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Policy Brief

Land use planning in Central Africa

- 30 years of progress and emerging lessons learned

Key Messages

Carefully negotiated land use plans (LUPs) at the relevant jurisdictional scale offer a means to reach consensus on optimal land use outcomes, including reducing deforestation.

There is still need to clarify the alignment of different LUP instruments (national, regional, local) horizontally between sectors, and vertically between national, regional and local decision-making bodies in the context of broader development planning, decentralization, and climate change.

High-level (national and regional) LUP instruments should be advisory in nature. Participatory local LUPs that secure free prior informed consent of affected stakeholders should become a legal requirement and prerequisite for all significant land allocations.

Agreed LUPs must clarify future land uses and user rights of all stakeholders and trigger a process to legally secure these rights in the long term, and funding to implement the plans.

There is no one-size-fits-all LUP methodology as each CB country differs.

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The Congo Basin Forest Partnership (CBPF) Roadmap for 2020-21 identified several key topics that the German Facilitation intends to emphasize together with the whole Partnership. Among these is “sustainable land use”. The roadmap sets out to encourage discussions towards a longer-term objective: to move towards regulative harmonization and minimum standards within the region for the sustainable optimization of all natural resource and land use as a means of supporting conservation, biodiversity, sustainable management and, above all, the economic development of the populations of Central Africa. This brief addresses this objective.

The Congo Basin (CB) countries have fast growing populations with increasing domestic social and economic development needs that must be met to fulfil the Sustainable Development Goals. National development visions and strategies lay out ambitious plans to meet these needs, and at the same time to supply, and benefit from, global markets for commodities. Commercial forestry, industrial agriculture, extractive industries (oil, gas, mining) and infrastructural expansion compete with small- to medium-scale agriculture for rural land. Economic growth depends on investment in transport and energy infrastructure to power homes, process goods, and improve regional integration and market access.

All these require more land – and in the CB, much of this land is forested. These forests are not only home to local people, but also harbor globally valuable

biodiversity and vast reservoirs of carbon. Reducing forest loss is crucial in efforts to minimize climate change. The CB forests are naturally dynamic – expanding and contracting with long-term climate cycles. It is projected that their extent will shrink rapidly with predicted climate change. Economic development will inevitably accelerate forest loss. The questions are therefore not if, but where forests must be cleared for essential development; where forests should be maintained, or planted, and to what extent; who gains or loses from clearing forests versus maintaining them; and how benefits and costs will be distributed.

Land use planning (LUP) and Land Use Plans (LUPs) have been heralded by CB Governments, development partners, civil society, and the private sector alike as an essential foundation for better land governance, more coherent deve-

development planning and reconciling competing interests in land in fast growing CB economies.

LUPs are an essential tool for multiple purposes and different stakeholders: to plan for sustainable rural development; to prepare for large-scale public and private investments; to reduce social conflicts between external and local actors, or even within forest adjacent communities; to reduce emissions from deforestation and forest degradation in the context of REDD+; to attract investments,

e.g., voluntary carbon market projects, deforestation-free supply chains or payments for environmental services (PES); and to help meet Nationally Determined Contributions to the UNFCCC.

However, stakeholders do not yet have a common understanding of the very concept of LUP, its purpose, scope or good practice. CB governments typically perceive LUP as a tool for informing the better distribution of transport and energy infrastructure, as well as social services to enhance regional integration; for im-

proving access to markets; and more generally for accelerating and balancing socio-economic development. Meanwhile forest-sector stakeholders (donors, NGOs, private sector) hail LUPs as tools that can reduce pressures on forests. While these different understandings can be reconciled, there remains much work to do to reach a common understanding of the purpose, process and good practices of LUP at national, regional and local levels to achieve mutually desired outcomes – including how they can improve outcomes for forests.

Status quo and major trends

LUP takes place in the context of a complex history of prior land allocations and an evolving framework of multiple sectoral policies, laws and decentralization processes that influence how land use decisions are made and by whom.

Natural resource management legislation: In a bid to secure natural resources and boost economic growth, CB countries – often with support of international donors – have adopted laws on forestry, agriculture, mining, and hydrocarbons that empower sectoral ministries to conduct spatial planning for their respective natural resources. Each ministry has forged ahead with zoning and permit allocations without clear mechanisms or processes for inter-ministerial coordination. Large tracts of land across the CB are thus already allocated – often with overlaps that need resolving.

Forest zoning plans and legal allocations: Often supported by international development partners, most CB countries (Cameroon, DRC, RoC, Gabon) pre-

pared Forest Zoning Plans in the 1990s to 2000s. These identified priority forested lands to be set aside as “Permanent Forest Estate” (PFE) for commercial timber production in Forest Management Units (tendered to private companies under Logging Concessions) or to further biodiversity conservation objectives in Protected Areas, typically managed in partnership with an international conservation NGO. Under French-inspired laws, Forest Management Units and Protected Areas (together the PFE) are destined to become the private property of the state.

Confusion between designation of forest to future uses, and allocation to specific users: In principle, National Forest Zoning Plans should allocate forest land to uses, rather than users. Deciding who is best placed to manage these forests ‘in permanence’ under suitable management arrangements should then be agreed through a participatory analysis. However, prevailing forest legislation in e.g., Cameroon allows the PFE to be registered as the private property

of either the State or Decentralized Territorial Collectivities (Forest councils) – though community ownership or management is not an option. As a result, many permanent forests are challenged by local stakeholders who feel that they were not sufficiently consulted about loss of access and ancestral rights, and/or that they do not receive a fair share of benefits (revenue; employment; social facilities). PFE boundaries are therefore not respected. Concession holders have no law enforcement powers, and forest administrations with such powers do not apply them (enforcement is expensive and politically unpopular). Unchecked encroachment is thus leading to “non-permanence” of the PFE across the Congo Basin.

Non-binding forest zoning plans: These Zoning Plans relate only to forested lands and were in many cases labelled “indicative”. As such, they are not comprehensive LUPs. Many were not formally adopted (only one of seven Zoning Plans in Cameroon was adopted by a Prime Ministerial Decree) and thus are

not legally binding on other sectoral ministries. The latter have ignored Forest Zoning Plans and allocated overlapping permits, thereby creating conflicts between forest concession holders and mining exploration permit holders.

Further, the process of translating nationally defined Forest Zoning Plans into locally negotiated and legally gazetted Permanent Forests is still not complete in many CB countries, making them preferred targets for conversion to non-forest uses such as agro-industry. Because they were proposed to become part of the PFE, they are treated as de facto 'state private property'. The government and investors thus hoped (often incorrectly) that by allocating such land for agro-industry they could avoid complex negotiation of costly compensation for loss of customary rights. Forest Laws allow degazettement even of gazetted permanent forest if compensated by simultaneous gazettement of another 'similar' forest. Until such time as all proposed permanent forests are legally gazetted, neither zoning nor gazettement assures permanence.

Policy and Legal Frameworks for LUP – arriving late to the party: LUP laws have come well after legal frameworks that drove the first round of natural resource allocation. The recent impetus to develop LUP laws comes partly out of CB governments' recognition that inter-sectoral incoherence is problematic, and causing conflicts.

Cameroon's Orientation law on land use and sustainable development planning was adopted in 2011, but has no guiding policy. Regulations were drafted in 2012 and redrafted in 2018, but have still not been finalized or published.

The Republic of Congo (RoC) adopted a Law on LUP in 2014 and published a set

of decrees from 2017 to 2019. Despite this, LUP has not yet started in earnest. Democratic Republic of the Congo (DRC) adopted an LUP Policy in 2020 but its LUP Law remains a draft in 2021 with its content remaining widely contested. Gabon has no specific LUP law – the current LUP institutions have instead emerged out of a process of national policy making and strategic planning. Gabon recognized early on that, due to conflicts of use between sectors and users, LUP as a mechanism to address both sustainable development and climate change is first and foremost a political process and not just a technical one. Since 2011, Gabon has focused on establishing the institutional mechanisms for coordination and is currently drafting a National LUP.

Horizontal coordination between sectors: It is hoped that these new legal LUP frameworks will help to reconcile historical land allocations. Their effectiveness depends not only on establishing new intersectoral coordination mechanisms, but also on the coherence (or lack thereof) between sectoral legal frameworks, many of which are also undergoing reforms that have long dragged on, with no certainty that revised texts will either be completed soon or will resolve the historical problems they created. Draft and/or approved LUP laws have defined new institutional frameworks for more coordinated LUP and land allocation but these institutions have either not yet been established or have not yet started to perform their functions to reconcile inter-ministerial conflicts. This has led some countries to revisit their legislation and refine the institutional frameworks, at times only because international partners (such as the Central African Forest Initiative (CAFI) and Forest Carbon Partnership Facility (FCPF) requested changes as a pre-condition for releasing funding.

Vertical coherence in the context of decentralization: Decentralization is slowly evolving in some but not all CB countries in response to increasing demand for local representation, better governance and greater accountability for delivery of tangible development to constituencies at sub-national levels. However, the process is widely criticized for deconcentrating powers of still centralized ministries rather than devolving these downwards.

Gabon adopted a decentralization law in 1996, but planning remains highly centralized. RoC began decentralizing in 2003 but does not devolve planning powers. Cameroon's 1996 Law was operationalized 23 years later in December 2019 by the law on decentralized territorial collectivities. DRC's 2008 Decentralization Law devolved some but not all LUP powers. However, according to Cameroon's and RoC's LUP Laws, lower (regional/provincial/local) LUPs must be aligned with higher (national/regional) schemas – meaning that regional and local councils may still have limited power over LUP decisions. These CB decentralization laws have added further confusion by using a different lexicon from the laws on LUP, sometimes introducing additional instruments for decentralized planning not defined under LUP laws.

Free Prior Informed Consent (FPIC): Individual donors, multi-donor mechanisms such as FCPF and CAFI and indeed an increasing number of private sector lenders, investors and carbon project developers have safeguard policies that oblige project developers and implementing agencies to respect customary land rights and secure the FPIC of all those affected. This is hard to achieve across vast tracts of land with dispersed populations with low levels of literacy and no prior understanding of complex LUP processes, let alone international clima-

te finance mechanisms. If negotiations about future REDD+ or other forest programs are to promote LUP as a mechanism for securing desired land use outcomes while also respecting FPIC, then LUPs must be negotiated slowly and in depth at the local level with affected communities.

Lack of methods for new LUP instruments: While Forest Zoning and LUP methods have been prepared in the CB region, with substantial support from development partners in the context of CBFP, these have mostly focussed on forest zoning and were developed before LUP laws were published. Development partners have a long history of supporting the development and roll-out of national, landscape level and individual forest zoning methodologies. These, however, were forest specific, not integrated LUPs as envisaged in new LUP laws. Except for a few draft implementation guidelines, there are no formally approved standard procedures or formats for preparing specific LUP instruments for any of the CB countries, though some CB countries seek to standardize data collection and sharing protocols in preparation for LUP processes.

Planning before the legal frameworks are complete: In both Cameroon and DRC, national and provincial schemas and local LUPs were developed before any regulations were published or standard methods were developed. Terms

of reference allowed consultants to develop their own methods, with limited harmonization. This has resulted in inconsistent format and content of plans by those facilitating the preparation of such plans (typically consulting firms or NGOs who are not themselves specialists in LUP, are contracted/guided by civil servants or are program managers who are equally not well versed in LUP). The net effect is a wide interpretation of what is needed by different actors. However, methodologies to integrate environmental and climate change objectives into local development planning to qualify for Emission Reduction Payments are complex. There is a deficit of expertise to facilitate high quality LUPs that adequately address the multitude of expectations of such plans.

Different definitions and stakeholder expectations of LUP: Different actors have different understandings of the purpose and scope of LUP. Historically, the French model of “Aménagement du Territoire” (on which most CB country LUP frameworks are based) is intended to balance social and economic development throughout the national territory’ – with the main purpose of orienting expansion of infrastructure and services, including to remote areas with poor access and dense forest. This view is not yet reconciled with the “Green Sector” development partners’ ambition that LUPs may equally serve to reduce pressure on forests.

Expectations that LUPs can reduce deforestation: If participatory LUP processes are to result in a better outcome for forests there must be:

- a) clear consensus around the objectives and methods for the LUPs that clarify how forests will be addressed in the context of broader development planning.
- b) good information collected in advance and made publicly accessible on current land uses, customary rights, soils and land use potentials, carbon stocks, biodiversity, hydrology, access, demographic trends, market demands, etc.;
- c) clear understanding of the likely benefits of each potential land use – including maintaining forests – i.e., any access rights, and share of revenues (taxes, carbon finance, payments for environmental services) and how these will be distributed;
- d) ability (and tools) to model different development scenarios to explore consequences, to help stakeholders select a preferred scenario.
- e) mechanisms to secure long-term tenure for the agreed future land users, including communities.
- f) a political commitment to uphold the LUP outcomes.

Policy options and recommendations

Preconditions and emerging best practices for effective LUP – the “10 Bs”

Being clear about the purpose of LUP: Proponents of LUP processes need to re-

ach consensus on their definition, scope, process and outcomes to guide investments in LUP preparation as a remedy to environmental degradation rather than accelerated development.

Buy-in: land use planning is a deeply political process. The political will of the President / Prime Minister to resolve historical land use challenges and to secure equitable and sustainable outcomes

from the LUP process is a sine qua non. Early demonstrations of leadership and establishment of high level, fully representative decision-making bodies at national, regional and local levels are critical.

Brokering ‘big deals’ and budgeting for these: ‘Green economy’ / climate-smart / conservation outcomes in LUP processes will be selected by national and local stakeholders only if the international community and markets make a clear ‘pitch’ to support green economy scenarios, through payments for environmental services and carbon finance, and then commit the necessary budget to finance these, thereby tipping the balance in favor of selecting forest-friendly options during LUP processes.

Being at the table during land use negotiations: If international project financiers expect ‘green economy’ solutions to come out of such LUP processes they must take part in the negotiations – jurisdiction by jurisdiction – rather than making promises in absentia. Without this, stakeholders are likely to adopt the business-as-usual scenario.

Broad-based, enabling and coherent policy and legal framework for guiding sustainable land use, LUP, and inclusive land governance is needed – creating a positive narrative for sustainable green economic growth.

Bottom-up LUP process: the conclusion of successful land allocation agreements, and establishment of sustainable governance structures for rural development that is widely accepted by local stakeholders is only possible after FPIC has been secured from local communities. Final negotiation of future land uses and rights must be done locally as the outcome of a participatory, spatially explicit planning process at the local jurisdictional level that gives real choices

before any land allocation is approved.

This requires that higher level schemas, if prepared first (as is largely the current situation in the Congo Basin) be advisory in nature – with final decisions only being taken during thorough participatory local land use plans.

Bandwagon / silo avoidance: it is essential to avoid every new initiative (REDD+; landscape restoration; deforestation free commodity production; etc) coming up with its own process and method for LUP that is then implemented in parallel. Instead, they should all buy into the same ‘all inclusive’ LUP process for a given jurisdiction.

Better information and decision making

tools: Publicly available, accurate and up-to-date data on land allocations, land suitability, accessibility, conservation values, carbon stocks, rates of deforestation, etc, prepared using agreed standards and criteria, is available on unified public portals (Common Mapping Platforms) that allow multiple sectors and stakeholders to share spatial information, to facilitate informed land use planning. Collection, compilation and publication of such data is a no-regrets investment that takes considerable time and thus should be started well in advance of land use planning processes. Monitoring tools must allow all stakeholders to track progress on implementation of the agreed plan, and track land allocations, land use change, deforestation, etc. (accountability framework, etc).

Binding plans – through securing tenure:

Achieving the ambitious intent of new LUP legislation depends on many factors, the first of these being the legal ‘weight’ of adopted LUPs – will they ‘trump’ (overrule) sectoral land allocations by mining, agriculture and forestry sector ministries?

If LUPs are to be binding on all parties, all ministries and stakeholders must be involved in negotiating the plans, which should then be validated and formally adopted.

Even if their enforceability is made clear in the emerging legal framework for LUP (and this key point is not yet clearly addressed in the texts reviewed), what happens when the resulting plans are not respected? Who will enforce them? And what does enforcement mean, in practice?

The most pragmatic way of making agreed local land use plans enforceable is to clarify the proposed tenure arrangements for each parcel of land in the plan, and then pursue the legal process to secure such rights for the long term – not only for e.g. concession holders but also for communities. This requires that the tenure rights of communities under customary law be recognized under the formal tenure law – something which is currently not the case. Introducing such innovations is a key objective for ongoing tenure reforms. Recognition of these customary rights should be the de-facto starting position for any LUP process or land allocation. Communities should not have to prove their rights over land, and in any case they do not have the resources to do so.

Benefits for rural populations: local communities must be able to negotiate greater benefits from forest conservation, carbon and climate finance as part of the LUP process.

Better prices for commodities that come out of well-managed landscapes that have developed and are respecting a ‘green-growth’ LUP. Zero deforestation commodities are a ‘new’ product demanding substantial extra effort to produce, and must be priced accordingly.

Conclusion and outlook

Adapted local LUP processes can serve as a foundation for securing tenure, sustaining and ensuring equitable rural development, meeting the SDGs, implementing REDD+ and operationalizing the many commitments to zero deforestation commodity production.

Due to actual or potential land use conflicts between sectors and users, LUP as a mechanism to address both sustainable development and climate change is first and foremost a political process and not just a technical one. A highest priority is therefore to create a formal space for dialog about the purpose and importance of integrated LUP, in which relevant stakeholders are present and understand their role in a fully inclusive process.

A next priority is to clarify how the different LUP instruments (national, regional and local) will be aligned horizontally between sectors, and vertically between national, regional and local decision-making bodies in the context of ongoing decentralization. This alignment must be constructed simultaneously with the completion of the legal framework and the preparation of the plans in a pragmatic and iterative approach. Practice and lessons learned will inform policy.

Preparing LUPs requires a complex mix of participatory processes, technical tools, communication and negotiations towards agreements on the future direction of rural development, informed by global and national policies and mechanisms. Integrating the logic of the international climate and biodiversity agendas into local planning is becoming essential to trigger new funding opportunities.

To succeed, LUP must describe not only the future allocation of land, but also clarify land and tree tenure; establish new land and resource governance institutions and mechanisms that address historical deficiencies (on the side of both the state and traditional authorities); describe the necessary investments to intensify agricultural production; and define performance-based incentives for forest conservation, and sustainable commodity production and how such incentives will be paid, and shared.

An LUP that aims to deliver on all these goals is ambitious indeed. But without such ambition, many of the global commitments to meeting the SDGs, eliminating deforestation from commodity supply chains, and tackling climate change will not be met. Such complexity appears necessary to address the multiple land use and land governance challenges faced in rural areas of the Congo Basin and harness new opportunities. LUP should be presented as a unifying process that allows many objectives to be achieved simultaneously. If tackled separately, these initiatives might well be counter-productive, and will certainly be even more confusing to all stakeholders, especially local communities.

But the complexity also increases the risk of failure – both during the preparation of LUPs, and during their implementation. LUPs that integrate all these factors will likely not evolve out of a bottom-up approach alone. The diverse stakeholders will need to be convened regularly, will require careful guidance to understand the policy framework, new opportunities (for zero deforestation commodities, payments for environmental services, REDD+ mechanisms etc.)

and will need expert facilitation, supported by technical tools, to reach a consensus on the sustainable development strategy for each planning jurisdiction. There are no obvious shortcuts that will deliver a better result. Building a well-trained cadre of LUP experts is a high priority.

Finally, we recommend that while it may be helpful to harmonize data collection standards across the CB region, it is unlikely that there is a one-size-fits-all LUP methodology as the context and legal frameworks in each CB country differ.

Acknowledgements & Disclaimer

This product was financially supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) through the German Facilitation to the Congo Basin Forest Partnership 2020-2021 and the Gesellschaft für Internationale Zusammenarbeit (GIZ). Administrative and technical support were provided by the GIZ Sector Project on International Forest Policy.

The views and recommendations expressed in this study solely reflect the authors' opinions and do not necessarily display the position of BMZ.