each of the three pilot countries. These substantive results give immediate insight into the status of forest tenure security in each country and an orientation to the major issues and opportunities for progress. These findings are expected to feed directly into ongoing internal policy dialogues in each country and encourage consensus about the underlying contextual conditions among stakeholders.

Country findings include outputs of each of these methodologies:

- A. **Making the case for forest tenure security** - A brief introduction is made to contextualize forest tenure security
- B. **Carrying out the FTAT** - Methodology, adaptation and stakeholders.
- C. **Key findings** and conclusions from the opportunities and risks assessment are presented.
- D. **How to secure forest tenure** - Assessment results by key element and policy recommendations (FTAT **Appendix 2**)
- E. **Policy roadmap** - This represents the practical vision for strengthening forest tenure security generated from the national stakeholder validation workshop and succeeding policy discussions within an FTA.



DEMOCRATIC REPUBLIC OF CONGO

A. MAKING THE CASE FOR FOREST TENURE SECURITY:

INTRODUCTION

Seventy percent of the population of the Democratic Republic of Congo (DRC) depends on forests for their livelihood, highlighting the critical importance of this resource. However, chronic insecurity of and conflict over land and forest rights is the dominant condition across the DRC. Despite the 1973 Land Law that established state ownership of all lands, a parallel system of customary ownership and management prevails across the vast majority of land.

The primary avenue for formalization of community rights are concessions. However, the 2002 Forest Law only recognizes the community forest concessions limited to 50,000 hectares in size, a limitation on ancestral rights that often exceed this scale. Further, even though the 2014 decree clarified the modalities of access to forest concessions for local communities, costs of the formalization and compliance with regulations is a barrier to most communities. Legal ambiguities, contradictions between historically established customary rights and statutory rights, a multiplicity of evolving customary rights, a lack of formalization procedures and a widespread implementation gap for formal codes and regulations have limited the realization of adequate community-based forest tenure security.

Issues related to governance extend far beyond the formalization of forest rights. Rights for women, while improving from a legal perspective, are severely unequal in reality, owing to customary biases in favor of men and a legal arsenal focused on non-discrimination instead of strategies to enforce equality.

Issues are compounded by a state that is still in the process of formation, and a remote, largely roadless geography where implementation of state laws and

regulations in a complex cultural and social context is intrinsically challenging. Further, the past few decades have seen pronounced conflict: DRC has only recently emerged from a prolonged period of civil war, the roots of which were in part related to land.

These factors point to relatively weak conditions for community-based forest tenure security throughout the country. However, there are many encouraging signs. Persistent conflicts over land have created a strong drive for reforms by CSOs/NGOs, local communities (including traditional authorities) and other stakeholders. Businesses are accustomed to working in these complex and insecure conditions and have strong interest in improving tenure security. Additionally, the debates on forest policy formulation and land law reform show that the current political regime has an expressed interest in the needs of the population.

Many bilateral and multilateral efforts are underway with natural resources, creating opportunities and the motivation for political reforms. Given the complexity of local conditions in as diverse a country as the DRC, special attention must be placed on a community-centric vision and social-oriented approach to forest tenure security. Thus, considering the limited capacities of the state, reforms carried out should be adapted, not only to the local context, but also to the reality and existing challenges within the state itself. This is the guarantee of reform implementation.

Land and forest legal framework:

- **Who owns forested land?** Land is owned the state/ government. The 1973 Land Law conveys the ability to use land (formally concessions). There is no legal framework in the DRC specifically dedicated to IPLC land rights, although the customary system of land rights currently exists alongside the formal system. In many cases, these customary rights are

29 The final pilot phase synthesis report and full country reports for DRC, Myanmar and Zambia are available respectively at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/985171598633319925>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/690411598636444226>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/383531594388453664>; <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/531591598634181781/>.

perceived by communities to have supremacy over statutory rights.

- **Who owns the trees?** Trees are owned by the state/government and are regulated by the 2002 Forest Code. After obtaining a concession, most forest resources can be accessed by communities (depending on the classification of the forest law, which is severely limited compared to customary practices).
- **Who manages the forests?** Rights to use land are granted through concessions. Communities can seek concessions that permit management of forests up to 50,000 hectares. Specific management and use rights depend on the classification of the forest and guidelines in management plans. Within limits, communities may have considerable management control of forests under concession. Again, there are many differences and contradictions between state law and customary practices.

Economic and social contributions of the forest sector:

- **How do forests support rural livelihoods and welfare?** - Rural households in the DRC generate around 20% of their income from forests and trees. In addition, NWFP contribute significantly to income and food, especially for women, children and the landless. In Mai Ndombe province, three quarters of the population depend on forests for daily subsistence.
- **Are forests a national economic priority?** – The formal forest sector contributes less than 1% of GDP (CBFP 2006) with 15,000 direct jobs (Karsenty 2007); informal jobs in the forest sector far outnumber those captured by official statistics. Very little of the revenue generated from the formal sector is returned to the populations living nearby the forest.
- **Is the country's forest policy gender-progressive and participatory?** – Despite legal affirmation of gender equality, women typically do not benefit as much from land rights and forest resources due to cultural practices. Generally, the decision to sell land and utilize the income is taken solely by men. Rights and roles of women in forest governance are theoretically the same as men's, as they are not prohibited from participating; however customary practices generally do not allow women to participate.
- **How do the DRC's forests help mitigate the impacts of climate change?** – In the DRC, forests

cover an estimated 155.5 million hectares (including 99 million hectares of humid forest), or 67% of the national land mass, representing almost half of Africa's tropical rain forests. REDD+ projects have been ongoing since 2012 in the DRC and have been the impetus to reform the Land Tenure Policy, Land Law as well as the creation of a Land Use Planning Policy and Law. Implementation of carbon credit payment projects is sporadic and current tenure regimes may exacerbate existing inequality.

Deforestation – Extent of problem and key drivers:

- Deforestation in the DRC, the largest country in the region, has increased from a rate of 0.31% from 1990 to 2010 (MECNDD 2015) to 0.52% a year from 2010 to 2014 (Environews 2015). Current forest tenure systems contribute to deforestation by not restricting harvests of trees and not requiring concessionaires to reforest. The primary driver of deforestation is local, household demand for fuelwood, timber and arable land.

B. CARRYING OUT THE DRC FTAT – METHODOLOGY, ADAPTATION AND STAKEHOLDERS

Methodological approach: National pilot implementation in the DRC was carried out up to the stage of conducting the national stakeholder validation

Operational Scale	National/sub-national (Mai Ndombe province)
Pilot Duration	September 2019 - February 2020
Pilot Budget	\$ 60,000 USD
Assessment Process- Key Stages	<ol style="list-style-type: none"> 1. Desk review of literature 2. Expert meetings, review and scoring 3. Fieldwork and ground truthing 4. Background study
Indicator Scoring Method	Expert scoring
Final Documents	<ol style="list-style-type: none"> 1. <i>Sécuriser les Droits Fonciers dans les Zones de Forêt pour Favoriser le Développement Rural: Évaluation du Régime Foncier Forestier en RDC</i>. February 2020. 2. Executive Summary. April 2020.

workshop. However, due to the global Covid-19 pandemic, the workshop has been postponed (as of May 2020).

The project appeared adequately resourced, though implementation took more time than projected (>5 months versus 3 months). It is understandable that the remoteness of the supplemental sub-national study area would necessitate an expanded timeframe to complete the assessment, particularly as it required collaborations with researchers to collect data from stakeholders throughout the area. A detailed assessment (background study with initial expert scoring) has been completed and has successfully incorporated this rich stakeholder input.

FTAT adaptation to country context: Unmodified FTAT indicators were scored by experts during the preliminary scoring stage (after translation into

French; see example stakeholders below for experts who contributed to scoring).

Stakeholders: In September 2019, experts met to find information not available online. An additional meeting with experts was convened in November 2019 to score the FTAT indicators. Stakeholders in the Mai Ndombe province were able to provide data and feedback on tenure security during the sub-national case study.

C. KEY FINDINGS: SYNTHESIS OF RISKS, CHALLENGES AND OPPORTUNITIES

The FTAT and implementation process in the Democratic Republic of Congo generated key findings, diagnostic data on the status of forest tenure security, policy recommendations and a policy roadmap for future policy, action and investment.

STAKEHOLDER GROUP:	EXAMPLE STAKEHOLDERS CONSULTED:
Government	Secrétaire Général au Ministère des Affaires Foncières, Fonds National REDD+, Institut Supérieur de Développement Rural, Commission Nationale de la Réforme Foncière, Direction Inspection (CONAREF), Direction Etudes et Planification, Direction de Réglementation et Contentieux et Litiges
Civil Society Organizations (Example)	Ligue Nationale des Associations Autochtones du Congo, World Wildlife Fund, Réseau des Populations Autochtones et Locales pour la Gestion Durable des Ecosystèmes Forestiers (REPALÉF), European Network for Central Africa (EURAC), Action pour la Promotion et Protection des Peuples et Espèces Menacés (APEM), Rainforest Foundation Norway (RFN)
Donors and External Partners	African Union, UN HABITAT, World Bank
Academia	Professors/researchers from Catholic University of Bukavu, Catholic University of Louvain and University of Antwerp

SYNTHESIS OF RISKS AND CHALLENGES:

- 1. Complexity and inconsistency of the legal framework:** The land capital of local communities in forest areas is not secure because of internal and external inconsistencies in the legal framework; each natural resource is governed by a specific sectoral law and there is no coordination mechanism. The responsibilities entrusted to the land and forest administration overlap with those from other sectors, especially ones related to subsurface resources (mining, hydrocarbons), with resulting institutional conflicts. There is a lack of articulation/alignment between the orientation of laws, policies and reforms related to natural resources and the overall vision of the socioeconomic challenges of the country as defined in the national documents defining the development priorities. In addition, there are conflicts due to incompatibility between the texts related to natural resources in forest areas and other texts in the Congolese legal arsenal.
- 2. Pluralism of legal norms and contexts:** This legal framework is often inapplicable as it cannot embrace the multiple and complex contexts of the communities; usually it is in opposition with the vision governing the customary rules. There is strong competition between the state's land and forest laws and the customary rights and practices governing these sectors. The two systems often propose contradictory rules, and the superposition of the two approaches is the basis of conflicts. For example, the formal legal system defines land and forests as state property by law, while customs and practices accept private ownership of land. Also, the number of situations covered by state laws (i.e., type of rights, actions to be performed by rights owners) is minimal compared to the practices that are governed by customary rules; those practices are as diverse as the contexts that created them and contribute to their continued evolution. As a result, the legal system is currently unable to operate as a unifying standard to encompass the various situations faced by the rights holders. This causes precarity and uncertainty of rights.
- 3. Multiple reasons for the status quo.** The political risk to push reforms include the risk of violence and the risk to weaken some elites' interests. Even if the DRC is considered as a post-conflict country, armed groups, since the start of the war in 1996, continue to occupy entire areas, particularly in the east of the country. Land and territorial issues are often part of these conflicts. Even within the more peaceful areas, land conflicts between communities are endemic and regularly erupt. This context makes land reform a very sensitive political issue. This desire to maintain the status quo is also shared by certain elites who have benefited from land cessions and concessions from successive past regimes, to the detriment of local communities and without compliance with the customary rules.
- 4. Precarious rights of specific users:** The law defines these communities' rights on the basis of ethnicity and family links and not in terms of neighborhood or land use, which excludes large parts of the community who do not meet this ethnic/family criterion. Meanwhile, laws related to natural resources refer to the user, which may not be the legitimate rights holder. The absence of breakdown of the typologies of stakeholder within the "local community" terminology prevents a clear definition of roles and rights, leading to precarity and conflicts.
- 5. Women's rights:** In many communities, women cannot inherit land. The legal arsenal in favor of gender equality does not include binding rules on the representation of women in decision-making structures within the community. As customary practices take precedence, there is a lack of reflection and awareness on family and community gains that could arise from greater gender equality.
- 6. Context of fragility:** the DRC is still in the process of construction as a state. It is one of the poorest countries in the world, with multiple governance problems. These general problems have repercussions for forest tenure security (problems of implementation of the law due to the weakness of institutions, underfunding of administrations, lack of coordination mechanism between sectors, etc.).

SYNTHESIS OF OPPORTUNITIES:

- 1. Multiple initiatives from financial partners:** The current bilateral and multilateral programs on natural resources are an opportunity to push politicians to put the issue of forest land on the agenda. Since the start of the war in the DRC, collaboration frameworks (with standards negotiated and adapted to the context) have been put in place between the Congolese government and donors as the country could not implement and finance its reforms. The investments to reform the forest land legal frameworks can be implemented as part of this trend.
- 2. High level of interest for reforms:** There is significant demand at the local level for forest and land tenure reforms due to persistent conflicts over access to resources. Support for reforms exist from local communities (including traditional chiefs), local land and forest administration officials, CSOs and NGOs and many stakeholders. Similarly, private investors are also expecting a reform to help them secure the land asset and their investments.
- 3. An accommodating national political context:** The DRC is currently in a transition phase. The current and new regime insists on focusing on the interests of the population as a priority. In 2020, the government reiterated its desire to make land reform a priority and asked partners to double their efforts to put in place a land policy and law. This is an opportunity to increase efforts on taking forest land into account in this reform, with a particular emphasis on securing forest land for local communities.
- 4. Business actors are pragmatic:** Companies (e.g., forestry, agriculture, mining) are in a situation where their interests are insecure because of the current forest tenure system. They therefore need a clearer tenure regime in order to secure their interests. At the same time, local businesses and long-time investors have been accustomed to working in those conditions and have developed coping mechanisms. Reforms are therefore not seen as a risk for local businesses: they are used to finding a balance between the law and local customs, but they also would be ready to accept a reform that tries to resolve the customary and the legal worlds and avoid the conflicts they face daily with the communities. Finally, companies are reassured by the political will of the current president that the land sector will become one of the pillars of the policy of strengthening the business climate.
- 5. The tenure security platform:** Institutions have acquired expertise and certain political and institutional recognition, even if there are aspects to be improved. Within this platform, there is already a strongly divided debate on the links between forest land and SDG. The divide opposes two visions of reform: an economic one and a socio-anthropological one. If a third way would emerge, or a consensus between the economic and the local communities (socio-anthropological view) could be achieved, initiatives in favor of local IPLC would naturally position themselves in this platform.

D. HOW TO SECURE FOREST TENURE: ASSESSMENT RESULTS BY KEY ELEMENT AND POLICY RECOMMENDATIONS

KEY ELEMENT



1. LEGAL FRAMEWORKS FOR TENURE RIGHTS

Legal framework does not protect seasonal/secondary rights; significant weaknesses in land tenure, including absolute ownership by state (exclusion of customary ownership); significant overlap and lack of harmonization of laws (including customary rights) governing different natural resources



2. IMPLEMENTATION OF LEGAL RECOGNITION

Strong conflict management mechanisms minimize issue of overlapping rights; formalization procedures are virtually nonexistent; customary land and forest rights are not recognized in practice



3. APPROPRIATE REGULATIONS FOR LAND AND RESOURCE MANAGEMENT

Regulations reduce issues of land grabbing and hoarding; most procedures are ineffective and costly; permitting is rarely carried out



4. EFFECTIVE SUPPORT FROM RESPONSIBLE GOVERNMENT AGENCIES

Mechanisms of participation are acceptable, however capacity to support participation are minimal; significant horizontal and vertical overlap between institutions with minimal capacity and resources; conflicts of interest are prevalent



5. EMPOWERED AND INCLUSIVE INDIGENOUS AND COMMUNITY GOVERNANCE

Most community governance is weak and insufficiently supported; governance planning is minimal; technical and financial capacity is very limited; CSO support is relatively strong



6. SYSTEMS FOR RECORDING COMMUNITY FOREST TENURE RIGHTS

Information is decentralized, and when available, is owned by the institutions that generate it; not all land transactions are recorded and access to data is limited



7. ENFORCEMENT OF TENURE RIGHTS

Sanctions are insufficient and poorly enforced; law enforcement is poorly resourced, unless supported by external partners; illegal activities are common and largely unrestricted



8. PROTECTION OF COLLECTIVE TENURE RIGHTS IN RELATION TO OTHER FORMS OF TENURE AND LAND USE

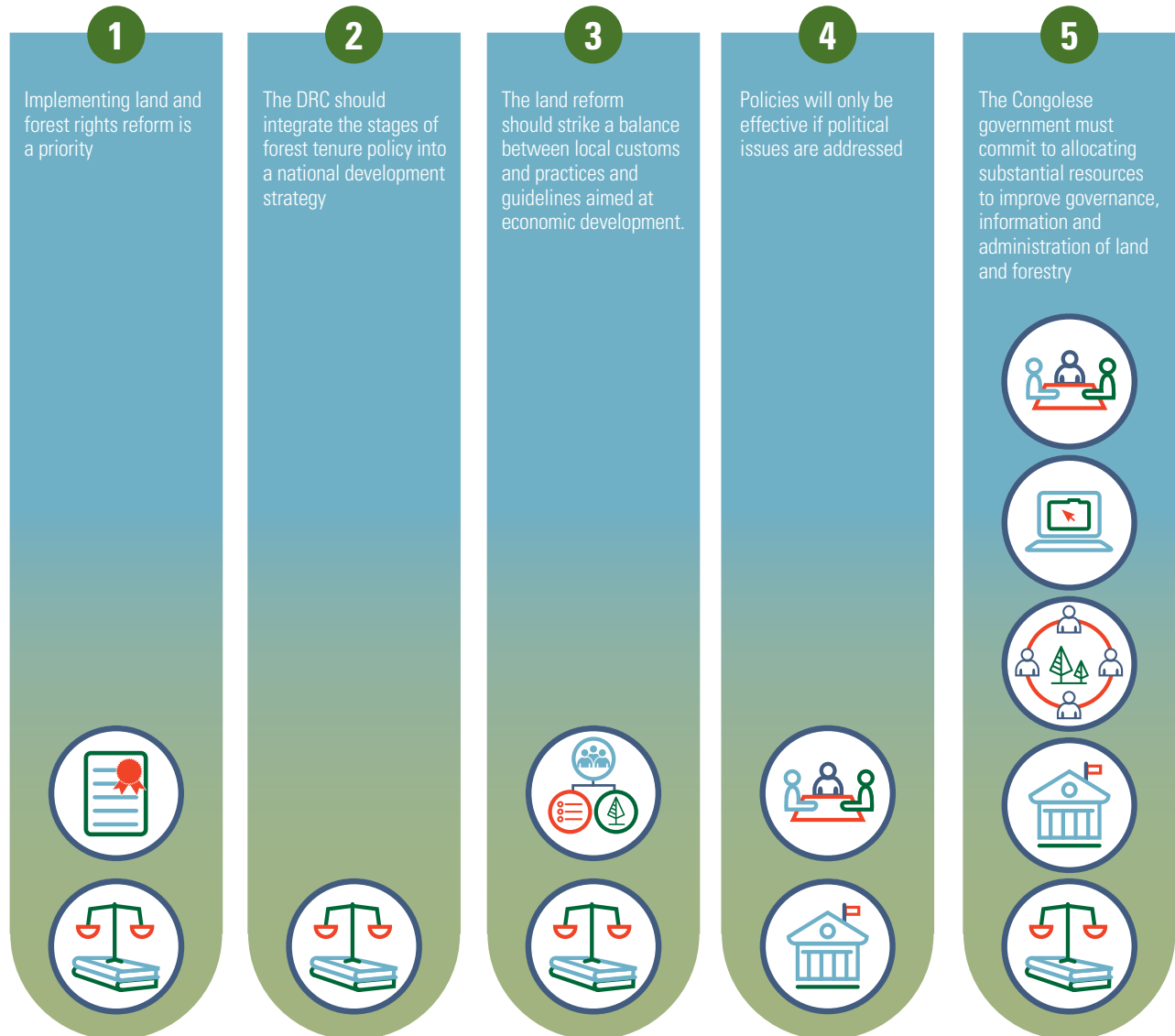
Legal framework is in place but poorly implemented and procedures are lacking; no inter-ministerial frameworks to manage sectoral coordination and no environmental impact analysis in place; FPIC is not guaranteed; expropriation has been problematic



9. CONFLICT AND DISPUTE RESOLUTION

Access and capacity are limited; independence of conflict resolution bodies may be questionable; resolution of disputes is mostly better at the customary level; inter-community conflicts have many issues

POLICY RECOMMENDATIONS



Policy recommendations:

1. **Implementing land and forest rights reform is a priority.** There is a definite risk of persistence, even worsening, of hunger and poverty (SDG 1 and 2) because of the lack of attention paid to land rights in forest areas. Failure to invest in the reform of the land tenure system in general, and of the forest land tenure system in particular, maintains a status quo where the land capital of local communities living off the land is insecure. This insecurity manifests itself in the ambiguity and unsustainability of the

rights that communities perceive that they hold under customary law and practices.

2. **The DRC should integrate the stages of forest tenure policy into a national development strategy** aimed at SDG 8 (decent work and economic growth), SDG 5 (gender equality) and SDG 13 and 15 (climate action and life on land).

- The reforms should find a balance between SDG 8 and SDG 1 and 2, which means that the fight against poverty and hunger is not only based on secured investments leading to decent work

and a redistribution of gains, but also requires promoting and securing the access to the resources and their use by communities that practice subsistence farming.

- Regarding SDG 5, the reforms should strengthen the legal arsenal in favor of gender equality, and introduce binding rules on the representation of women in decision-making structures. Reforms should also inform and raise awareness of the family benefits and community gains when equality of rights is improved.
 - Regarding SDG 11 and 13, a national development strategy would need to take into account the realities on the ground, especially the specificity of each zone, the socioeconomic needs of the communities and the rights they claim.
3. **Land reform should balance local customs and practices and guidelines aimed at economic development.** This is the sine qua non for ensuring the effectiveness of the law, and therefore SDG 1 and 2. The Ministry of Land Affairs and the platform on land reform are aware that the success of reforms depends the implementation of good laws, which take into account the local realities.
 4. **Policies will only be effective if political issues are addressed.** Most of the conflicts pending before courts and tribunals and in informal dispute resolution bodies are linked to land. Even though land reform can help resolve some of these conflicts, the reasons behind most of those conflicts are political or related to relation of power between stakeholders. The solution therefore may not lay in a technical reform (rules and laws governing land management), but in a political process (i.e., how the land asset is shared and for which purpose, which authority prevails, etc.). Thus, the land issue in forest areas of DRC can only be solved if there is a political will to do so. The resolution of these conflicts is necessary prior to the implementation of reforms because if community power conflicts are not solved, the law will not have an opportunity to be applied to manage ordinary conflicts. The Congolese government should therefore make a commitment to definitively settle these community land disputes that pit communities against themselves or against concessionary elites.
 5. **The Congolese government must commit to allocating substantial resources to improve**

governance, information and administration of land and forests. This is the condition for implementing the law, supporting users in general, and local communities in particular, and supporting conflict resolution. In the current context, this work must be done in collaboration with the technical and financial partners that the government now needs more than ever.

E. POLICY ROADMAP:

Developed from the experts' meetings, a review of the literature and the sub-national case study, the project team has identified these sequential steps to improve forest tenure security:

1. Conditions needed for effective initiatives

The success of initiatives securing land rights depends on several factors including:

- **Political alliance:** the current parliamentary majority is a broad coalition facing many power struggles. One of the divides is between those supporting the reform agenda and those who are hesitant for various economic and political reasons. This situation can only be unlocked if there is a political will at the executive level and support from other stakeholders to quickly find a consensus on a way forward.
- **Put the local communities at the heart of the reform:** in a context where the government is strongly focused on a perspective that favors businesses, reforms should take into account the priorities of local communities. Without paying particular attention to the priorities of communities, businesses risk finding themselves in open conflict with the local actors, and reforms will not be implemented.
- **Reconcile legal pluralism:** to be effective and efficient, reforms should recognize and regulate the legal pluralism in rural areas, without necessarily formalizing the informal bodies involved in land management. To achieve this, the reforms should be part of a bottom-up approach for rural lands in particular, to tailor the instruments to the actual situation faced by the communities; the formal legal system should be limited to a guidance role and ensuring the consistency and coherence of the system.

2. **Advocacy supporting the government's commitment**

The DRC is currently in the midst of a political transition. The new regime inherits a situation in which almost everything is a priority. Despite the political will to reform the land law and clarify certain aspects of forestry, the government needs to be pushed to fully commit to this reform. Coordinated leadership of powerful organizations (both international and national) in these areas is an opportunity to keep reforms on this agenda. This leadership is also necessary to mediate political conflicts arising from various reform options. It should therefore be a prerequisite for any action.

3. **Accelerating the land reform process in coherence with other key sectors**

The Congolese government has just committed to implementing a new land policy and reforming the Land Law. This is an opportunity to move forward on a process that was launched in 2012. However, the efficacy of this reform depends on three other policies: (i) the policy and the law on land use planning, whose reform has been initiated at the same time, (ii) the effective implementation of decentralization and (iii) the recognition of local traditional political organizations and their institutional mechanisms for coordinating natural resources management. Those sectors (land use, decentralization and organization of the customary leadership) have a direct connection with the land and forest rights security and should be addressed as part of a single vision.

4. **Improve capacities within the administrations**

There are strong deficiencies within the forest and land administrations. Apart from various resource

shortages, the content of the laws is little known. The Land Law of 1973 is still missing most of its implementing decrees and, as it cannot become operational, jurisprudence and informal practices continue to dominate. The 2002 Forest Code is in a similar situation, including the decrees related to the community forestry added after 2014. It is therefore necessary to set up capacity-building mechanisms within the administration in order to operationalize, enforce, educate and assess the legal instruments about land and forest governance.

5. **Raise awareness of reforms within local communities**

For many of the local communities, the dispossession of lands and the insecurity of rights is caused directly or indirectly by the state law, to the detriment of customary practices and standards. There is therefore suspicion in the application of the law and, as a consequence, mistrust in the reform processes, which is often associated with the elites. Awareness campaigns on the goals, benefits and vision behind the legal system are therefore needed as the reform processes progress. Similarly, local consultations on the reforms must continue and be synthesized and disseminated.

Policy uptake (April 2020): FTA implementation and findings in the DRC have influenced the implementation of the Forest Dependent Community Support Project (World Bank) and DRC Improved Forested Landscape Management Project (World Bank). In addition, it is anticipated that the FTA's findings may potentially contribute to the National Agricultural Development Program under preparation (World Bank).



MYANMAR

A. MAKING THE CASE FOR FOREST TENURE SECURITY:

INTRODUCTION

Over the last decade, simultaneous transformations in the country's political, economic and institutional governance structures, including land and natural resources, are finding peaceful solutions to civil conflicts and the long-running demand for tenurial reforms. These shifts are part of a well-negotiated, long-term process; progress includes the adoption of the National Land Use Policy (NLUP, 2016), revisions to Forest Law and Conservation of Biodiversity and Protected Areas Law (CBPA, 2018) and gradual efforts to acknowledge customary tenure. However, several of these and other reform measures have been widely contested, as rural people continue to demand protection and recognition of customary tenure and shifting cultivation practices. Meanwhile multiple ethnic armed organizations (EAOs) continue to battle for greater autonomy and seek to shape the future of an eventual federal state. Decision making remains centralized. Popular perceptions on exclusion along ethnic and geographic lines have fueled grievances regarding access to land and resources, underscoring the nation's fragility as it undergoes transition. Frequent disputes, often around access and claims to natural resources in Kachin, Shan North and Chin states and in Tantharayi and Sagaing regions, further expose the limits of the current reform processes.

Community-based forest tenure prevails across the country. Access to formal land tenure administration services has historically been low. During decades of active political-civil strife, most ethnic populations in conflict zones could not access government services, either because they were not provided, or because lack of security, topography or displacement made it impossible. As a result, more than half of all landholdings are held without formal titles or certificates, in accordance with customary practices. These lands largely remain unmapped, not demarcated, unquantified and most frequently, unprotected, with encroachment and "illegal uses" reported in all areas.

Ongoing peace negotiations between the union government and EAOs hinge on power-sharing agreements and division of responsibilities over forestland and natural resource governance. For

ethnic nationalities and EAOs, building a stronger "independent, standalone" tenure-administration system (both for forest and non-forested areas) is desirable and consistent with their political pursuit of local autonomy under the proposed federalist structure. In contrast, the union government sees replacing local systems with a unified national system as a path toward unification.

Although most communities use outdated technologies to measure/map land areas, their existing customary tenure systems are often well understood. Communities can interact with formal systems only because CSOs provide them many technical support functions. A complete replacement of customary practices, without building public awareness and capacities on the new systems, would leave a vacuum in local arrangements and knowledge — a gap that CSOs alone might not be able to fill. This vacuum would weaken the rights and capacities of local communities with persistent negative impacts. Forest tenure can be primarily viewed as a social relationship with complex rules that govern land use and ownership. This model, which allows both statutory and customary systems to coexist and complement each other, may offer the most promise in Myanmar.

Deforestation – Extent of the problem and key drivers:

Forest loss is estimated at 550,400 hectares per year (averaged in the period 2010-2015), the third highest rate of deforestation in the world (Nyi Nyi Kaw 2015). Primary drivers of deforestation include:

- Agricultural expansion, shifting forest areas to agribusiness concessions
- Illegal logging and overharvesting of timber
- Infrastructure and energy development (hydropower); mining in forestland.

Land and forest legal framework:

- **Who owns forested land?** All forestland and resources (above and under the ground) are owned by the state and administered by multiple ministries/entities in accordance with different laws/regulatory frameworks such as Forest Law, VFV Law, Farmland Law and others.

- **Who owns the trees?** All trees are owned by the government and administered by the Forest Department (as per the Forest Law). With regard to access and use rights, generally those who occupy the land will be entitled for use rights of the tree – and such trees will have to be registered with the government. Local communities have access and use rights for non-timber forest products and “tree rights”³⁰.
- **Who manages the forests?** Historically, rights to land and forest resources were embedded in the social structure and governed by customary traditions and local practices. Customary tenure remains the dominant form of de facto access to and use of forestland and resources across Myanmar. Most locally accepted customary systems allow for a complex mix of individual, family and community tenures even in urban and peri-urban areas. In theory and per existing regulatory framework, if the land is within reserved (RF) and public protected forests (PPF), then the respective forest is administered by the Forest Department (FD); if the forest area is outside RF/PPF areas, it should be administered by the VFV land management central committee. However, forestland held under customary practices is not recognized as a community holding by any legal framework. At present, under the existing regulation, use rights for community forests are for a 30-year period, but can be renewed, subject to compliance with guidelines.

Economic and social contributions of the forest sector:

- **How do forests support rural livelihoods and welfare?** Forests are central to the economy and play a fundamental role in combating rural poverty, ensuring food security and providing people with livelihoods. In addition, they deliver ecosystem services, conserve biodiversity and mitigate climate change. Close to two-thirds of Myanmar’s rural population of 54 million is dependent on forestland.³¹ These resources provide key secondary income for more than half the rural population; close to two-thirds of rural energy demands are met by traditional forest fuels.³² Forests support food security for the rural population: the country’s mangrove forests, which are severely threatened, are critically important for food security in coastal communities.
- **Are forests a national economic priority?** Officially,

forests only contribute 0.2% (\$130 million, FY 2015/2016; Central Statistical Organization 2016) to the GDP; however, this vastly underestimates the economic importance of forests in the country as it leaves out illicit and informal uses of forests. Including ecosystem services, the importance of forests to the national economy is up to 10 times higher than formal GDP figures.

- **Is the country’s forest policy gender-progressive and participatory?** There has been progress in protecting and recognizing women’s rights to forestland and resources. The Constitution of 2008 includes the guarantee of equal rights and equal legal protection to all persons, men and women (Article 347), and does not discriminate on the basis of sex. Similar statements are included in the National Land Use Policy and others. However, implementation guidelines are rarely drafted from a gender-sensitive perspective, and consequently enforcement continues to be weak. Lack of gender awareness among local officials dealing with land allocation, inheritance and dispute settlement sustains a male bias that prevents women from enjoying their rights.
- **How do Myanmar’s forests help mitigate the impacts of climate change?** Currently deforestation is high in Myanmar and constitutes the major national contribution to climate change. The government’s capacity to address climate change and natural disasters in forest areas is limited due to unsecured long-term funding, limited technical skills and lack of clarity over the sustainability of finance mechanisms. In some cases, despite having policies in place, implementation is weak for multiple reasons such as weak institutional capacity, lack of commitment and limited resources. A number of CSOs also function as intermediaries between the government and forest-dependent communities in REDD+ efforts as well as climate change adaptation projects.

B. CARRYING OUT THE MYANMAR FTA— METHODOLOGY, ADAPTATION AND STAKEHOLDERS

Methodological approach: Pilot implementation maintained the core approach of the FTAT, while adding additional stakeholder feedback to the process and considerably modifying the indicators

³⁰ In the case of palm trees, they can be owned under specific conditions.

³¹ Refer to Central Statistical Organization of the Republic of the Union of Myanmar at <https://www.csostat.gov.mm> and also Department of Population’s website at: www.dop.gov.mm.

³² Refer to <http://www.eria.org/publications/myanmar-energy-statistics-2019/> and www.eria.org/publications. It has been highlighted that most rural households use traditional biomass, particularly for cooking and lighting.

OPERATIONAL SCALE	NATIONAL
Pilot Duration	September 2019 - March 2020
Pilot Budget	\$130,000 USD
Assessment Process—Key Stages	<ol style="list-style-type: none"> 1. Informal consultations with government stakeholders, review of FTAT/AF, development of modified framework and indicators; desk review 2. Two regional consultation workshops (total: 4 days) 3. Summary report of results from consultations, regional workshops and desk review of literature 4. National multi-stakeholder consultation and validation workshop (2 days) 5. Policy recommendations/ roadmap
Indicator Scoring Method	Group-based scoring
Final Document	<i>An Assessment of Forest Tenure in Myanmar: Securing Forest Tenure for Sustainable Livelihoods.</i> March 2020. Myanmar Working Group on Forest Tenure Assessment.

and scoring process. In Myanmar, the overall process has largely been driven by government partners, led by the working group of Forest Department officials and the lead facilitator and consultant established for this task. After conducting informal meetings with relevant government and civil society stakeholders, the working group determined that a more involved process was necessary to obtain sufficient input for the background study, given the political complexities of the country. Two regional workshops contributed feedback for the background study and were used to refine the indicators scored during the national validation workshop. Based on the findings and recommendations from the national workshop, the working group summarized and articulated key discussion and policy statements.

FTAT adaptation to country context: All FTAT indicators were adapted by the working group to be targeted to local context and language.³³ The FTAT used the AF throughout this process. To reflect scoring by a diverse group of stakeholders, language was simplified, and concepts and terminology were defined. Customized indicators were translated into Burmese for the national workshop.

Stakeholders: Two regional-level workshops had 114 participants. Ninety-two people from four major interest groups participated in the national multi-stakeholder consultation and validation workshop. Forty percent of stakeholders were women and 10 percent were community leaders.

STAKEHOLDER GROUP:	EXAMPLE STAKEHOLDERS:
Government	Officials representing union government and states/regions from the Forest Department, Ministry of Natural Resources and Environmental Conservation (MoNREC), Environmental Conservation Department, Union Attorney General's Office (UAGO), Department of Agricultural Land Management and Statistics (DALMS)/ Ministry of Agriculture, Livestock and Irrigation (MoALI) and General Administration Department
Private Sector	Myanmar Centre for Responsible Business, Rubber Plantations' Association of the Mon State and Farmers Association of Ayerwaddy Region
Civil Society Organizations	Chin Human Rights Organization (CHRO), Forest Resource Environment Development and Conservation Association (FREDA), Myanmar Alliance for Transparency and Accountability (MATA), Myanmar Environment Rehabilitation-Conservation Network (MERN), Center for Forests and People (RECOFTC), Green Network, Promotion of Indigenous and Nature Together (POINT), Plan International and Land Core Group
Donors and External Partners	World Bank and Global Land Alliance

33 Indicators used in Myanmar can be found in the full country report at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/383531594388453664/an-assessment-of-forest-tenure-in-myanmar-securing-forest-tenure-for-sustainable-livelihoods>

D. HOW TO SECURE FOREST TENURE: ASSESSMENT FINDINGS AND RECOMMENDATIONS BY KEY ELEMENT

KEY ELEMENTS FROM AF & ASSESSMENT FINDINGS



1. LEGAL FRAMEWORKS FOR TENURE RIGHTS

Legal framework does not protect or recognize customary rights; legacy issues (e.g., poor governance and corrupt practices during military regime) and gaps between customary claims and formal tenure remain to be addressed along with clarifying gaps and overlaps in land and land-use classifications and the incomplete bundle of rights; recent reforms are widely contested



2. IMPLEMENTATION OF LEGAL RECOGNITION

Enforcement of existing regulations and guidelines is weak; some newly adopted procedures are in flux; some use rights are of a short duration (e.g., 30 years for community forestry), limiting tangible benefits and incentives for communities to invest, discouraging communities to seek claims



3. APPROPRIATE REGULATIONS FOR LAND AND RESOURCE MANAGEMENT

Only formal permits/grants are registered, informal tenure is not well registered and secured due to conflicting regulations; policies are not always put into practice; governance challenges persist, impacting enforcement.



4. EFFECTIVE SUPPORT FROM RESPONSIBLE GOVERNMENT AGENCIES

Despite gains with the formation of the National Land Use Council, institutions have imprecise mandates and distribution of responsibilities and inadequate implementing capacities; limited support and resources available to government institutions at all levels (more at the local levels) to provide technical and extension services



5. EMPOWERED AND INCLUSIVE INDIGENOUS AND COMMUNITY GOVERNANCE

Limited capacity of community governance and communities are insufficiently supported; in conflict areas (and those administered by Ethnic Armed Groups), a different set of administration arrangements prevail. Peace dialogue is key to harmonize current differences.



6. SYSTEMS FOR RECORDING COMMUNITY FOREST TENURE RIGHTS

No NSDI framework in place but policies are making slow progress; government records of CF and other permits, allocation and use of forestland and resource rights are not harmonized between different institutions or accessible



7. ENFORCEMENT OF TENURE RIGHTS

Weak enforcement of rights; community and government systems (and EAO administered) are not connected



8. PROTECTION OF COLLECTIVE TENURE RIGHTS IN RELATION TO OTHER FORMS OF TENURE AND LAND USE

Existing regulations do not guarantee protection of collective, inter-generational rights (except CF); inability to safeguard customary tenure and tenorial claims of forest-dependent communities



9. CONFLICT AND DISPUTE RESOLUTION

Formal courts/judiciary is weak and there is a lack of public access to the formal legal system (limited to administrative arrangements); most disputes are resolved at a community level; formal procedures do not adequately recognize customary dispute resolution; accessible and affordable mechanisms are lacking

KEY MESSAGES AND RECOMMENDATIONS LINKED TO ELEMENTS

Utilize and strengthen existing entry points for inter-sectoral work: Inter-sectoral work has proven to be easier in both populated areas and remotely located communities. Existing inter-sectoral mechanisms could be used as entry points for joint work. Partnership with these societal structures can contribute to the development, communication and implementation of forest tenure.



Prioritize implementation and look beyond the short term: Tenure reforms are comprehensive in their nature - it is critical that yearly priority and objective setting take place with concrete and measurable targets. Identification of future challenges, needs and opportunities during implementation can prepare for future forest and resource administration and management.



Map out and implement the country's capacity-building needs: Systematic training and capacity-building efforts focused on forest tenure will help stakeholders employ a so-called tenure lens in their work in the forest and other sectors. Training of government staff at the union and states/regions level through the development of forest tenure reforms keep staff informed and satisfied



Engage and maintain diverse and multi-sectoral stakeholders prior to and during the process of developing and implementing the reform process: demonstrate that forest tenure security will not be compromised. Focusing on social gradients to tackle inequalities rather than on gaps between the extremes of the socioeconomic spectrum makes this task more feasible. Engaging other sectors allows each participant to see the big picture, identify how their sector could contribute to strengthen forest tenure and build key relationships essential for consistent land-related policies.



Seek out support from development partners: these partners can support and facilitate the policy dialogue process and its implementation.



Achieve accountability through an information system with performance indicators: The system should have sufficient capacity for national and international comparisons (benchmarking), as well as meet data requirements of the forest tenure plan.



Face data challenges head on: challenges posed by forest information systems (e.g. a lack of disaggregated data) can be addressed through joint data collection, joint reporting and agreed upon sets of core indicators.



Seek opportunities for sharing experiences, disseminating information and problem solving: Regular dissemination and communication to external audiences through both scientific and lay mechanisms (reports, presentations, papers, etc.) will help build support for strengthening communities and tenure arrangements.



Stakeholders participating in the national workshop included the following groups:

C. KEY FINDINGS: SYNTHESIS OF RISKS, CHALLENGES AND OPPORTUNITIES

The *FTAT* implementation process in Myanmar generated key findings, diagnostic data on the status of forest tenure security, policy recommendations and a policy roadmap for future policy/action/investment.³⁴

E. POLICY ROADMAP:

Following the workshops and based on the findings of the FTA, the working group suggests the following action points:

- 1. Support the work of the National Land Use Council (NLUC) to reinforce the tenure reforms. Increase financial and political commitment to tenure reform to NLUC as a central strategy to achieve development goals related to poverty, climate and food security.** Assessing community claims, mapping tenure, delimiting property, reforming legal frameworks, devising regulations and establishing new enforcement mechanisms are expensive. The government must dedicate considerable resources to tenure reform. Civil society can serve as an interface, galvanizing political will to ensure that all legislation is coherent on sustainable use of forestland and natural resources.
- 2. Utilize and strengthen existing reform measures to encourage tenure reform.** At present, the government is drafting a set of land and related laws/regulations (e.g., umbrella Land Law; preparation of Forest Rules, Rules for the Conservation of Biodiversity and Protected Areas Law) as part of the reform measure. Such ongoing efforts should be an opportunity to include forest tenure issues and thereby strengthen protection and recognition of local and customary practices that would realistically respond to the needs of communities. In addition, the government must prepare and issue revised regulations and guidelines on land and land-use classification. National Spatial Data Infrastructure (NSDI) should be strengthened by implementing the OneMap policy and streamlining standards and work on all land databases.
- 3. Develop, implement and mainstream strategies and programs to safeguard and promote the land and**

resource rights of forest-dependent communities.

Through the adoption and implementation of the new Land Law, Forest Rules, Rules as per CBPA Law (and existing Environmental Conservation Law of 2012), government and civil society stakeholders will be able to secure their tenurial claims. The ongoing EIA/SIA efforts should be made more participatory and reports shared periodically with the public and affected communities. This is critical not only in achieving effective and efficient forest conservation, but also in protecting the rights of forest-dependent local communities and customary rights. The government must maintain regular monitoring, quality control and audit of access/use rights while complying with national and international commitments. Information on pre-existing use and ownership conditions must be collated in community/area-specific databases. This helps enhance local and ethnic communities' claims on forestland and resources and effectively target policies, programs and resources.

- 4. Engage all stakeholders in implementing forest tenure reforms to ease the shift from isolated measures to coordinated governance strategies.** A network of civil society and community leaders, under government leadership, can keep track of reform implementation. The government must: (a) support community-based efforts like land mapping and employ participatory processes; (b) gradually increase the number of locally recruited staff to fill various roles; and (c) through constant information dissemination, foster public support and build confidence in the process. Investors must incorporate tenure considerations in their due diligence and aggressively support investments that address community tenure issues.

- 5. Allocate sufficient budgetary resources to improve/build up local capacities (of government, community and civil society actors, including NLUC and other multi-stakeholder bodies engaged in promoting forest tenure) to gather information on forestland use and holding patterns and sociocultural factors affecting them.** Community and governmental capacity must be built up to demarcate forestland, gather evidence, register properties and formalize tenure through participatory and inclusive processes. Government staff should be given context-appropriate training that is equitably available, operationally focused and easily applicable. Local government capacity must be strengthened

³⁴ See full Myanmar country report at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/383531594388453664/an-assessment-of-forest-tenure-in-myanmar-securing-forest-tenure-for-sustainable-livelihoods>



Photo by Shivakumar Srinivas

to build accountability and capacity and local levels, including through capturing revenue through taxes and/or fees related to larger land holdings. National research capacity must be enhanced for better data, based on which effective policies can be designed.

6. Federalist governance arrangements are central to peace negotiations. Security of tenure and ethnic land rights is intertwined with opportunities for peace, as they are at the center of longstanding struggles to secure equal rights and self-determination. Protracted armed conflict has led to a complex framework where EAOs and ethnic communities manage forest lands in many states/regions. Some EAOs have developed, or are currently developing, land use policies and forest policies, and have established systems to govern and administer territories, land and resources and populations in their traditional territories. For those with bilateral and National Ceasefire Agreement (NCA) commitments, the interim arrangements and related commitments for joint coordination on land, environment and natural resources provide a basis to

operationalize efforts and activities on the ground. The ongoing peace dialogue should be nurtured as it provides an opportunity for resolving political conflict and defining governance arrangements for land, forests and natural resources.

Policy uptake (April 2020): The FTA process in Myanmar strengthened the capacity of Myanmar’s Ministry of Natural Resources (MoNREC), Forest Department to carry out their work, in particular the implementation of Myanmar’s National Restoration and Reforestation Program (MRRP). Additionally, the FTA provided inputs for drafting the umbrella Land Law, framing Rules for the Forest Law and CBPA Law and strengthening implementing guidelines for community forestry. Projects directly informed by the FTA process are the World Bank Myanmar Forest Restoration, Development and Investment Project (FREDIP) and the upcoming Agence Française de Développement (AFD) project in support of community forestry.

SYNTHESIS OF RISKS AND CHALLENGES:

- 1. A complex policy and legal environment:** Despite modest progress, overlapping provisions and mandates remain at all levels, even on the conceptual framework on sustainable forest and resource management. The complexity of the policy domain defies efforts to divide it neatly between jurisdictions, especially given the limited understanding of the ways in which systems work at the community level. Several participants drew attention to the provisions in the Farmland Law, VFW Law and other laws and regulations that conflict (overlap) with each other; some provisions in the draft Forest Rules conflict with efforts to make land and environmental issues in ethnic areas part of the Union Peace Dialogue (21 Century Pinlong Peace Conference).
- 2. Ineffective institutions and weak enforcement:** Although weak enforcement of policies and regulations is generally acknowledged as a widespread and significant problem, the full complexity of the underlying causes for this is often not understood. In some cases, the laws may not be at issue: their application may be considered illegitimate by local stakeholders who have not been adequately involved in decision making. In such situations, community-led, co-management approaches may be necessary to build local support.
- 3. A fragile political environment and ongoing peace negotiations:** Ethnic Armed Organizations and ethnic nationalities envision local autonomy and standalone tenure administration systems; union government aims for unified national system; a system that combines attributes of each may offer the strongest security for communities.
- 4. Inability to safeguard customary tenure and tenorial claims of forest-dependent communities:** Cases abound of customary landowners losing access over legal deadlines for registration under formal laws (VFW Law, etc.). Changes in land status to reserve areas, etc., occur without FPIC and safeguards.
- 5. People's inability to access justice and resolution:** Key challenges in dealing with conflict and grievance management are the lack of public access to the formal legal system (which is virtually non-existent in some areas) and the lack of local capacity to deal with issues of boundary demarcation, overlapping and competing claims, benefit sharing and roles and responsibilities in forest management.
- 6. Failure to ensure equity for all genders and ethnic groups:** Women are underrepresented in land-related matters, both in government committees and customary governance.
- 7. Opacity over the roles and responsibilities of the union and states/regions:** Legal pluralism prevails, and existing laws provide insufficient clarity of roles, responsibilities and procedures.

SYNTHESIS OF OPPORTUNITIES:

- 1. Community-led approach:** Improved co-management approaches are necessary to promote better government-community collaboration. Such arrangements should recognize existing resource uses rooted in local traditions and practices, while introducing new rules and standards to promote sustainable use. Raising public awareness is critical for an enabling environment that provides accountability, promotes participatory and inclusive processes for follow-up and review and builds ownership. Informing and educating local communities facilitates understanding of existing policies, laws and rights in relation to forest tenure and engagement in opportunities to participate and hold the government accountable.
- 2. Strengthening capacities of institutions and communities:** The government's capacity to address climate change and natural disasters in forest areas is limited due to unsecured long-term funding, limited technical skills and lack of clarity over the sustainability of finance mechanisms. Long-term funding must be secured for government institutions to address climate change and natural disasters and to provide consistent technical and extension services to communities.
- 3. Favorable conditions exist to further promote and build upon community forestry:** Since the Community Forestry Instructions were developed, opportunities to promote community tenure have significantly increased and more forest-dependent communities are willing to apply for formal recognition of their user rights and limited management rights. CSOs have supported forest tenure reform alongside ongoing efforts to implement and expand community forestry, community-protected areas and community fishery programs.
- 4. Peace is a critical platform for strengthening forest tenure and sustainable development:** With regard to federalism and institutional development in Myanmar, one of the main drivers of forest tenure reforms has been peace negotiations, although tenure reform is not necessarily the main goal of that dialogue. Peace, rule of law and democratic governance are not only closely inter-related, but also mutually reinforcing and critical for securing forest tenure and achieving sustainable development.
- 5. Resolve grievances and disputes:** Dispute resolution that fails to take into account genuine community ties to forestlands, both from an economic (livelihoods) perspective and a spiritual/cultural perspective, could easily lead to further disputes. The union government can respect and make space for ethnic governance institutions and customary systems of dispute resolution.
- 6. Legislative priorities:** Priorities include harmonization of the revised Forest Law of 2018 and subsequent draft rules of 2019 with the objectives of the NLUP of 2016 (and the National Ceasefire Agreement or NCA of 2015 and related interim agreements).
- 7. Implementation Priorities:** Priorities include the process of legal harmonization at the union government level; investment in government and community capacity building and stakeholder engagement; the improvement of information gathering and access.



ZAMBIA

A. THE CASE FOR FOREST TENURE SECURITY:

INTRODUCTION

Zambia's land area is predominately forested, covering more than 50 million hectares, or 66 percent of the country's land mass (FAO and GRZ Forest Department 2016). Forest products play a major role in Zambian livelihoods, supporting more than one million jobs, estimated to include over 60 percent of rural households (UNEP et al. 2015). Although many rural poor live within and around valuable forests and benefit in subsistence and commercial terms, the forest sector is not presently lifting the rural poor out of poverty.

The long-term growth of the sector will be closely linked to the ability of communities who live near forests to benefit from timber and non-wood forest products (NWFP) and manage these resources sustainably. This is tied to community rights to both trees and the underlying land. Strengthening community rights to manage and benefit from forests is a direct pathway to maintaining forest cover and growing the rural economy (Zimba 2007).

Over 60 percent of Zambia's forests fall on rural customary estates (FAO and GRZ Forest Department 2016). While households on customary land have subsistence use rights to forest products, all commercial rights to major forest products rest with the state through the Forestry Department. The 2015 Forests Act creates opportunities for communities to secure tenure rights to both land and forests. This has been operationalized through the Community Forest Management Regulations of 2018, which allow communities to register as Community Forest Management Groups and subsequently apply for rights over a specific area of forest for purposes defined in a management plan. Since 2018, more than 55 communities with interests in more than one million hectares have applied to manage their forests for a range of goals, ranging from management of NWFP (e.g., honey and mushrooms); protection of forests for wildlife or cultural reasons; participation in forest

carbon/climate change initiatives; and, in a few cases, timber harvesting.

Deforestation – Extent of problem and key drivers:

Estimates of forest loss range from 80,000 to 445,000 hectares per year, with government estimates of 79,000 —150,000 hectares of forest annually, or an annual loss of between 0.17 and 0.32 percent (FAO and GRZ Forest Department 2016). This places Zambia among the largest countries globally in deforested area per year.

While agricultural conversion is the primary driver of deforestation, in many cases this may be preceded by degradation through timber, fire and charcoal production (Global Forest Watch 2018). Each of these has a distinct relationship to land and forest tenure, as each reflects a lack of coordinated resource management among communities, traditional leadership and state institutions, largely driven by an overlap in land, tree and wildlife tenure governance structures (Mulenga et al. 2015). Drivers of deforestation include:

- Migration dynamics and agricultural conversion
- Limited enforcement of timber concessions on customary lands
- Charcoal production
- Expansion of settlements and district centers.

Land and forest legal framework:

- **Who owns forested land?** All land in Zambia belongs to the state and held in trust by the President (Lands Act 1995). Customary land is administered through the traditional authorities (288 chiefs). State land is leased to individuals or administered/managed by state institutions such as the Ministry of Lands and Natural Resources (MLNR), Department of National Parks and Wildlife, the Forestry Department and local governments.
- **Who manages the forests?** Management, use and transfer rights to land and forests are assigned through mechanisms from the Constitution (that

establish customary lands and authorities of the chiefs) down to legislation and implementing regulations. The Forestry Department has management responsibility for trees, but not most of the land on which those trees live. There are overlapping management responsibilities between the Forestry Department, Department of National Parks and Wildlife, district councils (Ministry of Local Governance and Housing), customary chiefs and communities.

Economic and social contributions of the forest sector:

- **How do forests support rural livelihoods and welfare?** Forests provide a diversity of products and services for rural households, including NWFPs such as tubers and fruits. However, Zambia has one of the highest levels of undernutrition in the world (40 percent of the population) with over 75 percent of the rural population living in poverty (Mofya-Mukuka and Simoloka 2015). Forests can support nutrition, especially as a safety net during the lean season for the most vulnerable (e.g., those without land, labor or agricultural inputs), but are inadequate on their own to meet the high level of need. In cases where there is higher reliance on NWFPs, forest tenure security is crucial to maintaining access to the forests in the context of agricultural conversion.
- **Are forests a national economic priority?** Forest ecosystems in Zambia contribute directly to 4.7 percent of GDP³⁵ (UNEP 2015). The forest sector and forest management have not been central to Zambia’s framing of National Development Priorities or the SDG, in comparison to the mining and agriculture sectors. Forests are estimated to provide more than one million jobs, supporting 60 percent of rural Zambian households (UNEP 2015).
- **Is the country’s forest policy gender-progressive and participatory?** Policies are progressive but are yet to be fully translated into action. Gender mainstreaming in the sector tends to be driven by external partners rather than by government.
- **How do Zambia’s forests help mitigate the impacts of climate change?** Currently, deforestation is high in Zambia and constitutes the largest sectoral contribution to climate change. Zambia has taken several steps to mitigate greenhouse gas emissions globally, including participating in

REDD+ mechanisms, the development of a National Forest Monitoring System and a national strategy to reduce deforestation and forest degradation.

B. CARRYING OUT THE ZAMBIA FTA – METHODOLOGY, ADAPTATION AND STAKEHOLDERS

OPERATIONAL SCALE	NATIONAL
Pilot Duration	July 2019 - January 2020 (intermittent)
Pilot Budget	\$60,000 USD
Assessment Process- Key Stages	<ol style="list-style-type: none"> 1. Desk review of literature 2. Background study – Opportunities and Risks Assessment 3. National validation workshop (2 days) 4. Policy roadmap
Indicator Scoring Method	Group-based, consensus scoring
Final Documents	<ol style="list-style-type: none"> 1. Background report (November 2019) 2. Workshop report (December 2019) 3. Forest Tenure Policy Roadmap (February 2020)

Methodological approach: The approach to FTA implementation in Zambia closely followed the proposed methodology. The Forestry Department in Zambia and the World Bank country task team launched the FTA in July of 2019. A consulting firm with a long-term engagement in Zambia drafted a background study that assessed the state of community-based tenure security over forest and other natural resources and identified opportunities and risks associated with strengthening tenure. In late 2019, a two-day national validation workshop was held in Lusaka to assess tenure security using the

³⁵ This figure includes direct value from industrial roundwood, firewood, charcoal, NWFP, ecotourism, erosion control and sediment retention, pollination services and carbon storage (damage avoided). Multiplier effects related to the forest sector were not taken into account.

42 FTAT indicators. Indicators were scored by small, diverse groups of stakeholders using FTAT criteria. Participating stakeholders included national and local representatives from the Forestry Department, Department of National Parks and Wildlife, Ministry of Local Government, implementing partners, representatives from different community forestry groups, traditional authorities, academia, NGO/CSOs and the donor community. Based on these findings, the stakeholders identified and prioritized policy reforms that were later detailed in the reports by the consulting firm.

FTAT adaptation to country context: The language of some indicators was modified to better fit the country context (i.e., references to indigenous peoples removed to reflect multiethnic realities in a country with 75+ ethnic groups). Many of the indicators required a narrowing of the descriptions for local context with participants to ensure a common understanding. Where individual scores varied broadly, the consultant team assumed that the indicators could have been made clearer.

Stakeholders: Forty-two people from five major interest groups participated in the national stakeholder validation workshop.

C. KEY FINDINGS: SYNTHESIS OF RISKS, CHALLENGES AND OPPORTUNITIES

The *FTAT* and implementation process in Zambia generated key findings, diagnostic data on the status of forest tenure security, policy recommendations and a policy roadmap for the future.



PARTICIPANT INTEREST GROUPS:	EXAMPLE STAKEHOLDERS:
Government	Forest Department, Department of National Parks and Wildlife, Ministry of Local Government
Implementing Partners	CSOs, including Frankfurt Zoological Society, Kasanka Trust, BioCarbon Partners
Academia	Professors/researchers from national universities
Donors and External Partners	World Bank, Global Land Alliance
Community Representatives	Traditional authorities, Community Based Natural Resources Management forum representatives, Community Forest Management Group (CFMG) representatives, Zambia National Community Resources Board Association (ZNCRBA)

D. HOW TO SECURE FOREST TENURE: ASSESSMENT FINDINGS AND RECOMMENDATIONS BY KEY ELEMENT AND POLICY RECOMMENDATIONS

KEY ELEMENTS FROM AF & ASSESSMENT FINDINGS



1. LEGAL FRAMEWORKS FOR TENURE RIGHTS

Legal frameworks are strong and legally progressive; a weakness is that rights to resources are separated from one another



2. IMPLEMENTATION OF LEGAL RECOGNITION

Laws are new and have not been fully implemented; few mechanisms are in place to assist communities with formalization process; <10% of area formally recognized



3. APPROPRIATE REGULATIONS FOR LAND AND RESOURCE MANAGEMENT

National regulations are well conceived; the challenge is reconciling government regulations with bottom-up by-laws under customary structures and various legislation



4. EFFECTIVE SUPPORT FROM RESPONSIBLE GOVERNMENT AGENCIES

Laws around participation are strong; awareness of rights, responsibilities and procedures are weaker; effective implementation is a weakness; coordination is required between government institutions



5. EMPOWERED AND INCLUSIVE INDIGENOUS AND COMMUNITY GOVERNANCE

Few communities have been supported to date; some advocacy and support from national/international organizations



6. SYSTEMS FOR RECORDING COMMUNITY FOREST TENURE RIGHTS

Systems for documenting rights are mostly insufficient and not publicly available



7. ENFORCEMENT OF TENURE RIGHTS

Insufficient enforcement; few connections between traditional courts and local courts; local by-laws lack full force of law and are rarely enforced by Forestry Department and broader law enforcement; proposed developing community law enforcement systems (forest guards)



8. PROTECTION OF COLLECTIVE TENURE RIGHTS IN RELATION TO OTHER FORMS OF TENURE AND LAND USE

Different departments apply law independently of other resources; insufficient horizontal coordination between sectors; broad perception that despite national law allowing community forests on customary land, only titled state land is fully protected



9. CONFLICT AND DISPUTE RESOLUTION

Customary institutions are accessible and able to resolve disputes, but decisions may not be upheld outside of community

RECOMMENDATIONS LINKED TO KEY ELEMENTS

Mobilize cooperating partner and private sector support: Policy implementation to promote secure forest tenure for communities has not been prioritized within the central government processes and programs. Community forest management is thus likely to remain a donor-driven process mainly with minimal financial investment coming through government resources.



Develop a community forest tenure investment package: This sector remains attractive to private sector investors, as well as cooperating partners with interests in sustainable resource management, small and medium-size enterprises and rural economic development.



Coordinate government natural resource management implementation: Zambia's progressive natural resource management laws do not contradict one another, but their application can seem siloed by ministry or department and open to interpretation. Coordinating implementation will require a political champion to work across ministries to agree on education, outreach and awareness needs, and ultimately to secure the commitment of relevant high-level officials to sign off on proposed changes in implementation.



Stakeholder mobilization between community, customary and state actors: Given limited resources for the forestry sector in Zambia, and the complex and overlapping wildlife and land tenure regimes, a forest tenure-specific roadmap of policies and actions is not likely to be financially viable or effective in instituting required change. Instead, Zambia should empower existing but still nascent platforms that bring together multiple ministries/departments, customary leaders and community-based groups.



Consider the role and power of stakeholders:

Clarify the roles and hesitations of stakeholders in community forest management. Make use of the experience accumulated over recent years.



Commit to pushing value and income to community level: An additional key to the successful promotion of secure forest tenure in Zambia is political commitment to allowing communities to directly benefit from the value of the natural forests



Manage spatial data rights on the forest estate: The use of existing tools like the National Spatial Data Infrastructure and the National Forest Monitoring System could support tenure resolution if they are integrated into the national data system, in the same mode as mining licenses. The data and infrastructure exist at no cost, it just requires commitment from the Forestry Department.



SYNTHESIS OF RISKS AND CHALLENGES:

1. The disconnect between land rights and tree rights, particularly on customary land, results in large blind spots where active forest management is largely absent. Zambia's vast areas of forest are mainly under the de facto management of customary structures, though legally the forests remain under the jurisdiction of the Forestry Department. Large areas of forest sit within Game Management Areas (GMAs), where the Department of National Parks and Wildlife administers hunting concessions with private operators.
2. There is a lack of publicly available data on forest management. While an integrated platform exists to document land use at the national level (National Spatial Data Infrastructure), it is currently not populated with data from the Forestry Department. There are not easy approaches to get spatial data to forest officers or customary leaders on the ground.
3. The Forestry Department has limited resources to manage National Forest Reserves, and even fewer to manage natural forests in open areas or GMAs. Gazetting new community forests may temporarily protect these areas, but there is a high risk that the communities will not receive the technical support to sustainably manage these reserved areas in the long term.
4. Freedom of movement in Zambia and the ability of new settlers to move into highly forested areas with relative ease has created a rush on forested areas that may be accessible for agriculture. The inability of existing communities to control this expansion presents risks, and regulations are lacking to control settlement in rural areas.
5. There has been limited opportunity to coordinate management between customary and state institutions. As a result, there are few customary structures legally or socially empowered to restrict forest use by outsiders through legal means or from neighbors through customary means. While recent Community Forestry Regulations envision this coordination, it has yet to be proven in practice.
6. Converting forest to subsistence agriculture use secures household rights to the land. In the absence of other approaches to regulate land use in customary areas, community forest management (CFM) is the only tool to devolve land or forest management rights to the community level that has both customary and state backing. Historically, there have been no mechanisms for communities to register rights to communal land and there has been limited ability to commercialize timber resources. This presents an immense opportunity, but also the risk that CFM will be used by communities to secure their rights to land, rather than being interested in actively managing forest areas.

SYNTHESIS OF OPPORTUNITIES:

1. **Learning:** Community forest management has legal force and has generated significant momentum. It is being used to support a range of objectives from generating carbon revenues to securing rights to NWFP and timber, to acting as a buffer to national parks. Additionally, the lessons learned from participatory forest management efforts in Zambia during Joint Forest Management piloting and producer group efforts, with weak or non-existent legal frameworks, are still broadly applicable to the challenges that will face community forest management.
2. **Community-based natural resource management (CBNRM) harmonization:** Alongside community forest management, the opportunity to harmonize CBNRM presents a major policy opening. The initial efforts to align the Forests and Wildlife Acts of 2015 create an opening for coordinated management as do the Fisheries Act and Urban and Regional Planning Act of 2015. Most important here is the potential for local law enforcement and extension to be provided holistically. Importantly, community forests are the first resource management regime that has focused on transferring rights to the resource, rather than focusing on benefit sharing exclusively.
3. **National representation for community-based organizations:** CBNRM harmonization within the national legal framework requires a national respect for the rights and local management responsibilities of chiefs and community members themselves. The emergence of a National Community Resource Board Association (ZNCRBA) is encouraging in the wildlife sector; a similar national representation (potentially through the ZNCRBA) may be necessary within the forest sector to create space to advocate for community rights at a national level.
4. **Generate and distribute benefits:** The experience within the wildlife sector offers valuable lessons, as rights to benefits were devolved to community associations (Community Resource Boards [CRB]) years ago. The focus of community forestry on a rights-based approach may help to ensure that benefits are realized.
5. **Resolve conflicts proactively:** There is a history of underlying tensions over forest resources and their management on state and customary land that is worth addressing systematically.
6. **Legislative Priorities:** With the Community Forest Regulations finalized, there is a need to align additional implementing regulations with the new community forest tenure regime. This includes finalizing Carbon Rights and Charcoal Regulations. Many see community forests as a convenient mechanism to unlock broader economic opportunities.
7. **Implementation Priorities:** Testing and learning from the operational experiences of the CFM agenda is likely to be more productive than pushing a specific tenure reform agenda.

E. POLICY ROADMAP:

Even without government revenue support and with limited Forestry Department staff, Zambia can mobilize widespread expansion of community forest management and broader clarification of community rights to forests. Sequential steps (further defined in Section D: How to secure forest tenure) include:

1. Identifying political and technical champions at the national level within the Forestry Department.
2. Developing a community forest management investment program for cooperating partners, private sector and government departments to align with.
3. Establishing models of coordination through specific district-level successes among district commissioners, local councilors, district forest officers, district officers from the Department of National Parks and Wildlife and customary leaders. These models would act as examples on the ground, and feed into a national-level processes, led by the political and technical champions above.
4. Contributing information into national spatial data infrastructure to ensure that the public is aware of community forest rights.
5. Launching broader outreach, awareness and education efforts, including with national learning institutions, horizontally across government departments and with the community, and vertically between national and local-level structures.
6. Building on this awareness to encourage community, government, private sector and



customary leader stakeholders to communicate and resolve tensions/conflicts.

7. Mobilizing private sector and cooperating partner resources, by demonstrating government commitment through acting on the low-cost or no-cost activities identified above.
8. Ensuring that benefits of community forest management are retained entirely at the community level to recognize their management rights and responsibilities.

The above steps are those required by government actors, largely the Forestry Department, to unlock private sector investment, community engagement, civil society commitment, cooperating partner support, customary authority trust and consistent application of rules and regulations by government

institutions. Such steps are not costly, but they require commitment and vision from political and technical leaders with power and willingness to push forward change. These steps are expected to unlock funding and interest from a range of actors. They are expected to have positive knock-on impacts for wildlife, food security and nutrition, household incomes and district growth. Without such investment in community forest management, implementation is likely to be sporadic and costly, resulting in limited uptake across Zambia.

Policy uptake (April 2020): FTA implementation in Zambia appears to have spurred local dialogue between the Forestry Department, National Parks and the Rufunsa District Council of Community Forest Management Groups; FTA may be used as an input to an ongoing study of 55 community forest groups. Its findings have also been integrated into donor reviews of the forestry sector.





GUIDANCE NOTE FOR STAKEHOLDER ENGAGEMENT AND VALIDATION WORKSHOP PLANNING

STAKEHOLDER MAPPING AND ENGAGEMENT³⁶

Early and continuing engagement and meaningful consultation with stakeholders is good international practice.³⁷ It is critical in a national or regional-level assessment that stakeholders generate information and data endorsed by all key groups within the country/region, and The Bank's project or country team will invariably work with multiple stakeholders during this process. As such, it is recommended that all users of the FTAT establish a systematic approach to stakeholder engagement, focusing on analysis, identification and mapping of the relevant stakeholders at different stages.

Stakeholder mapping is a visual and analytical process of laying out all the stakeholders in a project or policy reform on one map, providing a visual representation of everyone with influence and how they are connected. In terms of timing, while stakeholder mapping can be done at the beginning of an assessment, it may be more beneficial at a later stage, after identifying

key gaps, problem areas and policy priorities. It can highlight which stakeholders have a higher level of influence and who will benefit the most from the proposed intervention.

STAGES OF STAKEHOLDER ENGAGEMENT DURING FTAT IMPLEMENTATION

There are three stages of stakeholder engagement anticipated throughout FTAT implementation (see Fig. 1). The scope of stakeholder engagement may vary depending on the time and budget constraints of the team. These stages are explained below, along with the range of stakeholders that may be engaged (see Table 1).

- a. **Pre-validation engagement:** Key ministries and government departments should be involved at the assessment onset to share information, build rapport and gather data.

It is a priority in this phase to identify the champions and focal points within government

FIGURE 1



36 According to World Bank's Environmental and Social Framework, "stakeholder" refers to individuals or groups who: (a) are affected or likely to be affected by the project (or policy). These are called **project-affected parties**; and (b) may have an interest in the project (or policy reforms). These are called **other interested parties**.

37 World Bank Environmental and Social Framework." 2016. World Bank, Washington, DC.

departments, as well as manage the expectations from the process. A good practice would be to establish a working group or steering committee with relevant stakeholders to define the policy or action relevance of the assessment.

Government champions can identify non-governmental counterparts and implementing partners in the country. It is important for the key stakeholders, including major CSOs, regional agencies and traditional or community representatives, to understand the objective of the assessment process itself and how it will benefit or inform the ongoing development efforts/projects in the country (whether or not forest tenure is a priority of the given country). A select number of key stakeholders may be engaged through focused meetings, small workshops or interviews to determine the policy relevance of the activity and to seek their inputs to support desk-based assessment.

- b. **Validation workshop:** For a holistic discussion around all the themes and indicators of the assessment, it is critical to include all the stakeholders involved in the scope of the assessment and its outcomes. Depending on budget, this stage includes participation from

a full range of stakeholders in the scoring and validation process. Collectively, these stakeholders can define the priority areas and identify key influencers to engage at later stages. It is generally good practice to include parliamentarians for part of this workshop.

- c. **Policy and implementation roadmap and dialogues:** Based on the validation workshop findings, the lead agency can prepare focused priorities and an action plan, resulting in a policy dialogue. This ultimately leads to a policy and implementation roadmap. Tools like Net-Map³⁸ can be used to identify channels of influence and policymakers.

ORGANIZING AND CONDUCTING THE FTAT VALIDATION WORKSHOP

Suggested objectives:

- a. Develop concrete technical understanding of the subject matter
 - Present the initial findings from the desk-based assessment
 - Receive validation from workshop participants

PRE-WORKSHOP ENGAGEMENT	VALIDATION WORKSHOP	POLICY DIALOGUE(S)
<ul style="list-style-type: none"> ▪ Key govt ministries and agencies ▪ Civil society organizations ▪ Sub-national level government ▪ Traditional leadership (if any) 	<ul style="list-style-type: none"> ▪ Key govt ministries and agencies ▪ Civil society organizations ▪ Regional-level government ▪ Traditional leadership (if any) ▪ Indigenous peoples & community representatives ▪ Implementing partners ▪ Development and donor agencies ▪ Academicians ▪ Private sector ▪ Media partners 	<ul style="list-style-type: none"> ▪ Government ministries and agencies ▪ Civil society organizations ▪ Regional-level government ▪ Traditional leadership ▪ Parliamentarians

³⁸ Net-Map is a participatory stakeholder mapping technique. It puts the spotlight on unpacking political economy issues, and analyzes stakeholder connections to draw policy recommendations. Based on the traditional social network analysis, Net-Map helps participants collectively solve a complex problem through three-stage information gathering, validation and analysis. More information can be found here: https://www.profor.info/sites/profor.info/files/PROFOR_WrkingPaper_PoliticalEconomy_1.pdf

- b. Build consensus and develop a common vision among the participants
 - Identify and prioritize the major gaps
 - Identify the menu of potential interventions to address the gaps.

Expected outputs:

- a. Workshop proceedings of the validation workshop
- b. A broad consensus and further suggestions for integration of the feedback from experts on the initial assessment outcomes
- c. Prioritization of policy actions based on a collective and better understanding of forest tenure in different contexts in the country.

Workshop Preparation:

- a. **Onboarding of government counterparts:** This could be done through a meeting (or a series of meetings), or a formal presentation to the key government departments involved in the work carried out during the implementation phase. A designated official from the relevant department/ministry would co-lead and report on the progress of the assessment. Including an official as a champion of the assessment process ensures a higher success for the workshop and the following policy dialogue. The working group will be actively involved in the preparations as the resource persons and advisors.
- b. **Invitations to the key participants**
- c. **Logistical requirements:** Invitations, venue, date, catering, accommodation, ticketing, presentation equipment and supporting material for the participants (cell phone to take votes; projector; microphones; interpreters, etc.).
- d. **Supporting materials:**
 - Results of FTA desk-based assessment
 - Indicator scoring of FTAT (translated in national language)
 - Summary table of 42 indicator/nine elements (for scoring, if not using mobile app)
 - List of operating definitions (from AF and legal)
 - Additional charts, maps or figures to provide relevant statistical data

- List of laws and regulations, relevant projects and other supporting material.

Supporting materials should be provided to the participants two weeks ahead of the workshop so they can familiarize themselves with the background study, the tool and their role.

e. Duration:

The workshop is expected to range between two and a half and three days. Before the workshop, a preliminary session should be organized with community representatives to acquaint them with the tool, technical information and workshop logistics.

f. Suggested flow of the workshop:

- i. The workshop could consist of the following sessions:
 - ii. Presentation of the AF and FTAT methodology
 - iii. Presentation of the desk-based assessment
Presentation of the approach to scoring the indicators and validation process
 - Designate participants to the break-out groups
 - Clarify the operational definitions and key considerations under each of the nine elements of the tool
 - iv. Break-out group work
 - Identify facilitators and rapporteurs (consider also working group members for these roles)
 - Score indicators in group consensus³⁹
 - When consensus cannot be reached, note dissenting opinion and score
 - Prioritize and identify the challenges, along with the key interventions
 - v. Reporting by break-out groups
 - vi. Conclusion of the workshop
 - Consolidate the inputs of the break-out groups (to be used as a basis for drafting the policy and implementation roadmap)
 - When finalized, the roadmap will be shared with the participants for their inputs.

³⁹ Final scoring should be determined by consensus. It is suggested that workshop participants be organized into small break-out groups (eight to 10 participants each), with each group responsible for scoring only 10-12 indicators.

POLICY AND IMPLEMENTATION ROADMAP AND POLICY DIALOGUES

Based on workshop conclusions, the lead agency would draft a set of priority actions and policy interventions. This would facilitate an informed dialogue among relevant agencies and result in the development of a coordinated policy and implementation roadmap. The working group could also be involved in developing the roadmap and communicating the developments to the participants.

An in-depth political economy analysis can provide insights into channels of influence and predominant change agents. This would define the roles and responsibilities of different stakeholders and clarify how they can each move the roadmap forward and influence the reform process.





