

Securing Forest Tenure Rights for Rural Development

Forest Tenure Assessment Tool Pilot Phase

Democratic Republic of Congo, Myanmar and Zambia

Final Synthesis Report¹

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Abbreviations

AF	Analytical Framework
AFD	Agence Française de Développement
APEM	Action pour la Promotion et Protection de Peuple et Espèce menaces
CBNRM	Community-Based Natural Resource Management
CBPA	Conservation of Biodiversity and Protected Areas Law
CBFP	Congo Basin Forests Partnership
CDD	Community-Driven Development
CF	Community Forestry
CFM	Community Forest Management
CFMG	Community Forest Management Group
CHRO	Chin Human Rights Organization
CONAREF	National Commission for Land Reform
CRB	Community Resource Boards
CSO	Civil Society Organization
DALMS	Department of Agricultural Land Management and Statistics
DNPW	Department of National Parks and Wildlife
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
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)
FTAT	Forest Tenure Assessment Tool
GMA	Game Management Area
GRZ	Government of the Republic of Zambia
IPLC	Indigenous Peoples / 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
NWFP	Non-wood Forest Products
PFF	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
SDGs	Sustainable Development Goals
SIA	Social Impact Assessment
UAGO	Union Attorney General's Office
UNEP	United Nations Environment Programme
UNPFII	United Nations Permanent Forum on Indigenous Issues
VFW	Virgin, Fallow and Vacant Farmland Law
ZNCRBA	Zambia National Community Resources Board Association

Executive Summary

The *Forest Tenure Assessment Tool* (FTAT)² is an integrated set of methodologies for assessing why securing forest tenure is important and how to strengthen forest tenure in a specific subnational or national context. The basis for the FTAT is the *Analytical Framework* (AF), the first product of the World Bank *Securing Forest Tenure Rights for Rural Development Program* financed with funds from the Program on Forests (PROFOR) and published in 2019³.

This report shares the experiences of the FTAT pilot implementation in three countries: The Democratic Republic of Congo (DRC), Myanmar and Zambia. First, detailed country findings are presented, demonstrating the facility of the FTAT to articulate a realistic and informed policy roadmap. Next, a synthesis of the pilots is structured around three major criteria: 1) adaptability - whether the assessment can be modified for a range of scales, applications, contexts and depths of assessment, including an descriptive overview of the manner in which each country adapted the FTAT to their context; 2) practicality - whether the assessment can be conducted at reasonable cost, in a timely manner and be accessible enough to encourage input from and be implemented by a wide a range of participants and stakeholders; and the 3) effectiveness of the assessment at influencing policy, including whether the results are robust, credible and replicable. The FTAT process is evaluated against these criteria and experiences from the pilot countries are detailed, along with key lessons distilled from the pilot experiences. More detailed country findings (presented in Annexes 1, 2 and 3) also demonstrate the facility of the FTAT to articulate a realistic and informed policy roadmap.

A proposed FTAT methodology was outlined in guidance documentation provided to each pilot project and includes the following proposed steps:

1. Project preparation, including a preliminary analysis of political economy
2. Identify overall objectives and core team
3. Develop a plan for the assessment process, based on the initial scoping of key stakeholders and issues
4. Conduct background studies
5. Convene a stakeholder and experts' workshop to review and elaborate findings and recommendations
6. Convene a policy dialogue(s) to share recommendations and define a practical roadmap
7. Preparation and dissemination of final assessment report(s) and roadmap
8. Follow-up on promoting the inclusion of FTAT findings in relevant national policy dialogues

The methodology employed by each pilot country differed as a result of contextual conditions and the input of key implementing partners. In the DRC, the methodological approach was adapted in significant ways to include field work in remote areas and the inclusion of a case study/assessment at the subnational scale, necessitating more time and resources than initially planned. The final workshop has not yet been held in DRC. In Myanmar pilot implementation maintained the core approach of the FTAT while adding additional stakeholder feedback to the process and significantly modifying the indicators and scoring process and requiring more time and resources than initially anticipated. In Myanmar the overall process has largely been driven by government partners, led by the Working Group of Forest Department officials, the lead facilitator and consultant established for this task. In Zambia the approach closely followed the proposed methodology.

² The *Forest Tenure Assessment Tool and User's Manual* document is part of the package of the Decision Meeting to take place on May 27, 2020.

³ World Bank. 2019. *Securing Forest Tenure Rights for Rural Development. An Analytical Framework*. Program on Forests (PROFOR). Washington D.C. World Bank. <https://www.profor.info/content/securing-forest-tenure-rights-rural-development-analytical-framework>

The synthesis finds that the FTAT is highly adaptable to different geographies, institutional contexts and country objectives, chiefly because the nine elements of the tool's Analytical Framework have near-universal applicability. The pilot demonstrates the FTAT is practical in terms of costs, the capacity of local partners and Bank teams to implement it, and in terms of its timeframe, noting that three-six months is required for the full methodology. However, the tool's limitations are also revealed in the pilots, particularly in DRC, where the tool's assumptions about functioning state institutions, absence of armed conflict, and basic level of community cohesion were all called into question to some extent. The synthesis finds that the FTAT demonstrates a high potential for influencing policy, particularly by providing detailed, actionable insights into how to improve forest tenure security for communities. However, as a pilot which was only recently completed, the full contribution of FTAT to drive policy results is still being explored.

The synthesis describes a set of basic enabling conditions identified in the pilots which will contribute to final success and policy traction: a) Timing considerations; b) Leadership in the FTAT implementation; c) Minimum viability of governance; d) World Bank country team integration; e) Donor participation; f) Ownership of data/results by policy stakeholders; and g) Political economy considerations.

These enabling conditions form the first of a larger set of Lessons Learned from the pilots to date which focus on the following takeaways for successful implementation of the FTAT at scale: 2) The need for customization of the FTAT for the country context at the outset of the process; 3) Planning for scoring process to mediate different perspectives and reduce complexity of indicators for workshop participants; 4) Stakeholder selection and participation, and 5) Applications of the FTAT beyond the pilot experiences.

The synthesis concludes that the FTAT is an adaptable, practical and effective tool which can be deployed in different formats with different levels of intensity, time and cost. While work on the pilots is not fully completed, the initial results are highly promising for the role of the FTAT as a vehicle to drive policy reforms in forest tenure and their implementation on a global scale. In this regard the FTAT fills an important gap in the toolkit for Bank teams, governments and other stakeholders across a range of sectoral specialties (e.g. management of natural resources -including forests and wildlife-, biodiversity conservation, land administration, agriculture -including agroforestry, grazing and agribusiness-, community-driven development (CDD), climate change mitigation/adaptation, payment for ecosystem services, landscape restoration, governance and infrastructure investment -including transport, energy and mining-) seeking to resolve tenure challenges in forest landscapes.

I. Introduction & The Analytical Framework

The Forest Tenure Assessment Tool (FTAT) is an integrated set of methodologies for assessing why securing forest tenure is important and how to strengthen tenure in a specific subnational or national context. The basis for the FTAT is the Analytical Framework (AF), the first product of the World Bank Securing Forest Tenure Rights for Rural Development Program financed with funds from the Program on Forests (PROFOR) and implemented through a partnership with the Global Land Alliance. The AF received input from the International Conference on Community Land and Resource Rights (October 2017), from discussions in sessions at the 2017 and 2018 World Bank Land and Poverty Conferences, from participants in the 17th United Nations Permanent Forum on Indigenous Issues (April 2018) and from an advisory group of experts from a variety of organizations (e.g. United Nations Permanent Forum on Indigenous Issues [UNPFII], Food and Agricultural Organization, Center for International Forestry Research, the Ford Foundation, World Resources Institute, International Union for Conservation of Nature, Rights and Resources Initiative) and Bank technical teams. It was published by the World Bank Group in March, 2019.

The AF contributes to the growing consensus that community-based tenure security in forested landscapes is important for sustainable development by articulating elements that need be in place for effective tenure security. The Key Elements and their associated dimensions have been distilled from experience and the in-depth review of the substantial body of literature on the links between tenure security and sustainable development outcomes (see Table 1). This framework has been widely endorsed as a robust presentation of best practices for securing forest tenure for Indigenous Peoples and local communities (IPLC).

The FTAT was developed from the AF as a practical tool for assessing the current state of tenure security and identifying key strengths and weaknesses of community-based forest tenure in specific 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 forest tenure security and to show opportunities for moving forward. First, an

opportunities and risks assessment uses guided questions to structure the analysis of linkages between tenure security and Sustainable Development Goals, utilizing a broad variety of literature and resources such as national statistical data, sectoral assessments, and project and NGO reports to make the case for “why” securing forest tenure is important. The second component includes an assessment of indicators of the Key Elements and dimensions of secure forest tenure in order to explore “how” to strengthen forest tenure security. In the manner of the World Bank’s Land Governance Assessment Framework (LGAF), indicators enable a comprehensive

Table 1: Key Elements and Dimensions of Secure Forest Tenure (from the Analytical Framework)

	KEY ELEMENTS	DIMENSIONS
	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”
	Implementation of Legal Recognition	<ul style="list-style-type: none"> • Accessible, efficient procedures • Formal recognition of indigenous and community lands
	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
	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
	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
	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
	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
	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
	Conflict and Dispute Resolution	<ul style="list-style-type: none"> • Accessible and competent mechanisms to resolve disputes over tenure rights • Effective resolution of disputes

assessment and the tracking of progress over time. 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). Indicators are scored (using a numerical or “traffic light” scale), facilitating stakeholder input and a concise, accessible presentation of complex results to national audiences. While the LGAF is intended to be comparable across countries at the level of the indicators, the contextual nature of community and customary forest tenure necessitated a more flexible approach for the FTAT that encourages countries to adapt indicators to their specific situation. In this case, the indicators become a structured assessment to gather and refine expert stakeholder feedback and key national evidence; findings presented at the level of the Key Elements of tenure security permit comparability of common strengths and challenges between countries. Utilizing the AF ensures that these insights are structured, comprehensive and prioritize practical information useful for implementation. As the pilots demonstrate, several entry points for stakeholder participation throughout the assessment process contribute to ownership and a shared understanding of contextual conditions and factors in secure forest tenure. The FTAT both provides the assessment tool and builds critical capacity among stakeholders to discuss and analyze forest tenure security.

This report shares the experiences of the FTAT implementation in the three pilot countries: The Democratic Republic of Congo, Myanmar and Zambia. Conclusions are presented and lessons are shared from the evaluation of several methodological approaches to assessment. First, detailed country findings are presented, demonstrating the facility of the FTAT to articulate a realistic and informed policy roadmap. Next, a synthesis of the pilots is structured around three major criteria: 1) **adaptability** - whether the assessment can be modified for a range of scales, applications, contexts and depths of assessment, including an descriptive overview of the manner in which each country adapted the FTAT to their context; 2) **practicality** - whether the assessment can be conducted at reasonable cost, in a timely manner and be accessible enough to encourage input from and be implemented by a wide a range of participants and stakeholders; and 3) **effectiveness** of the assessment at influencing policy, including whether the results are robust, credible and replicable. The FTAT process is evaluated against these criteria and experiences from the countries are detailed. Finally, key lessons distilled from the pilot experiences are shared. Included is a discussion of alternative applications of the FTAT at varying scope and scale suited to the needs of practitioners, specifically focused on World Bank programs and operation.

II. Country Findings

Implementation of the 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 in the status of forest tenure security 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. Although FTAT implementation in some cases may create a unique arena for participants and stakeholders to engage in the material, the FTAT is intended primarily as an input into the process, not the process itself.

As a primary input into policy dialogues and policymaking, the FTAT is an integrated set of methodologies. 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 Annex 2)
- e. **Policy roadmap**⁴- This represents the practical vision for strengthening forest tenure security that was generated from the national stakeholder validation workshop and succeeding policy discussions within the FTAT. A brief **Policy update** note is included where recent developments informed by FTAT implementation are described.

Individual country findings for DRC, Myanmar and Zambia are presented in **Annexes 1, 2 and 3**, respectively. As each pilot country was encouraged to pursue FTAT implementation in ways that increased stakeholder input and ownership, the format for these primary documents differs significantly. The findings reported in these annexes have been fitted to a consistent template in order to facilitate comparisons across countries. This information was supplemented by much more detailed findings in the extensive reporting from each country. These full country reports offer a deeper look at the process, methods and context of each pilot (full country reports are part of the Decision Meeting Package and have also been uploaded in the Portal and are also available in the PROFOR Webpage).

Comparing Key Elements of tenure security

Results from pilot country assessments by key element of secure tenure are detailed in Table 2. Declarative statements are presented for each Key Element defined in the Analytical Framework. “Traffic-light” colors refer to the overall picture of tenure security in each country by element⁵:

- **Green** applies to situations where the element is in place and working relatively well;
- **Yellow** indicates that the conditions of the element are partially in place or in place with significant issues related to implementation or practice;
- **Red** indicates the element is either not in place or is not working or has major issues.

The primary audience of the FTAT and the priority of the pilot projects is the national audience of stakeholders and policymakers. The process of adapting indicators to the national contextual conditions and engaging stakeholders to score indicators of tenure security is intended as an input to the national-level policymaking process. The flexible adaptation and local specificity of the indicators is, as is apparent from the pilots, a requisite for targeted policy recommendations and country-level ownership. If comparisons are to be made across several countries that have not significantly adapted the FTAT or process, both the indicators and Key Elements are appropriate levels of analysis, depending on the purpose.

⁴ As a result of the Spring 2020 global travel restrictions the DRC’s national stakeholder validation workshop has been postponed; the policy roadmap presented in Section II is derived from the lead consultant’s vision as informed by the background study, case study, and expert meetings.

⁵ Textual summary findings and “traffic-light” determinations are built from a qualitative thematic analysis of the written outputs of the assessments, including country reports, workshop reports (including the comments reported by stakeholders) and policy roadmaps/recommendations. This deductive approach utilized pre-determined thematic categories represented by the Key Elements of forest tenure security from the Analytical Framework. The relative importance of statements influenced their inclusion as summary findings and was interpreted from their frequency in the referenced texts and inclusion in explicit recommendations and conclusions from the consultants and stakeholders. The final assignment of “traffic-light” colors at the key element level is based on stakeholder indicator scoring and the judgement of the authors and lead country consultants with the goal of usefulness to the intended global audience.

The analysis presented in Table 2 is intended for a global audience of policymakers, academics, multilateral donors and others interested in comparability and analysis between countries. It is intended to provide a broader view of tenure security over differing contexts than is possible by comparing at the indicator level, while maintaining the organization of the AF in order to elucidate patterns of common strengths and weaknesses. A benefit of this high-level element-based approach is that the implementing countries maintain the flexibility to adapt indicators to their specific context and needs.

Comparisons across the three pilot countries indicate several patterns:

- **Element 2 – Implementation of legal recognition:** Across all pilot countries implementation of legal recognition of communities' rights to forests is insufficient. In some cases, this is in part due to the recency of legislation and rules governing forest rights.
- **Element 5 – Empowered and inclusive indigenous and community governance:** Across all three pilot countries community governance is insufficient. Significant CSO support and advocacy is consistent across the countries.
- **Element 6 – Systems for recording community forest tenure rights:** Information is decentralized, and the NSDI (if it exists) does not include forest rights and is not publicly accessible. Information is siloed within government departments.
- **Element 7 - Enforcement of tenure rights:** Appears universally weak and is plagued by constraints including severe under-resourcing and lack of connection between local and government systems
- **Element 9 – Conflict and dispute resolution:** Dispute resolution by customary or local mechanisms is universally more prevalent and appears to be supported. Challenges occur when formal government dispute resolution bodies do not accept or act on the decisions of the local institutions.
- **Element 1 – Legal frameworks for tenure rights:**
 - Zambia's legal framework is considered relatively strong and progressive. Major laws related to natural resources are harmonized, though this may not be understood or universally implemented at the local level. This solid legal foundation allows for many other key elements of forest tenure security to realize improvements, however minor at this early stage.
 - In the DRC, laws governing forest rights do not recognize the ownership of communities and Indigenous Peoples. As such, concessions must be obtained for formal use-rights to forest lands. However, in rural areas, customary rights prevail and a customary system exists alongside the formal system. Further, there is a lack of harmonization between laws governing different natural resources.
 - In Myanmar, the legal framework does not recognize customary rights. While recent reforms have been made, these are widely contested. EAOs are implementing their own regulations regarding natural resources, a move at odds with the Union government's desire for a uniform legal framework. Significant gaps and overlaps occur in land use classifications, impacting the realization of rights for communities.

Key Elements	DRC	Myanmar	Zambia
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 governing different natural resources	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	Legal frameworks are strong and legally progressive; a weakness is that rights to resources are separated from one another
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	Enforcement of existing regulations and guidelines is weak; some newly adopted procedures are in flux; some use rights are short duration (e.g. 30 years for community forestry), limiting tangible benefits and incentives for communities to invest, discouraging communities to seek claims	Laws are new and have not been fully implemented; clear procedures; few mechanisms in place to assist communities with formalization process; <10% of area formally recognized
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	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 on enforcement.	National regulations are well conceived; Challenge is reconciling government regulations with “bottom-up” by-laws under customary structures and various legislation
4. Effective support from responsible government agencies	Mechanisms of participation are acceptable, however capacity to support participation is minimal; significant horizontal and vertical overlap between institutions with minimal capacity and resources; conflicts of interest are prevalent	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	Laws around participation are relatively strong; awareness of rights, responsibilities and procedures are weaker; effective implementation is a weakness; coordination required between government institutions
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	Limited capacity of community governance and communities are insufficiently supported; in conflict areas (and those administered by Ethnic Armed Groups) different set of administration arrangements prevail - peace dialogue is key to harmonize current differences	Few communities have been supported to date; some advocacy and support from national/international organizations
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	No NSDI framework in place but policies are making slow progress; govt. records of CF and other permits, allocation and use of forestland and resource rights are not harmonized between different institutions or accessible	Systems for documenting rights are mostly insufficient and not publicly available
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	Weak enforcement of rights; community and government systems (and EAO administered) are not connected	Insufficient enforcement; few connections between traditional courts and local courts; local by-laws lack full force of law and are rarely enforced by Forest 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	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	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	Different departments apply law independently of other sectors; insufficient horizontal coordination between sectors; broad perception that despite national law allowing community forests on customary land, only titled state land is fully protected

<p>9. Conflict and dispute resolution</p>	<p>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</p>	<p>Formal courts/judiciary is weak and there is lack of public access to formal legal system (limited to administrative arrangements); most disputes resolved at community-level; formal procedures do not adequately recognize customary dispute resolution; accessible and affordable mechanisms are lacking</p>	<p>Customary institutions are accessible and able to resolve disputes but decisions may not be upheld outside of community</p>
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Table 2: Comparison of Pilot Country by AF Key Element

III. Evaluation of Pilot Methodologies

Pilot Country selection process

Piloting the FTAT in countries with diverse contexts and challenges was critical to test the tool's adaptability, practicality and effectiveness. The selection process for countries to be considered for the pilot implementation phase was launched in February 2019. The AF and FTAT had been widely discussed and circulated with country teams and Practice Managers. A call for proposals, was sent to all ENB GP managers, and technical teams working locally in the rural development agenda. The final selection was made by the ENB Leadership Team based on the following 7 criteria: (i) Relevance to the World Bank Agenda; (ii) Timeliness of policy intervention (Demand-driven); (iii) Opportunity to inform WB dialogue and investment (Business Development); (iv) Presence of Strong in-country partners; (v) Environmental-poverty traps identified (Hidden Dimensions of Poverty); (vi) Coordination with other related Bank activities/investments, particularly from the NRM and land sectors; and (vii) Strength and availability of Country Task Team to lead the pilot assessment and the policy dialogues with the country. Selected countries included the DRC, Myanmar and Zambia.

Country pilot methodology

A proposed FTAT methodology was outlined in a Project Implementation Plan provided to each pilot project and consisting on the following proposed steps:

1. Project preparation, including a preliminary analysis of political economy
2. Identify overall objectives and core team
3. Develop a plan for the assessment process, based on the initial scoping of key stakeholders and issues
4. Conduct background studies
5. Convene a stakeholder and experts' workshop to review and elaborate findings and recommendations
6. Convene a policy dialogue(s) to share recommendations and define a practical roadmap
7. Preparation and dissemination of final assessment report(s) and roadmap⁵
8. Follow-up on promoting the inclusion of FTAT findings in relevant national policy dialogues

Sufficient flexibility in the application of this methodology was allowed to country teams to respond to contextual conditions and the input of key implementing partners. This allowed for a comparative review of approaches and provided insights to the FTAT's applicability to a broad range of conditions and uses.

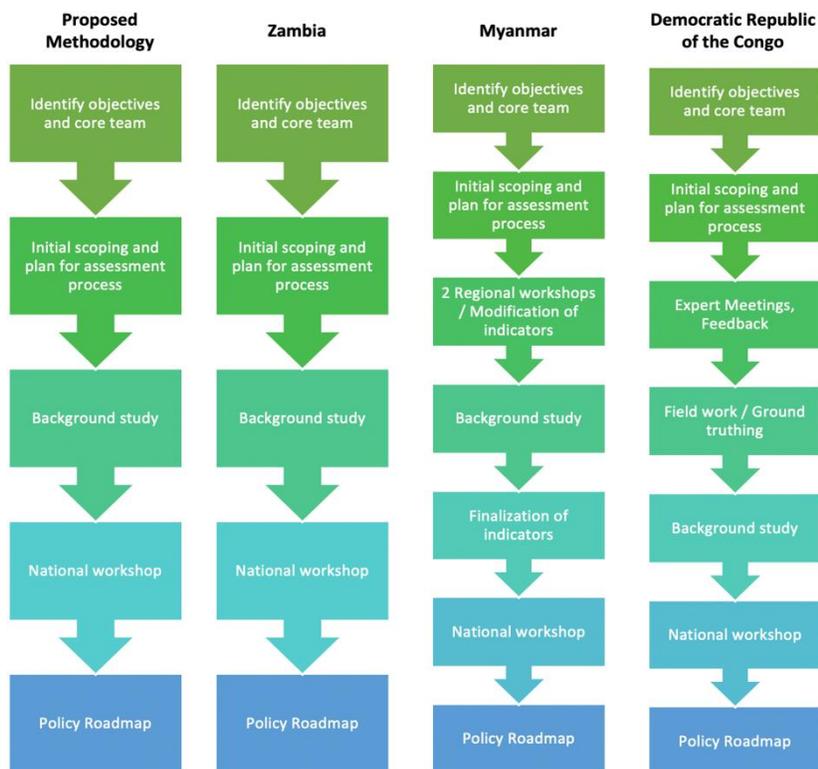
⁵ In practice, steps 5 and 6 were combined in implementation.

Pilot approaches

Pilot country implementation of the FTAT demonstrates that the tool and methodology are adaptable to a range of scales, contexts and objectives. The Analytical Framework was developed with a global view of forest tenure security utilizing experience and evidence from many contexts. Specific indicators can be targeted to many specific contexts, relying on this strong empirical foundation. The Key Elements of secure forest tenure have functioned well in each pilot to comprehensively describe tenure security and provide the basis for cross-country comparisons to diagnose patterns of strengths and weaknesses of tenure security. This flexibility allows the FTAT to contribute to diverse objectives – from policymaking to donor strategic planning at the country level to civil society project implementation and academic research.

The methodology employed by each pilot country differed as a result of contextual conditions and the input of key implementing partners (see Figure 1). Pilot countries were given wide latitude to adapt the FTAT implementation process to best meet their needs. This flexibility was anticipated and is necessary to ensure strong results in varied contexts. While adaptability at the level of the indicators and in the stakeholder participation process reflect the FTAT’s prioritization of the county policy process and ownership, comparability between countries is strong at the level of the Key Elements of forest tenure security (see Section II, Table 2).

Figure 1: Pilot Methodologies



Criteria for Pilot Evaluation

Pilot implementation in the DRC, Zambia and Myanmar were evaluated against three major criteria: 1) **Adaptability** of the FTAT and implementation process to scale, context and objectives; 2) **Practicality** of the tool, including the required cost, time and capacity to implement; and 3) **Effectiveness** at driving policy. Each criterion is divided into several key questions, with a general evaluation of the collective pilot experience followed by specific experiences and examples from the three countries. Adaptations of the proposed methodological approach are presented under Criterion 1 (Adaptability) and detail specific stages and outputs from each pilot approach.

Criterion 1: Adaptability

Key questions:

1. Can the FTAT be scaled to different geographic scales?
2. Can the FTAT be adapted to different contexts?
3. Can the FTAT be adapted to different objectives?

The FTAT can be applied at national and subnational scales to assess the status of forest tenure security. Some elements of the FTAT reflect larger-scale attributes of tenure security (i.e. indicators of national legal frameworks); other elements of the assessment can reflect scales from local to national, such as institutional capacity and implementation-focused indicators. If higher-resolution granular data is available for assessment, possibilities for smaller-scale comparisons between subnational regions or provinces emerge.

The FTAT demonstrated adaptability to the range of contextual conditions in all three pilot countries. Different approaches to stakeholder participation in each country were a result of geographic limitations, political sensitivities and subnational heterogeneity. The Analytical Framework provided a foundation for adapting the Forest Tenure Assessment Tool to the specific language, cultural and political sensitivities of each context, and helped to facilitate a shared understanding of indicators and context for participants.

Overall, the objectives of the pilot implementation countries were similar and reflected the World Bank's objectives in regards to the assessment: to provide the policy rationale and roadmap to help countries strengthen forest tenure security for communities. All three pilot assessments have generated strong local interest, as evidenced from the policy uptake notes in Section II.

Democratic Republic of Congo: The DRC pilot demonstrated that the assessment can focus on the national scale while also including a substantial component that tests the national conclusions and incorporates experiences at the local level (e.g. subnational assessment in Mai Ndombe Province). The team leading this pilot recognized the need to obtain detailed, community-level input in order to assess the validity of the preliminary national findings and was able to adapt the methodology to incorporate this process. In the DRC the remote nature of the subnational study area and relatively weak institutional capacity to collect tenure data required a creative approach for stakeholder engagement. Field workers traveled to this area and worked with stakeholders via semi-structured interviews, focus groups and participatory theatre. The results of this adapted process later contributed to the background study's findings and the preliminary expert scoring of the indicators.

Myanmar: This assessment was carried out over a diverse national context, with significant informally-held customary tenure, diverse ethnic groups, persistent low-level conflict and major political developments in the Union Government. Political and civil strife are ongoing in several areas of Myanmar between the government and the Ethnic Armed Organizations (EAOs). Additionally, there is the colonial legacy, a highly complex historical and cultural background and parallel institutions administered by EAOs in many areas. Due to this complexity the government-led Working Group adapted the FTAT to better fit this sensitive context. The inclusion of an additional two regional workshops added a significant degree of stakeholder input into the process. This, along with relative freedom to guide the assessment, contributed to strong government ownership and a contextually appropriate assessment. This shared assessment and understanding

of the issues surrounding the local context and forest tenure security are being processed by the Working Group for dissemination as discussion points and findings, a key input in the ongoing policy process by the government.

Zambia: The assessment was conducted over a large scale with diverse ecosystems and 72 distinct ethnic groups. This diversity was reflected in the national workshop, with strong participation from many sectors and several subnational geographies. The pilot succeeded at creating a shared story of why forest tenure security is important and a policy roadmap in a diverse country with strong customary institutions (i.e. traditional authorities, chiefs). In this context the proposed methodology was modified by experienced consultants to fit the local conditions, which included minor changes to indicator language (i.e. removed references to indigenous peoples to reflect the multiethnic reality in Zambia). The pilot in Zambia has produced a background study and draft policy roadmap which provide a strong basis for continued efforts at operationalizing Zambia's progressive legal reforms.

Criterion 2: Practicality

Key questions:

1. Can the FTA process be conducted at reasonable cost?
2. Does implementation of the FTAT require special capacity?
3. Can the FTA process be conducted in a reasonable timeframe?

Evidence from the pilot projects demonstrates that it is practical to implement the FTAT with the financial resources and capacity provided in the pilot countries. All three pilots generated significant policy/action roadmaps and contributed to the ongoing national efforts to strengthen community-based forest tenure security. The pilots were undertaken in diverse, complex contexts with highly participatory processes that included significant stakeholder input. Despite the level of complexity, all three pilots worked within the resources provided to generate significant outputs that are relevant to policy/action goals. The background studies were drafted with a thorough review of the literature and significant stakeholder input and represent powerful summaries and shared understandings of each national/subnational situation with regards to community-based forest tenure. As such, these documents are expected to support multiple policy/action/investment pathways. The national workshops brought together a range of in-country expertise and facilitated the participatory assessment (e.g. scoring) of the state of forest tenure security in each country. It is anticipated that this initial scoring will be a useful baseline for future comparison and help to demonstrate the effects of national efforts. Given this diversity and depth of activities, it can be expected that other national-level assessments would require a similar degree of financial support.

In all three countries highly qualified experts with broad country experience led the assessments – for the objectives of the pilots (contribution to national-level policymaking) this level of qualification was essential. In cases where such depth and policy drive are not as critical, the assessment is also expected to be of considerable value, even if conducted by students, academics, donors and practitioners with less country or disciplinary expertise. In these cases, the objectives would be to gain comprehensive understanding of the issues or conduct cross-context analyses which would indirectly promote and inform policy dialogue (see Section IV for other suggested applications of the FTAT).

It is anticipated that the FTAT methodology as presented above can be adapted to most national contexts, given a comparable level of resourcing and capacity as the pilots received. At the national level, important inputs to the process are generally available from government statistical data, World Bank and other donor country-level assessments, project evaluations, FAO statistics, other assessment tools (i.e. LGAF), PrIndex, reports by NGOs and civil society and the academic literature. At the subnational level, as observed from the supplemental assessment in the DRC, those resources may need to be supplemented by higher-resolution data from household surveys, district/regional socioeconomic statistics, NGO reports and additional research efforts (such as interviews, focus groups, etc.). Additionally, with limited time and resources there are several alternative applications of the FTAT, usually involving reduced stakeholder feedback and meetings (see Section IV and the Guidance Manual for a more extensive discussion of FTAT applications requiring reduced time/resources).

Both Myanmar and the DRC approaches took considerably more time than originally anticipated (5+ months versus 3 months); in both cases this was a result of the expanded process of stakeholder outreach and engagement, including additional meetings/workshops. As the assessment is expected to be adapted to each specific context, we can conclude that it is more realistic to expect the process to require up to 6 months from initial scoping to the finalization/dissemination of the policy recommendations/roadmap.

An element of the process that may need special adaptation and refinement is the scoring of indicators. First, the pilots demonstrated that stakeholders require significant time to understand the indicators and process the relevant evidence provided by the facilitators/implementing team. Each participant scoring all 42 indicators may not be a practical expectation. Two of the pilots asked small, diverse groups of stakeholders to score subsets of indicators – this process proved more time-efficient. Next, the FTAT does not have a built-in process for reconciling differences in perspective, either within the small group or between the group and other stakeholders. Without this process the results of scoring are more open to disagreement and not as effective at contributing to discussions and the policy roadmap. Finally, some of the scoring criteria can be difficult to interpret and locate on a linear 1-4 scale. These challenges illustrate the need for creative approaches to scoring and adaption to the country context (see additional suggestions in Section IV).

Democratic Republic of Congo: National pilot implementation of the FTAT has completed in the DRC with the national stakeholder workshop postponed (as of April 2020). The project appeared to be adequately resourced, though implementation required more time than projected (>5 months versus ~3 months). It is understandable that the remoteness of the supplemental subnational 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. Nevertheless, the assessment (e.g. final background study w/ initial scoring) has been completed and has successfully incorporated this rich stakeholder input.

Myanmar: This pilot FTAT process was significantly lengthened (6+ months) by additional stakeholder involvement and a partial reworking of the framework/indicators. In Myanmar it was clear that government ownership was critical for the assessment to contribute to the ongoing policy discussions around forest sector regulations. In this case the consultant was able to successfully engage government (as a key stakeholder group) to lead the process, forming the Working Group and contributing over 20 days of effort as a group. This expanded process allowed for the adaptation of the indicators to match the needs of the local context. Further, the language of the indicators was simplified and the objective scoring criteria replaced by a 4-point Likert scale (e.g. strongly disagree/disagree/agree/strongly agree). Despite these modifications to the scoring process, participants at the national workshop expressed the need for an additional 2-day meeting to discuss and refine scoring decisions. Additionally, costs for this pilot were higher due to the 2 regional stakeholder consultation workshops.

Zambia: This pilot closely followed the anticipated timeline and structure of the FTAT. The pilot assessment was mostly carried out over a period of 3-4 months and worked within the resources provided. The consulting firm was able to leverage their longstanding relationships in the country and involvement in many ongoing projects to engage stakeholders and facilitate the assessment

process. Many of the stakeholders had connections to the consulting firm’s initiatives in Zambia, which contributed trust and an open and free dynamic in discussions at the national workshop. Greater involvement from the donor community was identified as a gap. More involvement would both add further legitimacy to the process and also provide value to ongoing forest, land and other natural resource management initiatives. Additionally, a relevant target audience of the FTAT process, high-level policymakers, was not present for the stakeholder workshop.

Criterion 3: Effectiveness at Influencing Policy

Key questions:

1. Are the results credible and replicable?
2. Does the FTAT clarify “why” to secure forest tenure for communities?
3. Does the FTAT clarify “how” to secure forest tenure for communities?
4. Do the results drive policy?

Because the FTAT is situated within a larger process of policymaking and implementation, some conclusions regarding the impacts of the assessment on the downstream processes of securing community-based forest tenure rights are conditioned on the receptivity of policymakers and stakeholders to the contributions of the tool. This receptivity has several factors, of which only some are related to the value of the tool. As a result, conclusions regarding the effectiveness at influencing policy in the pilot countries are tentative. With this in mind, refined policy implications, situated by key element, are presented in Annexes 1, 2, and 3.

Written products from the FTAT pilot implementation (i.e. background study, workshop report and policy roadmap) were rigorously prepared and well supported. The assessments of the indicators of secure tenure were systematic and comprehensive, targeting all areas of forest tenure security supported by the analytical framework. Additionally, indicator scoring in Zambia and Myanmar was credible and robust because the stakeholders included in the process are representative of the forest tenure issue within each respective context⁶. Credibility in the assessment and conclusions was improved by the open, free discussion of the indicators in the national validation workshop. In future efforts, more time can be made for stakeholders to share their perspectives and access the relevant national evidence, further improving credibility. Replicability at later dates to permit comparison over time from a solid baseline (and change in status of tenure security) is dependent on 1) the documentation and reproduction of precise scoring methods and 2) diverse, representative stakeholder participation. It is anticipated that this is feasible and that the capacity to assess tenure security over time would represent a significant contribution of the FTAT to the policymaking process. For maximum impact this commitment to replicability should be recognized and methodologies carefully documented from the outset.

The case for “why” forest tenure security is important, and its linkages to the SDGs, was strongly presented by stakeholders and consultants included in the FTAT process, particularly in the background reports. This “why” aspect of the FTAT process may be the most important input

⁶ Final stakeholder validation of indicator scoring in the DRC was postponed due to travel restrictions in Spring 2020.

for a target audience of the FTAT – national policymakers – as it provides a crucial rationale for any policy efforts to secure tenure. The pilot experiences suggest that the “why” of forest tenure security might have the most impact in the policy dialogue accompanying the “how” identified by the assessment. While the macro-level evidence and analyses are strong in the pilot projects’ documents, making this argument to policymakers was left somewhat incomplete. Consistently reporting the “why” along with the “how” in the reporting of results from the assessment could help to emphasize this aspect of the process for policymakers. It is possible that additional quantitative analysis about the long-term economic benefits of forest tenure reform, could reinforce the “why” component.

“How” to secure collective forest tenure was very strongly captured in the pilot process. The FTAT process includes multiple pathways to progress tenure reform including considerable national evidence in the background study, indicator scoring and discussions in the national validation workshop. All three pilots captured detailed stakeholder assessments of the state of tenure security at the level of the indicators (see Figure 2 for an example from Zambia), and suggestions for making progress (see Table 3 for summary of findings per the Key Elements). Results extracted at the Key Element level are useful for identifying common challenges across all three pilot countries.

This focused assessment facilitates the development of policy recommendations and a policy roadmap by identifying the strengths and weaknesses of tenure in a context and specific gaps in implementation or the legal framework. Additionally, it is increasingly appreciated that forest, land and other rural landscape projects, government agencies, NGOs and the private sector must work across several linked sectors to be most effective. The FTAT approach and process brings together the forest and land sectors in its assessment of community-based forest tenure. This is essential with the accelerating development of land markets, large-scale acquisitions and concessions and needs for resettlement across many contexts. Ideally, stakeholders from influential national roles in finance, economics and planning would also participate in the development of policy recommendations/roadmap, as significant national reforms may gain momentum with the support and insight of these interlinked sectors. By expanding the scope of the conventional sectoral perspectives, the FTAT offers a mechanism to more effectively understand “how” to secure forest tenure amongst both competing and cooperating interests.

Figure 2: Example of indicator scoring from Zambia validation workshop (from draft “Zambia Policy Roadmap”); see targeting of tenure security roles in Indicator #24 a-c.



Empowered and Inclusive Community Governance

Empowered and Inclusive Indigenous and Community Governance	Group Score
[20] Community institutions: Are collective governance institutions established that enable all community members to participate in decision-making about forest land tenure and governance?	4
[21] Government support: Do governments provide support for the strengthening of community institutions, as requested by communities themselves?	2
[22] Existence of community plans: Have most indigenous/community landholders developed governance plans for their lands/territories?	2
[23] Support community planning: Do communities have access to technical and other support needs to define their land governance plans?	2
[24[a,c]] Capacity and financial resources of community institutions: Do community institutions have the skilled personnel they need to carry out their tenure security roles? (Titling/registration and Monitoring / Enforcement)	1
[24[b]] Capacity and financial resources of community institutions: Do community institutions have the skilled personnel they need to carry out their tenure security roles? (Land governance)	2
[25] Multi-level links: Are community and/or civil society networks actively providing advocacy channels and support for community-based natural resources management institutions?	2

Extensive findings from the FTA process in the DRC, Myanmar and Zambia are presented in Annexes 1, 2, and 3, respectively.

FTAT policy uptake to date (May 2020) is briefly reported in Section II in each Country Findings report. Several ongoing arenas promoting policy dialogues and projects related to community-based forest tenure security are detailed, including multilateral projects (i.e. World Bank), studies, major national policy dialogues and reforms of national legislation.

IV. Lessons Learned

Pilot implementation in the DRC, Myanmar and Zambia offer several lessons for future implementation of the FTAT. First, several enabling conditions are presented in this section that are anticipated, when present in a context, to maximize benefits of the FTAT. Next, customization of the FTAT is discussed, followed by discussions of scoring and stakeholder engagement. Finally, applications of the FTAT beyond the pilots are envisioned and explored.

1. Enabling Conditions

These pilots were undertaken in diverse, complex conditions and demonstrated success in engaging stakeholders and experts to utilize the FTAT to elaborate a policy roadmap. Experience in pilot implementation emphasized that the following enabling conditions can maximize benefits of the FTAT to policymaking:

- a. **Timing considerations.** Investments in tenure security are long term and not always attractive to policy makers due to their complexity and many times modest accomplishments. Interventions will tend to be most successful when the social or economic demand is present and the political will is firm. It is in this context when a tenure assessment can be most useful and effective. The FTAT is designed to address elements of the country's political economy to assist country managers and directors in their policy dialogue with client governments. The tool also helps identify gaps and opportunities where investments can be more fruitful and effective.
- b. **Leadership.** A critical component of all three pilots was the core team and leadership of the FTAT process in each **country**. In each pilot, teams were drawn from different backgrounds and sectors:
 - Researchers in the Democratic Republic of Congo were able to facilitate field work in the remote assessment area (Mai Ndombe Province) and organize expert meetings to provide inputs into the background study.
 - Government in Myanmar took the lead with the formation of the Working Group. This approach holds promise in that the government, as a critical stakeholder in securing forest tenure rights, has ownership over the process and has already demonstrated a high degree of effort and competence at facilitating the initial policy dialogues (e.g. during the national workshop).
 - Consultants in Zambia with deep experience, connections and institutional knowledge were able to blend aspects of the FTAT process into other ongoing efforts and attract a diverse range of stakeholders to participate.

Each of the pilot processes benefited from the deep experience and expertise of the leadership teams. If significant customization of the FTAT is required, the experiences in the pilots indicate that a team led by stakeholders (such as the Working Group in Myanmar) can contribute to buy-in from other stakeholders during the modification process. We conclude that by incorporating relevant backgrounds and skills from the core leadership

teams (development, government and academia), the pilot processes enabled the adaptation of each assessment to the unique needs of their context.

- c. **Minimum viability of governance.** The DRC pilot recognized several local conditions that were challenging for the FTAT process and Tool to characterize and assess. The FTAT still provided clarification of tenure security in the absence of these conditions in its evaluation of local **institutions** and governance (including their presence or absence); however, the full applicability of the FTAT process to policy drive and action may be dependent on conditions of physical security, a minimal level of trust (including toward the government and institutions), and rule of law (including customary law) being in place.
- d. **World Bank Country Team integration.** Ideally the FTAT process is fully integrated by Bank Country Teams into their investment project planning across the sector. In this sense, the timing of the FTAT process is important in order to be maximize the benefits of inputs into investment projects or donor efforts. Prioritization of the FTAT by managing Country Teams may require additional resources and clear messaging that the process is flexible and adaptable to their needs. FTAT policy roadmaps could also become policy dialogue components in investment projects.
- e. **Donor participation.** As much as possible, broad donor and multilateral participation in the FTA process in an important enabling condition to link the FTAT to ongoing and planned projects and policy dialogue. The exact composition of these stakeholders is dependent on political **economy** considerations and donor interest in the context.
- f. **Ownership of results/Knowledge management.** Fostering and clarifying ownership of FTAT deliverables from the beginning of the process, such as the scoring data/results and policy roadmap, may stimulate follow-through of policy discussions and wider dissemination of results. Encouraging adaptation of the assessment and process, based on the robust underlying Analytical Framework and Key Elements/dimensions, may have contributed to the Myanmar pilot's success in uptake and ownership by key stakeholders. Furthermore, strong initial ownership may help to set realistic expectations of the process. Additionally, clarifying responsibilities and strategies for sharing and the dissemination of results can ensure that the broader community working on tenure rights can access and contribute to the findings. This planning around knowledge management may also include coordination with other geographies conducting their own FTAT processes in order to share results and learn from comparisons of best practices.
- g. **Political economy issues.** 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 support the reforms, whereas others who benefit from the status quo will lose from a change and will oppose those reforms. 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 political economy hazard. 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. It can make forest tenure security a part of its broader country policy dialogue and

it can make the improvement of tenure security a condition for its investments, particularly DPOs. Political economy issues are complex and do not get resolved in the short-run. However, the Bank is typically in a strong position to engage in the long-run and seek solutions in cooperation with the client.

2. Customization of the FTAT

The experiences with pilot implementation suggest benefits to customizing the Forest Tenure Assessment Tool for some contexts. In Myanmar, the implementation team determined early in their process that the FTAT would need to be modified to better fit the local language and conditions. Not only did the resultant modified indicators fit the context of Myanmar but the process undertaken by the Working Group built meaningful capacity to understand the underlying concepts and Analytical Framework. As such, the Government in Myanmar now has an energetic team of staff skilled in discussing and analyzing secure forest tenure who can carry the work forward. In Zambia, the expert consultants adjusted some indicators to better fit the cultural context.

The positive outcomes of these efforts demonstrate that there is a role in some contexts for revisions to the Tool that increase the specificity of the indicators for local conditions. The near universality of the AF permits for significant modification of the FTAT to meet the specific needs of the users. It is anticipated that implementation teams would most likely carry out customizing the indicators or tools after the second stage of the process in which country teams conduct initial scoping of stakeholders and issues and develop a plan for the assessment process. It is expected that experts in most contexts would be able to quickly remove or adapt indicators to best fit their needs while still clearly reflecting the key element of the Analytical Framework to which they point. In cases such as Myanmar, this process can be highly participatory and structured to receive extensive feedback from stakeholders. Indeed, in many cases adaptation of the FTAT allows the assessment to better capture the local story and support the policy process. In the three pilot countries, customization of the FTAT process and implementation methodology offered benefits in terms of stakeholder engagement and participation, country ownership and buy-in from relevant institutions.

The substantive results of the pilots from Section II demonstrate the value of customizing the FTAT indicators and implementation process to local/national conditions. Additionally, comparability is maintained and, in most cases, most useful for policymakers, at the level of the Key Elements of secure forest tenure. By framing the results of the FTAT in terms of the Key Elements, the output for multilateral donors, policymakers and academics is presented in a useful, succinct and comprehensive form.

3. Scoring

The scoring of indicators was one of the richest and most detailed elements of the FTAT process, but also one of the most complex. Several important results were derived from this stage of the assessment, including group consensus validation of the indicator scoring, a high degree of

detail and feedback on the status of each indicator and rich discussion amongst representative stakeholders. The indicators themselves proved to be a productive tool for deriving detailed, rich data on the status of forest tenure security, and clarified debate and discussion about the ground-situation. These strong results were partially due to balanced stakeholder representation, strong facilitation by people familiar with the FTAT and the indicator-customization process undertaken by each country prior to the workshops.

Key lessons learned in regard to scoring during pilot implementation include:

- Pre-scoring indicators, familiarity with relevant national evidence, and developing an agreed-upon process for scoring reconciliation prior to the validation workshop can greatly improve productivity.
- Reporting across countries is more workable at the level of the 9 Key Elements of secure tenure, as specific indicators are often customized in the assessment process and may be targeted to country-specific roles/institutions.

4. Stakeholder engagement/selection/preparation

In all three pilots it was observed that the FTAT process was highly successful at engaging key stakeholders and provided a constructive platform for discussion and analysis among stakeholders. In these and most other contexts, this arena doesn't ordinarily exist as government institutions are generally siloed by natural resource type and community-based user groups may rarely be able to engage government officials in discussion. In many ways, this creation of a unique opportunity for constructive dialogue is an important result of the FTAT process. In addition to NRM-related stakeholders, influential institutions such as the relevant financial, economic and planning ministries/departments can be included as stakeholders. As is often the case, major national reforms gain critical momentum when the national financial institutions provide leadership.

A stakeholder mapping process would facilitate balanced, constructive participation by systematically identifying stakeholders of the relevant interest groups. This process would also enable targeted scoring of specific indicators by stakeholders most knowledgeable and experienced in those areas.

Preparing supporting materials (i.e. background study, national evidence) to be as succinct and digestible as possible will enhance the contributions of stakeholder participants in the national validation workshop. National evidence can be presented in bullet-points in order to be as accessible as possible during scoring and policy discussions.

5. Applications of the Forest Tenure Assessment Tool

III. 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 consensus about the rational and broad direction of forest tenure reform, the "How" sections of this integrated methodology may be the main emphasis, to

enable identification of key areas requiring greater attention or investment. In other contexts in which the rationale and direction of forest tenure reform is incomplete or unclear in national policy dialogue, the “Why” aspects of the methodology may be the primary focus in the first instance, with the “How” elements of the methodology following as diagnostic inputs on the key directions for change.

A. Applications

This assessment tool is also designed to be flexible enough to connect with and inform a range of different processes. Five broad categories of Bank products and services have been identified to directly benefit from the application of the FTAT:

- 1. Country Diagnostics.** In its process of engagement with client countries the Bank identifies a set of development priorities through a Systematic Country Diagnostics (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)⁷, 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; (ii) identifying data gaps in key areas related to tenure security and comprehensively addressing these gaps. In countries where FTAT implementation has occurred or is ongoing, 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 Bank work on Development Policy Financing is expected to increase sharply as a response to the global economic contraction from the COVID pandemic. It is anticipated that overall government revenues will decline resulting in decreased resources for already underfinanced government institutions implementing forest tenure-related activities. The FTAT can support the design of DPOs by utilizing its strong diagnostic elements (“how”) to identify specific policy reforms and results indicators on for example strengthening community-based forest tenure objectives and sustainable financing for institutions that are critical for forest tenure security.

Other examples may include informing the identification and development of targeted reforms at obsolete and counterproductive rules and regulations that perversely affect tenure security and conservation goals (i.e. outdated charcoal quota system; system for obtaining wood cutting licenses; or onerous community forestry regulations that limit participation) and direct financial support to critical government institutions charged with forest tenure security activities (i.e. enforcement officers, capacity building activities in rural communities). In addition, new policies may be supported, such as developing and implementing a framework for public consultations around infrastructure development involving the forest sector.

⁷ 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.

Actions requiring specific fiscal targets to be met or undertaking sensitive political dialogues would depend on the specific context and may not be possible during a severe economic and public health crisis as the COVID pandemic. Because DPOs are rapidly deployed, the rapid-assessment modality of the FTAT could be carried out, unless a prior project-level or programmatic-level FTAT had already been completed to draw from.

3. Investment Project Financing and Program for Results Lending⁸

- a. **Forestry and Agriculture Projects.:** The governance and accountability dimensions of forestry and agriculture projects is particularly relevant when targeting IPLC in areas under community-based tenure systems. For these types of project the Bank commonly use a *Community Driven Development* (CDD) approach that aims at strengthening community institutions and broad participation. While few CDD projects focus on policy reforms, the FTAT 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 may contribute to a strong rationale for community and donor investment in CDD projects as components of larger forest rights initiatives built alongside FTAT stakeholder-participation.
- b. **Biodiversity Conservation Projects:** Biodiversity conservation and protected area and wildlife management projects are commonly situated in remote areas under customary tenure systems, often not formally recognized by governments. Project teams working in these areas need to take into account 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. A FTAT assessment can be a valuable instrument to help teams better understand the local contexts and the gaps to address. Given that most communities in these areas access and manage biodiversity using traditional systems, the tool also can help to identify areas of opportunity for co-management with a conservation approach.
- c. **Land administration and forest reform projects.** Provides 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

⁸ **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.

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 IP/LC 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. Land and natural resources tenure security are key components of three Environmental and Social Standards (ESS); “Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, careful assessment and design is needed to help ensure that 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...”⁹ The FTAT can provide this comprehensive and targeted assessment for the applications relevant to the ESF Standards:
 - a. **ESS1: Assessment and management of environmental and social risks and impacts:** (from Note 1) “Applicable laws and procedures, along with project design features (a) provide clear and adequate rules for the recognition of relevant land tenure rights; (b) establish fair criteria and functioning, transparent and participatory processes for resolving competing tenure claims; and (c) include genuine efforts to inform affected people about their rights and provide access to impartial advice.” Several Key Elements of the FTAT focus on legal frameworks, processes, dispute and conflict resolution, governance and FPIC.
 - b. **ESS5: Land acquisition, restrictions on land use and involuntary resettlement:** This Standard specifically addresses restrictions on land use, such as customary usage, timber and NTFPs, and other forest rights, as well as relocation and compensation. FTAT Key Elements 3 and 9 specifically address appropriate regulations and expropriation and compensation.
 - c. **ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities:** The FTAT can be used to understand the linkages of participation, community governance, gender, capacity of institutions and the interactions of formal and customary institutions in respect to strengths and weaknesses of tenure security and potential risks and impacts on IP/LCs.

The FTA implementation during an ESF review would likely take the modality of a rapid desk-review and orientation to the issues via the Key Elements of secure forest tenure and specific indicators of tenure security, potentially followed with expert consultation on a limited basis. The desk review of the Tool would function as an organizing platform for data and inputs and a comprehensive checklist. The expert consultation would ideally support this desk review by providing limited validations and support in identifying strengths and weaknesses of tenure security in a context, along with suggesting inputs into planning processes to mitigate risk and impacts.

Examples of projects under this category include any infrastructure investment where a tenure assessment can help identify opportunities to strengthen efficient tenure systems and/or avoid the negative impacts that may arise from insufficient attention to community-based tenure challenges.

⁹ The World Bank. 2017. Environmental and Social Framework. Page 20.

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 and for stakeholder participation in Measurement, Reporting and Verification systems essential for realizing the goals of managing carbon stocks in forests, conservation and sustainable development. Further, tenure security is a foundation for strong community institutions and governance. The FTAT can provide a valuable input into REDD+ planning by systematically identifying strengths and weaknesses of community-based tenure security in a given context. Even a relatively inexpensive scoping exercise utilizing the FTAT can provide the comprehensive view necessary to identify priority elements for project interventions aimed at strengthening tenure status. An existing “full” FTAT (i.e. pilot-level time and resources) already initiated or completed in a country can provide a more solid basis for understanding policy interventions and would contribute to building needed capacity in stakeholders that would prove valuable for project implementation. More specifically, for projects financed under the Bank’s FCPF Carbon Fund, the FTAT would contribute to meet the required assessments of the land and resources tenure regimes contemplated in the Carbon Fund Methodological Framework.¹⁰

¹⁰ World Bank. 2013. Forest Carbon Partnership Facility. Methodological Framework. 39 pp.

**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. Policy oriented analytic projects, particularly 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 contributes to improve development outcomes</p>	<p>Strong emphasis on the “why”, focusing on risks/opportunities and taking into account political economy aspects both at national or local levels Different levels of depth where tenure issues are not well understood but suspected as relevant. 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 policy makers</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 the Bank’s dialogue with client countries, including high level policy makers.</p>
<p>2. Development Policy Operations. 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 scope of DPO.</p>	<p>National</p>	<p>Bank managers and task teams</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. Investments where tenure security is a primary element of the project objective. Usually specific activities/components are included in project design to address tenure gaps</p>	<p>Help teams frame the specific objectives and activities to improve tenure security and design specific interventions. Particularly useful for CDD Projects.</p>	<p>Focus on the “how”. Assessment to be conducted as an important activity of project design beginning in early stages of project identification, Particularly useful for CDD Projects.</p>	<p>National/Sub-national and/or project area</p>	<p>TTs 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 (Liberia Forest Sector Project; Myanmar Landscape Project)</p>

<p>3.b Biodiversity Conservation. Investments where tenure security needs to be addressed in project design to ensure project outcomes.</p>	<p>Help teams identify specific the FTS elements that need to be in place to ensure specific project outcomes.</p>	<p>Focus on the “how” Assessment to be conducted as an important activity of project design beginning in early stages of project identification.</p>	<p>Mainly project area focus</p>	<p>TTs/practitioners (e.g. Biodiversity, NRM)</p>	<p>Biodiversity conservation and protected area projects that needs to resolve boundary issues and invest in alternative livelihood opportunities with IP/LC of 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. 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. 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. Land or Forestry project focusing on tenure security in rural landscapes. Forestry Projects promoting devolution of tenure rights to IPLC. 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>
<p>3.d Infrastructure operations in the in the transport, energy and mining sectors</p>	<p>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.</p>	<p>Focuses on the “how” and the diagnostic strengths of the FTAT.</p>	<p>Project area focus; for rapid-assessment, desk review of national context may be more practical</p>		
<p>4. Environmental and Social Risk Assessment. Investment projects where tenure security may be at risk due to specific project activities</p>	<p>Help teams identify potential social and environmental risks of TS and how to manage them in investment project financing scenarios</p>	<p>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.</p>	<p>National with emphasis on high risk project areas</p>	<p>Task Teams (TTs), particularly environmental and social specialist supporting rural infrastructure and large</p>	<p>Large infrastructure and agriculture investment projects that overlap with customary lands with weak or no statutory recognition</p>

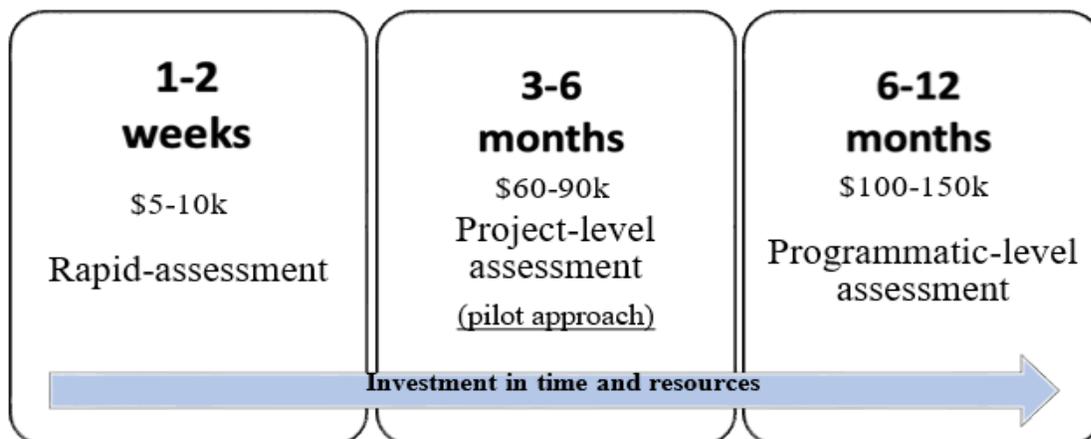
				agriculture projects	
5. Carbon Finance/REDD+. Investment projects where one or more elements of tenure security are a key pre-condition to achieve project objectives	Help teams identify what tenure issues need project attention to avoid conflicts towards project outcomes and to maximize positive impacts	Focus on both the “why” and “how” 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 finance projects in DRC, Mexico, Costa Rica)

B. Modalities of implementation

All the pilot FTAT methodologies included significant stakeholder input and a deep review of a range of available resources. As such, they represent fairly involved approaches to tenure assessment. The robust and comprehensive underlying framework permits the assessment process to be simplified significantly to meet different objectives, and the broad focus on forested landscapes contributes to understanding a constellation of resources and issues including land, agriculture, climate change and the management of natural resources, including forests, wildlife, landscape restoration, ecosystem services and biodiversity conservation. This opens up the possibilities of more limited targeting of the tool and a reduced process that may require as little several weeks of an expert's time to provide a comprehensive (if limited in depth) view of tenure security in a given context. It is envisioned that more rapid approaches would rely more on the key elements and dimensions of tenure security and would involve reduced participation from stakeholders and external experts.

- i. **Rapid Assessment:** The FTAT can be applied at during the project preparation phase, when a Task Team Leader or other project manager needs a systematic overview of forest tenure security in a context. Additionally, the Tool can be an input for social analysis and risk management practices as part of Environmental and Social Framework reviews. In this application, stakeholder participation and feedback would be limited and the consultant would be utilizing the AF and FTAT for rapid desk-based assessment methodologies (i.e. literature review) related to specific project needs.
- ii. **Project-Level Assessment:** Similar in resourcing and time to the FTAT pilot implementation projects, this level of commitment could assist national projects by supporting specific studies, policy forums, project design, as well as project preparation/scoping.
- iii. **Programmatic-Level Assessment:** A more in-depth assessment can be conducted for larger projects (or multi-project programs) in need of focus on priority areas of interest or if there is a need to conduct separate assessments of multiple subnational areas (i.e. provinces or districts). If embedded in a long-term program, the FTAT process, including stakeholder workshops and feedback, could contribute to social capital and capacity relevant to program outcomes. A larger program could incorporate the FTAT in order to support policy dialogues working toward seeking consensus on new legislation or policies.

Figure 3: Relative investments in assessment approaches



V. Conclusions

The results from pilot implementation in Zambia, Myanmar and the Democratic Republic of Congo demonstrate that the Forest Tenure Assessment Tool is:

- **Practical, can be completed with the level of support the pilots received, and generally requires 4-6+ months for the process;**
- **Highly adaptable to scale, context and specific objectives;**
- **Effective at contributing to the policy process/discourse, through:**
 - **An assessment that is credible, robust and replicable;**
 - **Establishing a clear baseline to measure success over time;**
 - **Providing evidence-based insights on “how” and “why” to strengthen forest tenure security.**

The cross-sectoral nature of the assessment proved to be a strength of the approach. Mining, wildlife, hydrology and other resources are inextricably linked with and overlap with forest-based ecological and social systems. The forested landscape approach of forest tenure security requires that the perspectives of stakeholders from multiple sectors be considered. However, institutions, such as government administrations and line ministries, academia and many civil society organizations are often divided along conventional disciplinary boundaries. By bringing representative stakeholders from these disciplines together the FTAT process creates, in many contexts, a singular and effective arena for these interdisciplinary discussions and helps to address issues in a more comprehensive way.

An improved understanding of the issue of community-based forest tenure security has emerged from each of the FTAT pilots, endorsed by key national multi-stakeholder participants. This shared understanding forms the basis for clear, succinct policy recommendations and a vision for policy implementation, the policy roadmap. This distillation of a complex process demonstrates the effectiveness of the underlying analytical framework at placing the nuances of local conditions in the global context of forest tenure security. The lessons learned from the pilot application of the FTAT are useful at multiple levels – for policymakers, NGOs contributing in both communities and academics and thought-leaders contributing to national strategy. The readiness of the Forest Tenure Assessment Tool to clarify the state of community-based forest tenure security in contexts throughout the world has been amply demonstrated through these diverse pilot experiences.

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Annex 1
Forest Tenure Assessment Tool. Pilot Implementation
Country Findings
Democratic Republic of Congo

A. Making the case for forest tenure security:

Introduction: 70% of the population of the Democratic Republic of Congo 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 which 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 recognizes the community forest concessions which are limited to 50,000 ha in extent, 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, by many measures, 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. The 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. Furthermore, many bilateral and multilateral efforts are underway with regards to natural resources, creating opportunities and motivation needed for political reforms. Given the complexity and nuances of local conditions in as diverse a country as the DRC, special attention must be placed on a community-centric vision for and social-oriented approach in strengthening 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 indigenous or community land rights, although the customary system of land rights currently exists alongside the formal system. In many cases, these customary rights are 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 ha in extent. The specific management and use rights depend on the

classification of forest and guidelines set forth 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 norms and 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% (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 rules and 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 1990-2010 (MECNDD 2015) to 0.52% a year from 2010-2014 (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 Workshop. However, due to the global 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 subnational 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 (e.g. background study w/ 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: Experts were convened for a meeting in September 2019 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 subnational case study.

Operational Scale	National/Subnational (Mai Ndombe Province)
Pilot Duration	September 2019 - February 2020
Pilot Budget	USD \$ 60,000.00
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. Sécuriser les droits fonciers dans les zones de forêt pour favoriser le développement rural: Évaluation du régime foncier forestier en RDC. February 2020. 2. Executive Summary. April 2020.

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 (REPALEF), European Network for Central Africa (EURAC), Action pour la Promotion et Protection de Peuple et Espèce menaces (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 Antwerpen University

C. Key findings: Synthesis of risks, challenges and opportunities

The Forest Tenure Assessment Tool 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/investment.

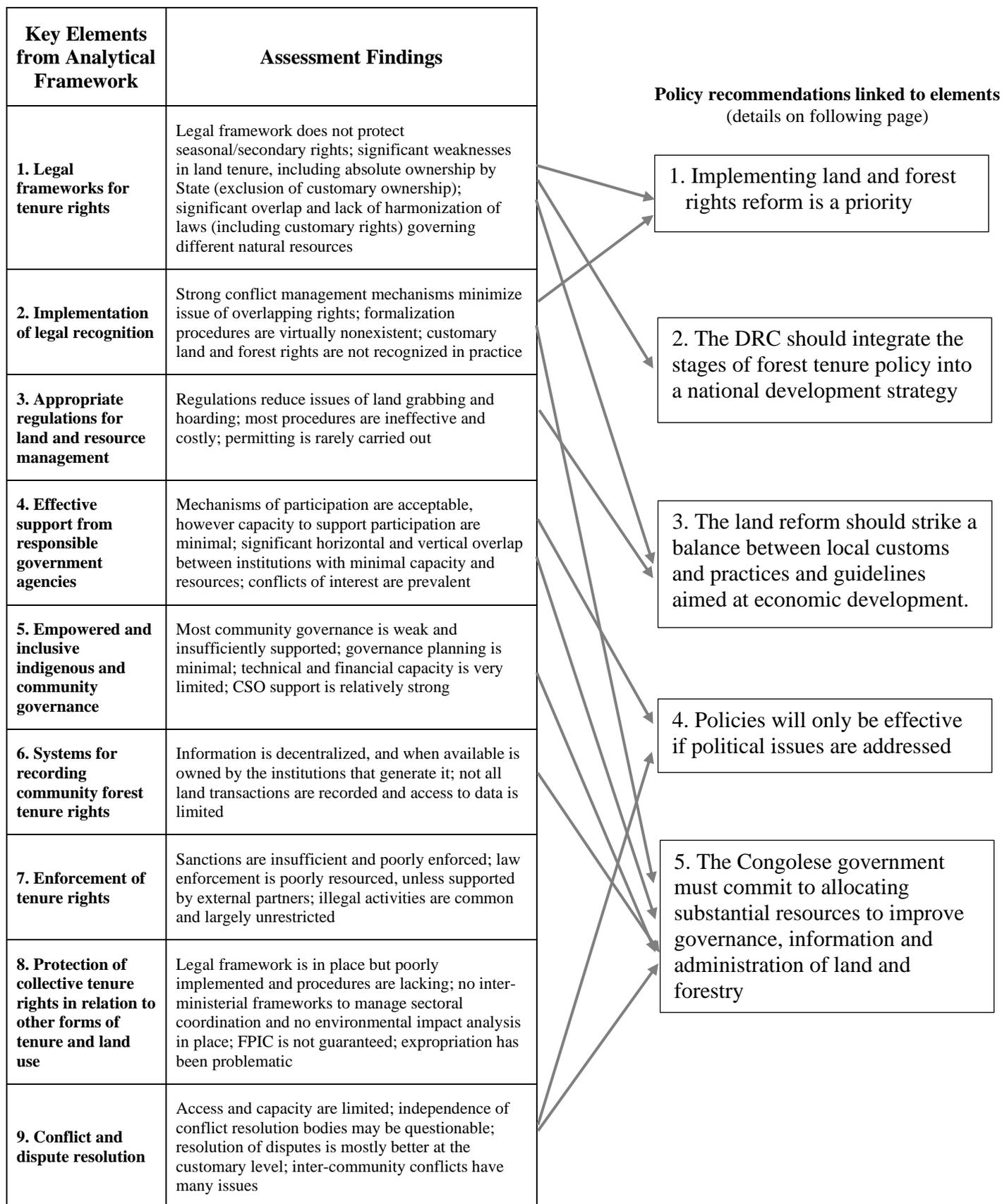
Synthesis of Risks & Challenges:

- 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 socio-economic 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 right owners) is minimal compared to the practices which are governed by customary rules – those practices are as diverse as the contexts which created them and contribute to their continued evolution. As a result, the legal system is currently unable to operate as a unifying standard that would encompass the various situations faced by the right 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 elite's 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 the roots 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 populations that are part of the community but do not meet this ethnic/family criterion. Meanwhile, laws related to natural resources refer to the user, which may not be the legitimate right holder. The absence of breakdown of the typologies of stakeholder within the "local community" terminology is preventing a clear definition of roles and rights, and is creating 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 are ruling in priority, 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 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, the local businesses or 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 articulate the customary and the legal worlds to 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 SDGs. 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 communities and indigenous peoples would naturally position themselves in this platform.

D. How to secure forest tenure: Assessment results by key element and policy recommendations



Policy recommendations (continued from previous page):

1. **Implementing land and forest rights reform is a priority.** There is a definite risk of persistence, even worsening, of hunger and poverty (Sustainable Development Goals – SDGs - 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 found to be 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 SDGs 13 and 15 (climate action and life on land).
 - The reforms should find a balance between SDG 8 and SDGs 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, introduce binding rules on the representation of women in decision-making structures, and also inform and raise awareness regarding the family benefits and community gains achieved 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 socio-economic needs of the communities and the rights which they claim.
3. **The land reform should strike a balance between local customs and practices and guidelines aimed at economic development.** This is the *sine qua non condition* for ensuring the effectiveness of the law, and therefore SDGs 1 and 2. The Ministry of Land Affairs and the platform on land reform are aware that the success of reforms depends not only on the implementation of good laws but also that the laws 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 conflict of power between/within the communities 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 which put 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 subnational case study, the project team has identified these sequential steps to improve forest tenure security:

1. Conditions needed for effective initiatives

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

- **Political alliance:** the current parliamentary majority is a broad coalition facing many power struggles. One of the divides takes place 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 right security and should be address 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 a large part 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 considered to be an affair of 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, be synthesized and disseminated.

Policy uptake (April 2020): FTAT 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 FTAT's findings may potentially contribute to the National Agricultural Development Program under preparation (World Bank).

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Annex 2
Forest Tenure Assessment Tool. Pilot Implementation
Country Findings
Myanmar

A. Making the case for forest tenure security:

Introduction: Over the last decade simultaneous transformations are taking place in the country’s political, economic and institutional governance structures, including land and natural resources, seeking peaceful solutions to civil conflicts and the long-running demand for tenurial reforms. These shifts are part of a well-negotiated, long-term process, and progress made includes the adoption of the National Land Use Policy (NLUP, 2016) and 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 and 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 since these 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. The lands occupied/used/accessed largely remain unmapped, un-demarcated, un-quantified, 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, stand-alone” 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 towards 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 – a model that allows both statutory and customary systems to coexist and complement each other may offer the most promise in Myanmar.

Deforestation – Extent of problem and key drivers:

Estimate of forest loss range is around 550,400 hectares per year (average, 2010-2015); 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’¹¹.
- **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, as well as delivering ecosystem services, the conservation of biodiversity and combating climate change. Close to two-thirds of Myanmar’s rural population of 54 million is dependent on forestland and resources.¹² Forest resources are key secondary income sources for more than half the rural population, and close to two-thirds of rural energy demands are met by traditional forest fuels.¹³ Forests support food security for the rural population: the country’s mangrove forests are critically important for food security in coastal communities and are severely threatened.
- **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

¹¹ In case of palm trees, they can be ‘owned’ under specific conditions.

¹² Refer to Central Statistical Organization of the Republic of the Union of Myanmar at <https://www.csostat.gov.mm> and also refer to Department of Population’s website at: www.dop.gov.mm.

¹³ 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.

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 FTAT – 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 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 across 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.

Operational Scale	National
Pilot Duration	September 2019 - March 2020
Pilot Budget	\$130,000.00
Assessment Process - Key Stages	<ul style="list-style-type: none"> 5. Informal consultations with government stakeholders, review of FTAT/AF, development of modified framework and indicators; desk-review 6. Two Regional consultation workshops (total: 4 days) 7. Summary report of results from consultations, regional workshops and desk-review of literature 8. National Multi-Stakeholder Consultation and Validation Workshop (2 days) 9. Policy Recommendations/Roadmap
Indicator Scoring Method	Group-based scoring
Final Document	“An Assessment of Forest Tenure in Myanmar: Securing Forest Tenure for Sustainable Livelihoods.” March 2020. Myanmar Working Group on Forest Tenure Assessment.

FTAT adaptation to country context: All FTAT indicators were adapted by the Working Group to be targeted to local context and language¹⁴. The Analytical Framework, as the basis for the Tool, was utilized throughout this process. To reflect scoring by a diverse group of stakeholders, language was simplified and concepts and terminology explained with provided definitions. Customized indicators were translated into Burmese for the National Workshop.

Stakeholders: Two region-level workshops had 114 participants. 92 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.

Stakeholders participating in the National Workshop included the following groups:

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, MoNREC., Union Attorney General 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

¹⁴ Indicators used in Myanmar are included in the full country report included in the decision meeting package

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

C. Key findings: Synthesis of risks, challenges and opportunities

The Forest **Tenure** Assessment Tool 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/investment¹⁵.

Synthesis of Risks & Challenges:

- **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).
- **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.
- **A fragile political environment and ongoing peace negotiations:** Ethnic Armed Organizations and ethnic nationalities envision local autonomy and stand-alone tenure administration systems; union government aims for unified national system; a system that combines attributes of each may offer the strongest security for communities.
Inability to safeguard customary tenure and tenurial claims of forest-dependent communities: Cases abound of customary landowners losing access over legal deadlines for registration under formal laws (i.e. VFW Law, etc.). Changes in land status to reserve areas, etc., occur without FPIC and safeguards.
- **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.
- **Failure to ensure equity for all genders and ethnic groups:** Women are underrepresented in land-related matters, both in government committees and customary governance.
- **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:** Better 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. Public awareness raising is critical for an enabling environment that provides accountability, promotes participatory and inclusive processes for follow-up and review, and builds ownership. Raising awareness is necessary for local communities to understand existing policies, laws, and rights in relation to forest tenure and to avail of 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 (CF) 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; improving information gathering and access.

¹⁵ See full Myanmar country report is included in the decision meeting package.

D. How to secure forest tenure: Assessment findings and recommendations by key element

Key Elements from Analytical Framework	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 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 on 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), 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; govt. 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 lack of public access to formal legal system (limited to administrative arrangements); most disputes resolved at 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 through the development 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 socio-economic 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 with 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.

E. Policy roadmap:

Following the workshops and based on the findings of the FTAT, 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 thus 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 that 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 built up to build accountability and capacity at 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 Ethnic Armed Organizations (EAOs) and ethnic communities manage forest lands in many States/Regions, and some EAOs have developed or are currently developing land use policies and forest policies, and establishing systems and departments to govern and administer territories, land and resources, and populations in their traditional territories. For those with bi-lateral 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 FTAT 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 FTAT 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 FTAT 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.

Annex 3
Forest Tenure Assessment Tool. Pilot Implementation
Country Findings
Zambia

A. Making the case for forest tenure security:

Introduction: Zambia's land area is predominately forested, covering over 50 million hectares, or 66% of the country's land mass (FAO and GRZ Forest Department 2016). Forest products play a major role in Zambian livelihoods, supporting over 1 million jobs, estimated to include over 60% 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% 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 and 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, over 55 communities with interests in over 1 million hectares have applied to manage their forests for a range of goals, ranging from management of NWFP, like 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 ha 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, tenure and agricultural conversion;
- Limited enforcement of timber concessions on customary lands;
- Charcoal production is an important livelihood strategy; and
- Expansion of settlements and districts.

Land and forest legal framework:

- **Who owns forested land?** – All land in Zambia belongs to the State (Lands Act, 1995). Customary land is held in trust by the President through the traditional authorities (288 chiefs). Statutory land is leased to individuals or managed by state institutions such as the Ministry of Lands and Natural Resources (MLNR), the Forest Department, and municipalities and other urban authorities.

- **Who manages the forests?** - Management, use, and transfer rights to land and forest 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% of population) with over 75% 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% of GDP¹⁶ (UNEP 2015). The forest sector and forest management have not been central to Zambia’s framing of National Development Priorities or the SDGs, in comparison to the mining and agriculture sectors. Forests are estimated to provide over 1 million jobs, supporting 60% of rural Zambian households (UNEP 2015).
- **Is the country’s forest policy gender-progressive and participatory?** – Policies are progressive but 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.

¹⁶ 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.

B. Carrying out the Zambia FTAT – Methodology, adaptation and stakeholders

Methodological approach: The approach to FTAT implementation in Zambia closely followed the proposed methodology. The Forestry Department of the Government of Zambia and the World Bank country task team launched the FTAT in July of 2019. A domestic expert consulting firm 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 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 which 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).

Stakeholders: 42 people from 5 major interest groups participated in the National Stakeholder Validation Workshop.

Operational Scale	National
Pilot Duration	July 2019 - January 2020 (intermittent)
Pilot Budget	\$60,000
Assessment Process- Key Stages	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	1. Background Report (November 2019) 2. Workshop Report (December 2019) 3. Forest Tenure Policy Roadmap (February 2020)

Participant interest groups:	Example Stakeholders:
Government	Forest Department, Department of National Park and Wildlife, Ministry 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)

C. Key findings: Synthesis of risks, challenges and opportunities

The Forest Tenure Assessment Tool and implementation process in Zambia generated key findings, diagnostic data on the status of forest tenure security, policy recommendations and a policy roadmap for future

Synthesis of Risks & Challenges:

- **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 largely 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), which is customary land where the Department of National Parks and Wildlife administers hunting concessions with private operators.
- **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.
- **The Forestry Department has limited resources to manage National Forest Reserves, let alone 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 required to sustainably manage the areas in the long-term.
- **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.
- **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.
- **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 mechanism 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 as well as 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 community-based natural resource management 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 and 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 which are worth cataloguing, assessing and 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.

D. How to secure forest tenure: Assessment findings and recommendations by key element and policy recommendations¹⁷

Key Elements from Analytical Framework	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 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; 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 Forest 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

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.

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 / Department and open to interpretation. Coordinating implementation will require a political champion to work across Ministries to agree on education / outreach / 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 at 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.

Manage rights spatial data on the forest estate: The use of existing tools like the National Spatial Data Infrastructure and the National Forest Monitoring System could support resolution of these above issues 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.

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.

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

¹⁷ See “Tetra Tech. 2019. Workshop Report – Zambia” and “Tetra Tech. 2020. I

9. Conflict and dispute resolution	Customary institutions are accessible and able to resolve disputes but decisions may not be upheld outside of community
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E. Policy roadmap:

Even in the absence of own-source revenue from government 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, government departments to align with.**
- 3. Establishing models of coordination through specific district-level success among District Commissioner, Local Councilor(s), District Forest Officer, District Officer from the Department of National Parks and Wildlife, and customary leaders. These models would act as example sites on the ground, but will also feed into 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 do 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): FTAT implementation in Zambia appears to have spurred local dialogue between the Forest Department, National Parks and the Rufunsa District Council on Community Forest Management

Groups; FTAT 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.