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# LAND RIGHTS FORMALIZATION IN RURAL AND PERI-URBAN SETTINGS

## DRAFT OPERATIONS MANUAL



**MAY 2008**

This publication was produced for review by the United States Agency for International Development. It was prepared by ARD, Inc.

## **Acknowledgments**

The content of the Draft Operations Manual for the Formalization of Land Rights in Rural and Peri-Urban Settings in Angola is drawn directly from the experience of Development Workshop (DW), a nongovernmental organization operating in Angola since 1981. In addition to its work with shelter, water and sanitation, and micro-finance, DW has upgraded squatter settlements and piloted innovative peri-urban land rights formalization projects and extension projects. DW has generously shared its experiences to inform this Draft Manual as part of its mission of improving settlements and livelihoods, building local capacity, and creating sustainable solutions throughout Angola. Particular thanks for assistance with this Draft Manual goes to DW's Huambo-based staff, Moises Festo and Beat Weber, who spent countless hours developing the processes described here and reporting those experiences to inform this Draft Manual.

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Finally, as noted in the Introduction that follows, this Draft Manual is developed within the USAID-funded project, Strengthening Land Tenure and Property Rights in Angola. The project is directed by ARD, Inc. and implemented by DW, with assistance from the Rural Development Institute. All contributed to this Draft Manual.

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### **DISCLAIMER**

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.



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# ACRONYMS AND GLOSSARY

Bairro	Neighborhood
Comuna	Lowest level of government administrative unit
DPADRP	Provincial Department of Agriculture and Rural Development and Fisheries
DPUA	Provincial Department of Urbanism and the Environment
DW	Development Workshop (Angola)
GIS	Geographic Information System
GOA	Government of Angola
GPS	Global Positioning System
IGCA	Institute of Geography and Cadastre for Angola
INOTU	National Institute for Spatial Planning and Urban Development
NGO	Nongovernmental organization
Pilot areas	Areas within Huambo city (Bairro Bom Pastor) and Mombolo village (within Chiumbo Ombala) where the Project is operating pilots.
Project	Strengthening Land Tenure and Property Rights in Angola Project (USAID)
RDI	Rural Development Institute



# PREFACE

There is a continuing need to understand and communicate 1) how property rights issues change as economies move through various stages of economic growth, democratization, and in some cases from war to peace, and 2) how these changes require different property rights reform strategies and sequencing to foster further economic growth, sound resource use, and political stability. The lack of secure and negotiable property rights is one of the most critical limiting factors to achieving economic growth and democratic governance throughout the developing world. Insecure or weak property rights have negative impacts on:

- Economic investment and growth;
- Governance and the rule of law;
- Environment and sustainable resource use, including parks and park land, mineral resources, and forestry and water resources; and
- Biodiversity and sustainable resource exploitation.

At the same time, robust and secure rights (along with other economic factors) can promote economic growth, good governance, and sustainable use of land, forests, water, and other natural resources.

USAID is making a strategic commitment to developing a stronger, more robust policy for addressing property rights reform in countries where it operates. "Property rights" refers to the rights that individuals, communities, families, firms, and other corporate/community structures hold in land, pastures, water, forests, minerals, and fisheries. Property rights range from private or semi-private to leasehold, community, group, shareholder, or types of corporate rights. As land is a main factor for economic production in most USAID-presence countries, it is the main focus of this Lessons Learned: Property Rights and Natural Resources Management Task Order under the Rural and Agricultural Incomes with a Sustainable Environment Indefinite Quantity Contract.

The objectives of this task order include:

1. Transferring lessons learned in property rights and natural resource management to date to USAID management, Missions, and partners;
2. Developing curricula and offering courses on land tenure and property rights issues (including best methodologies and sequencing of reform steps) for staff in USAID's geographical regions and operating units in Washington;
3. Conducting studies on the environmental, economic, or political impacts of land privatization or reform in USAID's geographical regions;
4. Developing and testing analytical and impact measurement tools for property rights reform in support of programs developed or implemented by USAID; and
5. Providing USAID Missions and operating units with specific evaluation, design, and support of property rights reform activities.

The task order is managed by ARD, Inc., on behalf of USAID. It is a mechanism of the USAID/Economic Growth, Agriculture, and Trade Division/Natural Resources Management/Land Resources Management Team. Its period of performance is August 2004 through May 2008. Dr. Gregory Myers is the task order's operating Cognizant Technical Officer.



# EXECUTIVE SUMMARY

This manual sets out guidelines for the formalization of land rights in rural and peri-urban settings in Angola. The Draft Operations Manual: Land Rights Formalization in Rural and Peri-urban Settings is a comprehensive document that includes considerations for the selection of communities for formalization projects, guidelines for project management and implementation, a program for sensitization and awareness building, and a procedure for identifying and resolving existing land conflicts while preventing new conflicts from arising. The Draft Manual includes guidelines for the formalization of the land held by a traditional rural community and the demarcation of land held by individuals in rural and peri-urban settings.

Throughout the Draft Manual, procedures include specific guidelines and suggestions for improving the land rights of women and, to the extent identified, other marginalized and disadvantaged groups. The following is a summary of the guidelines set forth in the Draft Manual:

**Phase I. Project feasibility assessment.** The initiation of a project requires attention to a few key considerations and decisions, which will in turn form the foundation for the project. These decisions include deciding the entity that will drive the project (the Project Facilitator) and an informal assessment of government interest and initial assessment of possible sites in area. Each region and local area will present different issues relating to possible project areas, but some general considerations for area selection include: land productivity, land values, accessibility, tenure security, and population density and growth patterns.

In some cases, after completing the analysis in this phase, entities may decide that the time is not right for a project or appropriate sites do not exist and will thus postpone further steps until a later date. Note, however, that Angola's land law requires those who occupy land without rights or title recognized by the land law to apply for a concession title within three years of the date of publication of the regulations (estimated to be August 2010) or risk loss of rights. An extension of an additional three years may be available under the regulations, but should not be presumed.

**Phase II. Engagement of key stakeholders.** Once the initial assessment is complete and the Project Facilitator has determined that sufficient interest in the project exists, the Project Facilitator proceeds to identify key stakeholders, which may include the Provincial Department of Agriculture and Rural Development and Fisheries (DPADRP); the Provincial Department of Urbanism and Environment; the Institute of Geography and Cadastre in Angola; the National Institute for Territorial Planning and Urban Development; municipal, comuna, and/or bairro administrations; community groups (including women's groups); and local traditional authorities. The extent of involvement of various government officials depends on the circumstances at the time of project development and implementation. In areas where decentralization of land matters has occurred, provincial level officials may be less involved and the municipal authorities highly involved.

The process of engaging the stakeholders begins with sensitization of key government officials, community group members, and traditional leaders to the nature and purpose of the land formalization project through workshops, individual meetings, or a combination thereof. The Project Facilitator should obtain the agreement of the relevant government officials to proceed with the project.

**Phase III. Formal site selection and assessment.** At the same time as identifying key stakeholders and holding informational meetings, the Project Facilitator gathers information about possible project sites. Once the relevant parties (government officials, Project Facilitator, local leaders) select the site, the Project Facilitator should determine when to conduct the baseline survey or benchmarking assessment, if one will be done.

**Phase IV. Create and mobilize mechanisms of control.** The project mechanisms of control are the groups designed to manage and implement the project. One or more mechanisms of control are essential to the success of the project. A Management Group, including high-level government officials necessary to make decisions and the Project Facilitator, guides the project, making the major decisions necessary to move the project forward (including deciding the nature of the land rights formalized and establishing project principles). An Implementation Group implements the decisions of the Management Group, executes the project, and is responsible for sensitizing and communicating with the government, community, and civil society members.

**Phase V. Initiate community participation.** One of the most critical steps of the rights formalization process is the engagement of the community in order to ensure all relevant parties' understanding of the project and its impact on land rights and obtain the community's support. The Implementation Group organizes meetings with the community to provide basic information regarding land rights, rights of women and other marginalized groups, management of land disputes, project procedures, and the community's role and participation. The project should not proceed until the entire community is aware of and understands the project. The Implementation Group establishes a formal link to the community through use of an elected Community Group.

If indicated and desired, the Implementation Group will conduct baseline or benchmarking site assessments to collect information regarding the site and community characteristics, such as land, environment, and social and economic issues. The Implementation Group will disseminate the data collected to project stakeholders.

**Phase VI. Demarcation of rural community land, conflict assessment, and documentation.** Following the initial sensitization of the community and establishment of the Community Group, the Implementation Group proceeds with the process of land rights identification and conflict assessment, demarcation of land, and documentation of the land rights formalization process. The guidelines include procedures for the demarcation of rural community land. The Implementation Group works with local leaders of the community and those with land bordering the community to establish an agreed boundary for demarcation. The Implementation Group records land measurements, boundaries, and details of land occupancy. The project can maintain the information manually or in an electronic database.

**Phase VII. Creation of application for recognition of useful customary domain and recording (rural communities).** For rural community boundary demarcations, the Implementation Group must consider the following so that they secure recognition of Customary Useful Domain, pursuant to the 2004 Land Law, Article 37. Copies of the certificate recognizing the rural community's customary useful domain and the accompanying map should be maintained by the community, the project, the Municipal Administrator, and the DPADRP. For individual plots, depending on the nature of the land right formalized, the appropriate documents are prepared and recorded in accordance with the land law. The project maintains copies of the documentation of the right granted for each parcel and maps. The Implementation Group provides the land occupants with a copy of the tracking form memorializing the demarcation process and information gathered. Land occupants will also receive copies of the documentation of land rights as ultimately registered with the relevant government authority.

**Phase VIII. Individual peri-urban and rural parcels: Demarcation, conflict assessment, and documentation of plots.** These guidelines apply to projects that elect to demarcate individual parcels within peri-urban and rural areas. Following the initial sensitization of the community and establishment of the Community Group, the Implementation Group proceeds with the process of land rights identification and conflict assessment, demarcation of land, and documentation of the land rights formalization process. For the formalization of land rights to individual plots, the Implementation Group provides instruction to landowners and land rights claimants regarding land rights, documentation, women's land rights, and management of disputes. The Implementation Group records land measurements, boundaries, and details of land occupancy. The project can maintain the information manually or in an electronic database.

**Phase IX. Application for land rights and recording.** The nature of land rights available for individual plots in rural areas under the 2004 Land Law is uncertain and the process for applying for rights, through a

concession or otherwise, even less developed. This section of the Draft Manual is included, therefore, to provide some framework for those seeking recognition of individual rights, such as the de facto statement of occupancy obtained in the peri-urban area.

As this process unfolds and is clarified within the Angolan government through the decentralization activity, the project should determine the land rights granted, prepare the application, give public notice, address objections, obtain authorizations and signatures, and record the final documents with the appropriate government authority.

**Follow up (after all phases).** The Implementation Group should review the status of any land parcel that had a dispute at the time of demarcation at six months and again at 12 months after the completion of the demarcation of the area. The project should monitor and evaluate the activities during implementation and at the conclusion of the project in accordance with the indicators agreed to by the Management Group.



# PART ONE. INTRODUCTORY INFORMATION



# BACKGROUND

The USAID Strengthening Land Tenure and Property Rights in Angola Project was managed by ARD, Inc., with implementation assistance from its partners, Development Workshop (DW) and the Rural Development Institute (RDI). The project continues USAID/Angola's support to land reform and land rights strengthening begun in 2004 as part of its assistance to the Government of Angola (GOA).

The project grew out of the need to strengthen land tenure and property rights in Angola following the passage of the Land Law and Territory Law (August 2004) and the transfer of the Land Law Implementing Regulations to the GOA Cabinet for review and approval (August 2006). These draft Regulations were approved in late August 2007.

The present set of activities and investments support Program Element 7.4 of USAID/Angola's Operational Plan for Economic Growth:

## **7.4 Inclusive Economic Law and Property Rights**

Ensure that poor people, women, and other disadvantaged groups have equal legal rights and protection in economic matters.

### **Program Sub-element 7.4.2: Property Rights for the Poor**

Strengthen and protect property rights of poor households, including titling of urban and rural land held under informal or traditional ownership; and registration of property to allow it to be pledged as collateral.

### **Program Sub-element 7.4.1: Equal Economic Rights for Women and Other Disadvantaged Groups**

Eliminate sources of legal discrimination against women, ethnic and religious minorities, and other disadvantaged groups in economic matters. (It includes de facto as well as de jure discrimination. It includes efforts to ensure equal rights for women in key economic areas such as land ownership and inheritance).

These objectives were met through a series of interventions that:

- Strengthened land tenure rights in two pilot areas in Huambo Province and formalized a process that can be expanded upon by the GOA;
- Improved livelihoods and encouraged equitable economic growth in the project areas by linking improved land tenure rights with private sector investment opportunities; and
- Used the experience gained in implementation to identify constraints in the legal framework (including implementing regulations), particularly for women and disadvantaged groups, and helped shape a more realistic timeframe for the formalization process.

The project interventions comprised five components:

1. **Land Legislation and Policy Development** – Provide advice/suggestions to the GOA for the improvement/development of land laws and regulations on the basis of project activities;
2. **Land Rights Formalization Pilots** – Develop a process by which land rights of poor and disadvantaged groups can be formalized in two areas;

- 3. Private Sector Opportunities for Economic Growth** – Facilitate the connection of new land rights holders with increased economic opportunities (e.g., connecting them with investors or investment opportunities);
- 4. Gender and Other Disadvantaged Groups: Access to Land** – Develop and implement activities and strategies that support access to land for women and other disadvantaged groups; and
- 5. Capture Lessons Learned** – Capture important lessons in strategy and implementation that contribute to expansion of activities and bring more newly acquired rights into economic growth opportunities, particularly in rural areas.

Two areas were targeted for piloting the project, both are in Huambo Province. One area is peri-urban (Bom Pastor in Huambo city), and the other is rural (Mombolo village in the Chiumbo Communa, near Katchiungo.)

This project combines two sources of USAID/Angola funding:

1. A modified acquisition and assistance request document from USAID/Angola through the Rural and Agricultural Incomes with a Sustainable Environment (RAISE) Indefinite Quantity Contract (IQC), under the Lessons Learned: Property Rights and Natural Resources Management task order (Contract No.: PCE-1-00-99-00001-00; Task Order No. 13); and
2. A subcontract originally awarded as a grant under the APS for M/OAA/DCHA/DOFDA-06-948, Reconciliation Program Funds. The grant was moved to a subcontract under #1 above for reasons of efficiency, continuity, and synergy among project partners, components, and funding. The current project is supervised by USAID/EGAT/NRM/Land Tenure Specialist, Dr. Greg Myers, in close coordination with the USAID/Angola Mission. The project expires in May 2008.

# INTRODUCTION

This Draft Operations Manual: Land Rights Formalization in Rural and Peri-urban Settings sets out guidelines for the formalization of land rights in rural and peri-urban settings in Angola. The Draft Manual is a comprehensive document that includes considerations for the selection of communities for formalization projects, guidelines for project management and implementation, a program for sensitization and awareness building, and a procedure for identifying and resolving existing land conflicts while preventing new conflicts from arising. The Draft Manual includes guidelines for the formalization of the land held by a traditional rural community and the demarcation of land held by individuals in rural and peri-urban settings.

While the document seeks to include all information relevant to the design and implementation of formalization projects, it also strives to be accessible and user-friendly. The Draft Manual limits narrative and, where possible, relies in large measure on lists of activities, considerations, and text boxes for topics of special note. As the guidelines are piloted in future projects, the authors welcome revisions and refinements to the procedures set forth in this Draft Manual. The authors hope that through such efforts, this Draft Manual can evolve into a practical tool that local governments, nongovernmental organizations (NGOs), and other entities in Angola can use to make their plans for land rights formalization projects a reality.

## 1.1 PROJECT CONTEXT

This Draft Manual was developed within the USAID project, Strengthening Land Tenure and Property Rights in Angola (the Project). The broad objective of the Project is to strengthen land tenure security in Angola using a methodology that comprises four elements:

1. Land legislation and policy enhancement;
2. Land rights formalization;
3. Public information awareness; and
4. Women and other disadvantaged groups' access to and control of land.

Through the development and implementation of two pilots in Huambo Province, the Project was designed to test the land rights formalization processes in rural and peri-urban areas and assist in raising public awareness of land issues.

The Project was directed by ARD, Inc. and implemented by Development Workshop Angola (DW), with technical assistance from ARD and the Rural Development Institute (RDI).

## 1.2 PLURALISTIC LEGAL ENVIRONMENT

The Project is operating in a highly pluralistic legal environment. As a matter of formal law, the country's *Lei da Terras de Angola (Lei 09/04, de 9 de Novembro)* (2004 Land Law) is the primary legislation governing land rights. In 2006, the Government of Angola (GOA) proposed regulations to support the 2004 Land Law. The regulations, which provide further detail on the land rights formalization and land concession processes, were published in August 2007.

Under the 2004 Land Law, almost all of Angola's land is owned by the government. Individuals may obtain use rights to land depending upon the character of the land and the planned use. Land rights contemplated by

the land law include long-term leases, surface rights, and rights to land occupied by a traditional rural community. In some cases, the GOA may grant rights to urban land that are akin to “freehold” interests.

Anecdotal evidence suggests that the majority of Angola’s population, including many government officials, are unaware of the terms of the 2004 Land Law. Not surprisingly, therefore, many (if not most) of the provisions of the law are not implemented at this time. In some cases, officials are unfamiliar with the terms of the law and operate under a combination of superseded legislation and past practice. In other cases, officials believed the law to be ineffective until the regulations were published and suspended all land-related actions until that time (and ultimately, beyond). In still other circumstances, officials take administrative actions regarding land matters that have no effect under formal law. The confusion in the implementation of the formal law is compounded by the lack of supporting mechanisms and institutions, which are often nonexistent or lack capacity to perform functions necessary to support the Land Law. The result is predictable: to date, few people in Angola have secure land rights cognizable under the 2004 Land Law.

As a practical matter, however, the paralysis affecting the sphere of formal law appears to have little impact on daily life. In large measure, the country’s population accesses, holds, and transacts land in the informal sphere, without regard for the formal law. The population maintains strong and persistent views of land rights based mainly on traditional principles and customary practice, which have in many cases evolved into some level of individualized rights, especially in urban and peri-urban settings although also within traditional rural communities. Among the views held is the widespread belief that individuals and households can acquire ownership rights to land and that owners have substantial power over the land, including the right to alienate it freely. Land is in demand, the informal land market is active in many areas, and land values are increasing.

The Project’s pilots are operating in this pluralistic legal environment. In recognition of the formal and informal systems operating, the guidelines set forth in this Draft Manual are intended to meet the requirements of applicable formal law and regulations while recognizing informal rights and practices, as appropriate. As one outcome of the pilot experiences, the Project hopes to offer suggestions for closing the gap between the customary and formal land systems.

### **Landowners & Land Rights Claimants versus Occupants**

Under the terms of the 2004 Land Law, very few people in Angola can accurately identify themselves as landowners. As a technical matter, the GOA “owns” almost all of the country’s land; individuals and entities may have varying types of use rights, ranging from squatters (with no right of continued occupancy) to permanent leaseholders. The beneficiaries of the land rights formalization processes most likely hold land as a result of their status as members of a traditional rural community, a land purchase on the informal market, inheritance, or an intra-family transfer. While these residents may not be deemed to be landowners under the formal law, they very often claim ownership rights or ownership-like rights under recognized informal practices and principles of customary law. The guidelines in this Draft Manual refer to them as “landowners” and/or “land rights claimants” in recognition of the pluralistic legal environment and in support of the validity of their right to claim an interest in the land that extends beyond mere occupancy. In addition, the identification is intended to recognize that there may be circumstances in which some who have informal land rights may not seek to formalize their rights for various reasons, including lack of notice of formal legal requirements.

## **1.3 GUIDING PRINCIPLES**

The Draft Manual draws on the significant experience of DW in Angola. In addition to its other programs, DW has been engaged in land-related research, advocacy, and policy development in Angola since 2002. DW has been at the forefront of efforts to pilot new ideas in land rights formalization and development and the design of supporting policy and legislation in post-conflict Angola.<sup>1</sup>

The guidelines suggested in this Draft Manual reflect the principles developed by DW and supported and extended by the Project partners and donors. The land rights formalization process is designed to:

- Be participatory and collaborative, with the intent to include the communities as much as possible and require participation by the communities, civil society, and the government;
- Assist in shaping the organized upgrading and development of the area;
- Provide the community with more secure rights to a valuable asset; and
- Help improve livelihoods and empower the community.

## **1.4 LAND RIGHTS OF WOMEN AND OTHER DISADVANTAGED GROUPS**

Throughout the Draft Manual, procedures include specific guidelines and suggestions for improving the land rights of women and, to the extent identified other marginalized and disadvantaged groups. These guidelines include:

- Seek women to participate in the Management Group;
- Require the Implementation Group to include at least one woman;
- Ensure that announcements of community meetings reach women;
- Require that half of the representative Community Groups be made up of women and members of other disadvantaged groups;
- Require that women elect their representatives on the Community Group;
- Provide separate sensitization and awareness building to women and other disadvantaged groups on land rights, the land rights formalization process, and the dispute resolution process;
- Require that the identification of spouses (registered, unregistered, and polygamous) in the demarcation process applicable to individual parcels;
- Suspend demarcation of individual parcels where a man refuses to acknowledge any land rights held by his spouse and referring the matter to the dispute resolution process;
- Require that all adult women occupying land have some land rights identified for formalization under the project; and
- Ensure that women have accessible forums in which to raise issues regarding the formalization process and resolve land disputes.

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<sup>1</sup> See Development Workshop and Centre for Environment & Human Settlements. *Terra: Urban land reform in post-war Angola*. Development Workshop, Luanda, 2005.

## **1.5 ORGANIZATION OF THE DRAFT MANUAL**

As noted above, this Land Rights Formalization in Rural and Peri-urban Settings: Draft Operations Manual includes guidelines for two processes: the formalization of land held by a traditional rural community, and the demarcation of land held by individuals in rural and peri-urban areas. The Draft Manual is organized as follows:

**Part One: Introductory Information**

**Part Two: The Land Rights Formalization Process: Rural Community Land and Individual Parcels in Rural and Peri-urban Areas**

- Phase I: Project Feasibility Assessment
- Phase II: Engagement of Key Stakeholders
- Phase III: Formal Site Selection and Assessment
- Phase IV: Creation and Mobilization of Mechanisms of Control
- Phase V: Initiation of Community Participation
- Phase VI: Demarcation of Rural Community Land, Conflict Assessment, and Documentation
- Phase VII: Creation of Application for Recognition of Useful Customary Domain and Recording
- Phase VIII: Individual Peri-urban and Rural Parcels: Demarcation, Conflict Assessment, and Documentation of Plots
- Phase IX: Application for Land Rights and Recording
- Follow-up

**Part Three: Appendices**

- Appendix A: Land Rights Formalization Project Worksheet
- Appendix B: Authorized Representatives
- Appendix C: Technical Procedures for Land Demarcation Processes in Peri-urban and Rural Areas
- Appendix D: Land Rights Formalization Process Sample Tracking Form
- Appendix E: Implementation Group Guidelines for Dealing with Disputes (and their Resolution) in the Land Rights Formalization Process
- Appendix F: Statement of Rural Community Boundary Demarcation and Application for Recognition of Useful Customary Domain
- Appendix G: Sample Acknowledgement of Useful Customary Domain (Huila Province)
- Appendix H: Notice of Unresolved Dispute

# PART TWO. THE LAND RIGHTS FORMALIZATION PROCESS: RURAL COMMUNITY LAND AND INDIVIDUAL PARCELS IN RURAL AND PERI-URBAN AREAS



# PHASE I: PROJECT FEASIBILITY ASSESSMENT

The initiation of the project requires attention to a few key considerations and decisions that will in turn form the foundation for the project. These decisions, which include deciding the entity that will drive the project and the informal assessment of government interest and possible sites, will help determine whether a land rights formalization project is advisable at a particular time. In some cases, after completing the analysis in this phase, entities may decide that the time is not right for a project or that appropriate sites do not exist and will postpone taking further steps until a later date.

## Time period for formalization

The land law requires those who occupy land without rights or title recognized by the land law to apply for a concession title within three years of the date of publication of the regulations (estimated to be August 2010) or risk loss of rights. An extension of an additional three years may be available under the regulations, but should not be presumed.

## STEP ONE: DECIDE WHICH ENTITY WILL DRIVE THE PROJECT

The project will involve collaboration of at least two and likely three entities: the community, the government (provincial, municipal, and comuna level offices), and an entity that serves to facilitate the project, such as a private enterprise, a nongovernmental organization (NGO), or a citizen's group. In most cases, this third entity will initiate and drive the project from conception through completion. However, in some areas and depending on capacity, other entities (such as the municipal or comuna government office) may be the driver.

**Note:** Regardless of which entities are involved in a land rights formalization project, they must have or have access to sufficient capacity and resources to undertake a project. For example, as discussed in Phase IV, the implementation of a project requires the assistance of individuals with experience in program management, mapping, database management, and community development. If individuals with those skills are not available, or the project does not have the resources to engage their services, the project is unlikely to succeed.

## Project Facilitator

All entities involved with the project should understand their roles and responsibilities. All entities are members of a team and will work collaboratively. However, one entity (often an NGO or private enterprise) is also the overall facilitator of the project and responsible to guiding it from start to finish. This Draft Manual refers to that entity as the **Project Facilitator**.

## STEP TWO: CONDUCT AN INFORMAL ASSESSMENT OF GOVERNMENT INTEREST AND POSSIBLE SITES

The Project Facilitator begins by conducting an:

- Informal assessment of openness of the government to a formalization project; and

- Initial review of possible sites in area. This initial review may include determining whether any of the following exist with relation to possible sites of interest:
  - Government development plans;
  - Cadastres, maps, and registries; and
  - Satellite images or aerial photographs.

Often this informal assessment occurs in the course of other projects or work in an area and may well occur before the Project Facilitator has contemplated the idea of undertaking a land rights formalization project. In such circumstances, the Project Facilitator may additionally contact groups that have managed similar projects in the past for ideas and issues for consideration.

Each region and local area will present different issues relating to possible project areas. Some general considerations are listed below.

**Factors for consideration in selecting *rural community areas* for formalization by recognition of customary useful domain.** Communities that may be good candidates for formalization of rights are in areas where:

- Land productivity is above average (e.g., where land is irrigated for farming purposes);
- Land value is above average;
- Land accessibility is above average;
- Increased demand for land is anticipated, especially from outside and commercial interests;
- Economic benefits are likely to flow to beneficiaries (e.g., where the formalization of land rights will support greater investment in the land);
- Tenure security of the community (and any disadvantaged groups within it) would be enhanced by formalization process;
- The community desires to engage in land-based commercial activities; and
- Local officials and traditional leaders are supportive of formalization process.

**Factors for consideration in selecting *peri-urban areas* for rights formalization:**

- The area has high population density coupled with inadequate services and infrastructure;
- The local government (usually provincial or municipal level) has identified the neighborhood for development or upgrading; and
- Demand for land is high in the area.

#### **Land dispute assessment**

In addition to the factors outlined above, the Project Facilitator may wish to consider the prevalence of land-related conflicts in an area. If one objective of a project is to identify and resolve land disputes, the Project Facilitator may wish to select an area with a significant number of known conflicts. Alternatively, if the project's objective is to prevent land disputes, the Project Facilitator may wish to select an area with fewer known land disputes but circumstances that make the area susceptible to future land-related conflicts.

# PHASE II: ENGAGEMENT OF KEY STAKEHOLDERS

Once the initial assessment is complete and the Project Facilitator has determined that sufficient interest in the project exists, the Project Facilitator proceeds to identify key stakeholders and conduct initial informational meetings and workshops as described below.

## STEP ONE: IDENTIFY STAKEHOLDERS

In most cases, the stakeholders will include some or all of the following:

Rural stakeholders	Peri-urban stakeholders
Provincial Department of Agriculture and Rural Development and Fisheries (DPADRP)	Provincial Department of Urbanism and Environment (DPUA)
Institute of Geography and Cadastre in Angola (IGCA)	National Institute for Territorial Planning and Urban Development (INOTU)
Municipal administration	Municipal administration
Comuna and/or bairro administration	Comuna and/or bairro administration
Local traditional authorities	Local traditional authorities
Community groups, including women's groups	Community groups, including women's groups
Community	Community

**Note regarding decentralization:** The extent of involvement of various government officials will depend on the circumstances at the time of project development and implementation. In areas where decentralization of land matters has occurred, provincial-level officials may be less involved and the municipal authorities highly involved.

**Note regarding women's groups:** Special attention must be given from these initial stages through project conclusion to include women in every phase and activity. Project staff should make a special effort to identify women's groups or groups that represent the interests of women and other disadvantaged groups and include them as stakeholders. If no groups exist, project staff should seek out recognized women in the community, such as spouses and relatives of traditional leaders, women with high community standing, women in professions such as education and health care, and other women who are most likely to represent the interests of the women in the community to play a role in the project.

**Judicial officials.** In some areas, the formal court system will be operating at a municipal level. The municipal courts may be involved in the formalization process to the extent that local traditional leaders are unable to resolve land-related disputes (see Phase VI, Step Four). In those areas, Project Facilitators should consider adding the judiciary and court administrators to the list of key stakeholders.

## STEP TWO: CONDUCT INFORMATIONAL CAMPAIGN FOR GOVERNMENT OFFICIALS AND TRADITIONAL AND GROUP LEADERS

The process of engaging the stakeholders begins with sensitizing key government officials and local traditional leaders to the nature and purpose of the land formalization project. In addition, Project Facilitators should identify leaders of any groups whose interests may not be fully represented by traditional leaders,

including those representing the interests of women or displaced persons. Depending on the local circumstances and relationships, the Project Facilitator may begin with individual meetings or initiate efforts with a workshop, as described below.

- Consider holding an initial **informational workshop for government officials and local traditional and group leaders**, as appropriate. A workshop allows the Project Facilitator to reach a number of people at one time and ensures that all attendees receive the same information. A workshop can also create group interest in the project objectives and important early momentum. A workshop agenda should include:
  - general information on the need for the project;
  - the nature and successes of prior similar projects;
  - the terms of the land law and legal context for the project;
  - an outline of a potential project in the area;
  - the anticipated impact of the project;
  - land rights of women and other disadvantaged groups and anticipated outcome of a project on their rights; and
  - issues to consider when deciding whether to undertake a project and how the project process might proceed.
- Follow up the workshop with **individual meetings with key government officials and traditional and group leaders**, as appropriate, to talk more specifically about the possible project, answer questions, address concerns, discuss possible sites, and build consensus.

**Key required result:** The Project Facilitator should obtain the **agreement of the relevant government officials** to proceed with the project. Ideally, the agreement should be in writing, but as a practical matter requiring a written agreement could significantly delay or permanently stall the project. An informal, oral agreement with the relevant government office coupled with the official's agreement to participate in the Management Group may be adequate, especially if government official will have significant continuing involvement with the project. The oral agreement should be made with an official of an appropriate level of authority and should be communicated by that official to all other officials and government offices that will be involved with the project. The Project Facilitator should confirm the oral agreement in a letter to the official, setting out the understanding agreed upon in undertaking the project.

- If local leaders have not been included in the workshop, the Project Facilitator should meet with them. The purpose of the meeting will be to:
  - advise the leaders of the planned project;
  - provide sensitization on the land laws and relevant legal framework;
  - obtain input;
  - answer questions; and
  - address concerns.

### **Land rights/dispute identification**

The Project Facilitator advises the traditional authorities and local leaders (e.g., *sobas* and administrators) on how the project will handle land disputes, provide guidance on land dispute resolution procedures, and alert them to the fact that the project will be asking for a list of areas under dispute. **In advance of these communications, the Project Facilitator should work with women's groups to identify land rights issues and potential land disputes common to women, including intra-household and inheritance issues and matters relating to polygamy, as relevant, in order to address these disputes and rights.**

- **Meet with other stakeholders**, such as community and women's groups active in the area, to advise them of the planned project, provide sensitization on the land law and legal framework to women and men, obtain input from the community, answer questions, and address concerns.



# PHASE III: FORMAL SITE SELECTION AND ASSESSMENT

While identifying key stakeholders and holding informational meetings and obtaining the agreement of the government officials to the project, the Project Facilitator also assesses possible project sites.

## **STEP ONE: GATHER INFORMATION REGARDING POSSIBLE SITE(S)**

- Collect existing information about possible sites. Government officials may have formal plans or informal ideas about planning and possible locations. The Project Facilitator should obtain as much information as possible from the officials about its formal and informal plans for the area.
- Review the available information collected from the government (see factors listed in Phase I, Step 2 to consider in site selection).
- Conduct informal evaluations of possible sites to determine feasibility.

## **STEP TWO: SELECT PROJECT SITE**

Following the collection and evaluation of this information, the Project Facilitator selects the project site *in rural areas* with the Provincial Director of the DPADRP and officials from the IGCA; and *in peri-urban areas* with the DPUA or municipal administrator.

## **STEP THREE: DETERMINE WHETHER AND WHEN TO CONDUCT BASELINE/BENCHMARKING ASSESSMENT**

The Project Facilitator decides whether to conduct a formal assessment (e.g., baseline or benchmarking survey) of the community in which land rights will be formalized. In some cases, this step will be unnecessary because sufficient information is known about the community, the customs and practices regarding landholdings, and other information impacting project design. In other cases, a formal assessment may be very helpful or may be required by a donor. A baseline survey prior to assessment can systematically gather information on the social, environmental, physical, and economic characteristics and features of a community. The information gathered will allow the project to develop appropriate principles regarding land rights formalization, develop training materials tailored to the community, and provide a basis on which the impact of the project can be evaluated.

Once the relevant parties (government officials, Project Facilitator, local leaders) select the site, the Project Facilitator determines when to conduct the baseline/benchmarking assessment, if one will be done. The decision depends in large measure on the pre-existing level of community knowledge about the project, time, and resources. In most cases, the community is unlikely to have sufficient project knowledge in advance of sensitization and public awareness building. In those circumstances, the Project Facilitator should proceed to Phase IV: Creation and Mobilization of Mechanisms of Control, which involves establishing the Management and Implementation Groups and Phase V: Initiation of Community Participation. During the initial community meeting, the Implementation Group will advise the community on the baseline or benchmarking assessment. The assessment will follow the initial community sensitization.

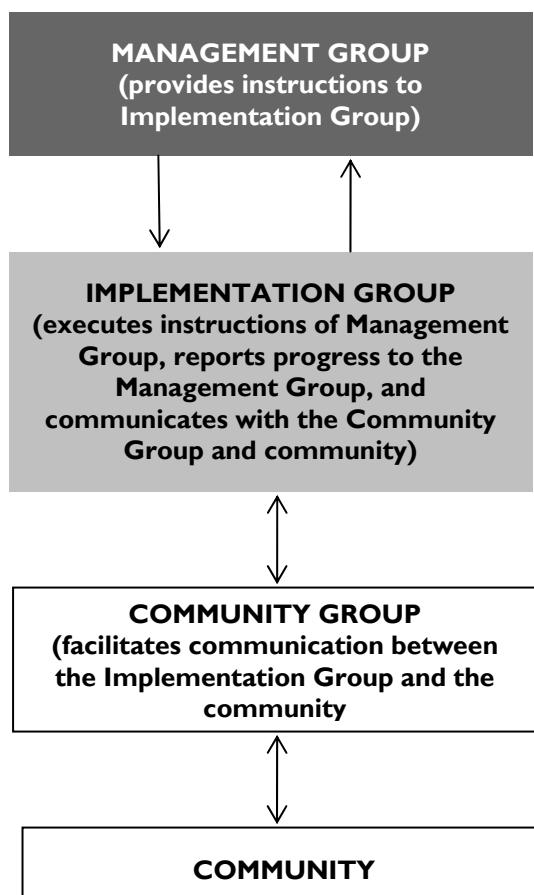
Alternatively, where a Project Facilitator has an ongoing relationship with a community and the community has knowledge of the project, the Project Facilitator may elect to hold more informal meetings with the community and community leaders to advise them of the baseline/benchmarking, and proceed with the

assessment at this stage in the process. Projects proceeding with the assessment can refer to Phase V, Step Four of this Draft Manual for information regarding the process. Those projects that do not include a formal assessment will simply proceed to Phase IV.

# PHASE IV: CREATION AND MOBILIZATION OF MECHANISMS OF CONTROL

The project mechanisms of control are the groups designed to manage and implement the project.<sup>2</sup> One or more mechanisms of control will be essential to project success; this Draft Manual describes three useful mechanisms: a Management Group, an Implementation Group, and a Community Group (see chart below).

**Project Management & Implementation Organizational Chart**



<sup>2</sup> The term “mechanisms of control” has been used by Development Workshop in its projects; planners may wish to use another term.

## **STEP ONE: ESTABLISH A MANAGEMENT GROUP**

The heart of a project is its Management Group that includes the high-level government officials necessary for decision-making and the Project Facilitator. The Management Group guides the project, makes the major decisions necessary to move the project forward, and ensures that objectives are met as the project progresses.

Recommended members of a Management Group *for a rural project* are the:

- Provincial Director of Agriculture and Rural Development;
- Municipal Administrator;
- IGCA Director; and/or
- Representatives of the Project Facilitator. The project should try to select at least two individuals from the project to be on the Management Group (e.g., one Project Manager and one Technical Advisor) These individuals should also be members of the Implementation Group in order to create an organizational link between the two groups, facilitate communications, and integrate the groups' actions.

Recommended members of a Management Group *for a peri-urban project* are the:

- Provincial Director of Urbanism and Environment;
- Municipal Administrator;
- INOTU Director; and/or
- Representatives of the Project Facilitator. The project should try to select at least two individuals from the project to be on the Management Group (e.g., one Project Manager and one Technical Advisor) These individuals should also be members of the Implementation Group in order to create an organizational link between the two groups, facilitate communications, and integrate the groups' actions.

### **Gender awareness**

The Project Facilitator should assist the relevant government officials in identifying women who could serve on the Management Group. If possible, at least one member of the Management Group should be female.

**Note:** The Management Group should include the **high level officials from the provincial and municipal governments**. These individuals are essential as the decision-makers for the project and they will provide legitimacy and support. They will make critical decisions, such as the nature of the land right granted in the formalization process. In addition, under the Proposed Regulations, these offices are responsible for managing applications for land concessions and preparatory activities, such as demarcation.

**Note:** In some areas, some or all of the officials considered or selected for the Management Group may not have the necessary skills to participate fully in the various group functions. In that case, the Project Facilitator should consider providing training to some or all of the Management Group members in advance of the commencement of the group's duties.

## **STEP TWO: CONVENE MANAGEMENT GROUP**

The Management Group is convened as soon as the Project Facilitator obtains government agreement for the project. The following are suggested guidelines for the Management Group's work:

- The Management Group should initially meet at least once every two to three months for one to two hours. As time passes, the group can adjust its meeting schedule as appropriate.

- The Management Group should select a **Project Coordinator** from government members of the committee. The Project Coordinator will be responsible for ensuring that the Management Group functions as necessary.
- The group members should set the agenda for Management Group meetings.
- The Management Group should appoint one member to keep minutes of the meeting. The minutes should memorialize any decisions taken and any items for action. The action items should be reviewed for status at the beginning of the following meeting.

### **Critical Considerations for the Management Group**

- **Determine the nature of land right granted.** In the early stages of the project, the Management Group should determine the nature of the right that residents will receive as a result of the land formalization process. For example, for rural community land, the project will seek an acknowledgement of customary useful domain under the 2004 Land Law. For peri-urban land, the project will seek some level of right between a de facto recognition to occupancy to a perpetual lease recognized by the land law. **The Management Group should be aware that if a rural community obtains acknowledgement of customary useful domain, the land law prohibits the government from granting concessions within that boundary—a prohibition that appears to extend to granting residents individual rights to their land parcels.**
- **Establish project principles.** In addition to recognizing and harmonizing the project with relevant legal principles regarding land holdings, the project can also establish additional principles to guide project activities. For example, the project can set standards for ensuring that women receive land rights in their names in the course of the demarcation and registration process. Such principles should be developed by the project staff in consultation with the Management Group and someone familiar with the relevant law.
- **Form the Implementation Group.** The Management Group establishes the Implementation Group (described in Step Three below) and authorizes its activities.
- **Limit project period.** The Management Group determines how long land occupants will have to request demarcation and land rights formalization assistance from the project (see Phase VIII).
- **Support and facilitate the application and publication processes.** The Management Group will assist relevant government officials in meeting requirements for the applications for land rights, including publication standards, time limits, and recording (see Phase VII).
- **Specify means by which the project will support rights of women and other disadvantaged groups.** The Management Group will take express notice of issues relating to women's rights to land and adopt concrete steps indicating how those rights will be identified, preserved, and, as appropriate, extended.
- **Decide which institution(s) will maintain records of formalization process.** The Management Group can assist the relevant government institutions in meeting requirements for document retention (see Phases VII and VIII).

**NOTE: If the Management Group is unable to agree on these basic elements of a project, the project should not proceed.**

## STEP THREE: ESTABLISH THE IMPLEMENTATION GROUP

As an initial agenda item, the Management Group authorizes the formation of the Implementation Group. The Implementation Group is the technical team responsible for delivering the project. The Implementation Group implements the decisions of the Management Group and is responsible for communicating with the government, community, and civil society about the project while also providing the technical expertise. Specifically, the Implementation Group:

- Organizes and conducts the sensitization and public information campaign at the commencement of the project;
- Conducts ongoing sensitization and awareness building within the community about the project;
- Conducts the participatory demarcation of land;
- Identifies land disputes in project areas and directs the parties to appropriate forums for resolution;
- Prepares the documentation (maps, land register, project tracking form); and
- Prepares applications for the GOA acknowledgement of land rights.

**Composition of group:** The numbers of individuals in the Implementation Group will vary depending on the size of the project and the skills available. If possible, the Implementation Group should include a sufficient number of people to facilitate sharing responsibilities. For example, a project to formalize a rural community's land and demarcate the individual parcels held by 100 households should attempt to have **at least four people** in the Implementation Group, and have among the group the following skills:

- Project management
- Rural development
- Measuring and mapping
- Database management
- Community awareness building and sensitization
- Rights of women and other marginalized groups

### Gender awareness

The Implementation Group should include **at least one woman as a regular member.**

The Implementation Group may engage the services of consultants to assist with specific tasks, such as the public information campaign, who have specific experience, such as in architecture or gender expertise. If the Implementation Group does not have a female member, it should engage a woman on a regular basis to assist with communications with women in the community, land dispute identification, and other matters relating to women's land rights.

**Note: Local government participation.** The Implementation Group does not necessarily include government officials, although it may include technical staff from provincial and municipal offices. These offices may not have the resources to assign technical staff to the project on a full-time basis, but such technical staff can nonetheless participate in the project implementation as they are able. The Management Group should encourage such participation, even if it is intermittent, in order to facilitate communication between the government and the project and build capacity.

## STEP FOUR: CONVENE THE IMPLEMENTATION GROUP

As early in the project as possible, the Implementation Group should schedule to meet and, by consensus, select a leader. The leader will be responsible for ensuring that the group is functioning, the project is on track, and any problems are resolved. The leader should be a member of the Management Group.

The Implementation Group should plan to communicate on a daily basis regarding the necessary tasks and activities of the day, address any issues requiring attention, and assess progress.

- **Communication responsibilities.** A key responsibility of the Implementation Group is communication with local government officials, traditional leaders, and the community about all aspects of the project. All members of the Implementation Group should expect to spend a substantial amount of time on communications: passing on information, leading the sensitization process, listening to issues and concerns raised, building awareness, and helping link community members to local officials and services.
- **Quarterly reporting requirement.** In addition to general communications, the Implementation Group should make a quarterly report to the Management Group that presents:
  - The status of the project;
  - A proposed work plan for the next quarter;
  - Key issues confronted; and
  - Any required input from the Management Group.

### **Gender awareness**

Female members of the Implementation Group should be sensitive to the possibility that women in the community may be more comfortable talking with a woman and should thus take specific steps to seek out women and make themselves available for discussion. Such steps could include attending women's group meetings, seeking out women when it is convenient for the community members, and assisting with women's understanding of their land rights and active participation in the demarcation process.



# PHASE V: INITIATION OF COMMUNITY PARTICIPATION

One of the most critical steps of the rights formalization process is the engagement of the community to ensure understanding of the project and its impact on land rights, as well as to obtain the community's support. The process for engaging the community will depend on what, if any, relationship the Project Facilitator has with the community prior to commencing the project. However, even where the Project Facilitator or members of the Implementation Group already have strong relationships with a community, the Implementation Group should make a comprehensive plan for introducing the project.

## **STEP ONE: PREPARE FOR INITIAL IMPLEMENTATION GROUP MEETING WITH THE COMMUNITY**

In most cases, the Implementation Group will want to organize an initial meeting with the community as soon as it is clear that the project will be going forward. The following are considerations for planning the meeting. In most cases, these procedures are relevant only if the project decides to demarcate individual plots within community land.

### **Meeting notice**

- Advise the community of the meeting in a manner designed to reach all community members, including women, individuals with lower levels of education, the elderly, and other potentially marginalized persons. Both spouses should be strongly encouraged to attend.
- If the project involves demarcating individual parcels, the notice of the meeting should also be designed to reach absentee landowners and land rights claimants. The information gathered in the baseline survey and informal communications will assist in determining the number of absentee owners, their locations, and other details that will assist in effective notification.
- Provide notice of the meeting sufficiently in advance (a week or more) to allow people to plan for the meeting and travel to the area, if necessary.

**Invitees.** Expressly and separately invite traditional community leaders and elders to attend the meeting. Prior to the invite, project staff should advise these individuals on the nature of the project and provide them with an agenda. Staff should include opportunities for public comments during the meeting by these individuals, as appropriate.

**Meeting time.** Plan to hold the meeting when it is convenient for all community members. The end of the workday is often most convenient in many locales, but the practices of a particular community should govern. Note also that convenient times for meetings will often vary between male and female members of a community, and in some cases, the Implementation Group should plan for at least two large meetings in order to ensure that as many people attend as possible. The Implementation Group should identify those who are unable to attend the larger meetings and make arrangements to meet with them separately.

### **Implementation Group role**

- As many members of the Implementation Group as possible should be present at the meeting to introduce themselves to the community.
- At least one woman member of the Implementation Group should attend the meeting.

- A member of the Implementation Group who speaks the local language with a local accent should plan to conduct the meeting.

## **STEP TWO: CONDUCT THE INITIAL MEETING WITH THE COMMUNITY**

The meeting agenda should include the following components:

**Initial sensitization to the project.** The Implementation Group should describe the project, the project objectives, how the project will proceed, how the community will be involved with the project (see below), and how the community will be impacted by the project.

**Land rights.** The Implementation Group should:

- Provide basic information about land rights, how those rights are understood under customary and formal law, what rights community members may hold (e.g., inherited rights, purchased rights), and the effect of various types of rights in event of death, divorce, and other life events;
- Emphasize the necessity for households to discuss land rights in advance of the demarcation process, if the project includes demarcation of individual plots;
- Describe how the land rights holders must identify their rights during the demarcation process; and
- Describe how the project will document the rights held.

**Note:** In order to provide the information to the community, the Implementation Group (and later the demarcation team) must have a clear understanding of the types of land rights individuals and groups can hold (e.g., individual rights, joint rights), and the circumstances that lead to certain types of rights (e.g., inheritance of land, land purchase). The project may wish to engage the assistance of a lawyer or someone versed in legal rights relating to land, marital property, and laws of inheritance and conveyance to assist with the material.

**Critical required result:** This process of sensitization will continue in further group and individual meetings as necessary until the Implementation Group is convinced that the entire community is aware of and understands the project. The project should not proceed until that level of knowledge within the community is evident.

### **Project principles**

In addition to applying relevant legal principles about land holdings, the project can also establish additional principles to guide project activities. For example, it can set standards for ensuring that women receive land rights in their names in the demarcation and registration process. Such principles should be developed by the project staff in consultation with the Management Group, and the Implementation Group should include discussion of the principles in initial meetings with local authorities, traditional leaders, and community members and in subsequent sensitization meetings.

**Land dispute component.** The agenda for the community sensitization should include a component designed to prevent, mitigate, and, as necessary, facilitate the resolution of land disputes. The precise program adopted will depend on local needs and circumstances, but an introductory module is most useful if it includes the following topics:

- Individual and community rights and responsibilities;
- Anti-corruption;
- Dispute resolution processes; and

- Respect (for land rights, rights of individual groups, equal rights for women and other disadvantaged groups, etc.).

**Community involvement with project.** The Implementation Group should stress the importance of community participation with the project. The Implementation Group can reference the types of involvement, including:

- Participation in the **baseline or benchmarking assessment**, if asked (if the assessment is desired and has not already been conducted);
- **Project understanding.** Each individual can make sure to fully understand the project and take responsibility to clarify any areas of uncertainty and raise any questions with the Implementation Group, local leader, or community group;
- Education on **rights identification and demarcation process** by all community members. If individual plots will be demarcated, landowners and land rights claimants can take the steps necessary to prepare for the demarcation process, such as having discussions within families and households about land rights held by various family members and identifying boundaries;
- **Dispute resolution.** Community members can take steps to address and, if possible, resolve existing disputes regarding land rights, in accordance with principles presented in the sensitization and awareness building campaign; and
- **Democratic election.** All community members can help to elect members of the representative Community Group (described below).

#### **Gender awareness in dispute resolution**

Note that special attention should be given to women and other marginalized members of the community in the discussion of land rights identification and land dispute resolution. The dispute resolution process relies in part on informal procedures (e.g., negotiation and meeting with the *soba*) that may not be as accessible to women, women may not know their rights, women may feel their rights are not valued, and women may feel coerced into abdicating their rights. Similarly, the formal institutions (to the extent they exist) may be less accessible to women because there are fewer resources for them specifically, the environment may be hostile to women, etc. These barriers and potential barriers must be addressed early in the sensitization process and appropriate solutions found.

### **STEP THREE: FACILITATE THE ESTABLISHMENT OF THE COMMUNITY GROUP**

Once the Implementation Group is confident that the entire community understands the nature of the project and its objectives, the Implementation Group establishes a formal link to the community. One means of doing so is through use of an elected Community Group.

The following are characteristics of, and suggested guidelines for, a Community Group:

- **Function.** The Community Group facilitates project implementation by providing a link between the Implementation Group and the community. The Community Group is the conduit through which the community can raise questions and provide suggestions and information to the Implementation Group. In addition, the Implementation Group can use the Community Group to pass on communications, test ideas, and obtain information. As the group matures, it may elect to continue as a useful forum for addressing community issues beyond the land rights formalization process.
- **Composition.** The group should be composed of four community members, two of each sex.

- **Selection of members.** Members are elected by the community, with men and women conducting separate elections.
- **Term.** Members should serve a six-month term in order to allow others to participate as group members, especially if the Community Group has the potential to continue beyond the rights formalization process.
- **Informal structure.** The Community Group does not need a formal structure or meeting requirement, but members should be involved with the project and committed to serving the interests of their community.

#### **Gender awareness**

The community should break into separate groups of men and women, with each group electing two representatives to serve on the Community Group.

### **STEP FOUR: IF INDICATED AND DESIRED, CONDUCT BASELINE OR BENCHMARKING SITE ASSESSMENT**

- Create a simple assessment tool to collect information regarding the site characteristics. The assessment should collect relevant information in the following areas:
  - Environmental (erosion, uneven terrain, slopes)
  - Social (demographics of population, health, education, basic services, political structures, social organizations)
  - Physical (land availability, existing infrastructure)
  - Economic (income sources, livelihood patterns)
  - Land (holdings, uses, customary rights, land market activity)

### **STEP FIVE: COLLECT, ANALYZE, AND REPORT DATA**

- The project should be aware that the collecting social data within the community will raise questions. The individuals collecting data should be trained by the Implementation Group and any consulting staff and be prepared to answer any questions.
- After analyzing the data collected, the Implementation Group prepares a **baseline or benchmarking survey report** noting characteristics of site, issues of importance to project, and areas of concern, if any.
- The Implementation Group disseminates the baseline survey report to project stakeholders. The information will help inform decisions related to the public awareness campaign and the need for infrastructure and social services.

# PHASE VI: DEMARCTION OF RURAL COMMUNITY LAND, CONFLICT ASSESSMENT, AND DOCUMENTATION

Following the initial sensitization of the community and establishment of the Community Group, the Implementation Group proceeds with the process of demarcation, land rights identification and conflict assessment, and documentation of the land rights formalization process.

## **STEP ONE: ADVISE COMMUNITY LEADERS OF DEMARCTION AND CONFLICT ASSESSMENT**

- Prior to the demarcation, the Implementation Group advises local leaders on the demarcation plan and reviews the land rights principles and processes for land rights identification and dispute identification and resolution.
- The Implementation Group should ask local leaders to prepare a list of known land-related disputes within the community land boundary. The purpose of this information is to inform the Implementation Group of potential problems with land demarcation and the potential ways of resolving them *in advance* of the demarcation process.

## **STEP TWO: PREPARE FOR FIELD VISITS**

The technical procedures for demarcation are set forth in detail in Appendix C.

- **Obtain map or image of area.** Prior to the field visit, the Implementation Group obtains a topographical map, satellite image, or aerial image of the area to be demarcated. For individual plots, standard global positioning system (GPS) units are usually not accurate enough to delimit small plots. The Implementation Group can use satellite or aerial images, which can be printed at a 1:2500 scale using geographic information system (GIS) software.
- **Review existing land dispute information and conduct facilitation meetings.** The Implementation Group collects any information provided by the local leaders on land disputes on the community land boundary. If any existing disputes are identified, the Implementation Group should plan to visit with the *sobas* responsible for the territories involved to determine if an agreement can be reached in advance of the demarcation.
- **Organize equipment.** The demarcation process requires a handheld GPS, pencils for drawing boundaries on the map or image, a copy of the map or image used, and, terrain permitting, a motorcycle.

## **STEP THREE: ADVISE THE COMMUNITY**

- Advise the community of the date for commencement of the demarcation process.

- Notification should include review of purpose of demarcation, how the process will take place, and what the Implementation Group will do with the information collected.

## **STEP FOUR: CONDUCT A FIELD VISIT**

1. In order to map the boundary of a rural community, a member of the Implementation Group arranges for the mapping with the local traditional leader, or his or her designee. Using an existing topographical map, satellite, or aerial image, the Implementation Group member and *soba* can travel along the boundary by motorbike or on foot. The Implementation Group member draws the boundary identified by the *soba* on the map while also recording the coordinates from the GPS.
2. The Implementation Group member confirms the boundary with all of the abutting communities by engaging the traditional leader of each in the same process of traveling along the boundary. If the leaders of the adjacent communities agree on the boundary, the mapping process is complete. In some cases, the Implementation Group may be able to arrange to have a single demarcation process meeting that includes participation from all relevant community leaders, thereby avoiding the need for multiple meetings and boundary reviews. In other cases, sequential meetings may be necessary because of lack of resources, scheduling problems, or group dynamics.
3. If there are any areas of disagreement among the *sobas*, the Implementation Group can bring them together at the site being disputed to determine if an agreement can be reached. If a solution is found, it should be reflected on the map. If the *sobas* cannot reach agreement on the boundary, the Implementation Group should contact the municipal administrator for assistance. If there is a failure to reach agreement after the intervention of the municipal administrator (and if the dispute cannot otherwise be resolved), the Implementation Group will not map that portion of the community land. This omission will likely prohibit the project from seeking recognition of useful customary domain for the community land.
4. If there is a dispute between the traditional community and a third party, such as a private individual or entity, the Implementation Group can facilitate a meeting between the two groups in the presence of the comuna or municipal administrator. If the dispute is resolved, the demarcation can proceed. If the dispute is not resolved, the matter should be addressed in the formal court system, consistent with the civil code.

## **STEP FIVE: CREATE A CLEAN MAP**

Following the demarcation field visit, the Implementation Group prepares a clean copy of the map noting the rural community boundary. If the project has the equipment and software, the information can be digitized and maintained in an electronic database. However, the information can also be manually prepared and maintained.

## **STEP SIX: PREPARE A STATEMENT OF RURAL COMMUNITY BOUNDARY DEMARCATON AND APPLICATION FOR USEFUL CUSTOMARY DOMAIN**

Once the agreed boundary has been mapped and a clean copy of the map prepared, the Implementation Group prepares a Statement of Rural Community Boundary Demarcation and Application for Recognition of Useful Customary Domain (see sample in Appendix F), indicating the agreed boundaries as identified on the map. The Implementation Group presents the clean map to the *sobas* for all affected land. Each *soba* indicates his or her agreement with the boundaries as identified on the clean map by signing the map and the Statement of Rural Community Boundary Demarcation.

The Implementation Group presents the Application for Useful Customary Domain section of the document to the *soba* for the community seeking the land right for that *soba*'s signature. As described in Phase VII below, the Implementation Group submits the Application with the Statement of Rural Community Boundary Demarcation and a clean map to the relevant government officials.

One copy of the signed documents remains with the *sobas* and a second with the Implementation Group.

# PHASE VII: CREATION OF APPLICATION FOR RECOGNITION OF USEFUL CUSTOMARY DOMAIN AND RECORDING

For **rural community boundary demarcations**, the Implementation Group follows the steps presented below to apply for recognition of Customary Useful Domain, pursuant to the 2004 Land Law, Article 37.

## **STEP ONE: OBTAIN DECLARATIONS**

Once the community land has been demarcated and attested to by the *sobas* in the Statement of Rural Community Boundary Demarcation, the Implementation Group presents the Application for Recognition of Useful Customary Domain, the *sobas'* statement, and the clean map to:

- The Comuna Administrator;
- The Municipal Administrator; and
- The IGCA.

These offices shall prepare declarations that they have reviewed the documents presented and are aware of no competing interests that preclude recognition of useful customary domain.

## **STEP TWO: PUBLISH THE APPLICATION**

Following receipt of the declarations, the Implementation Group arranges for publication of the application. Publication should be made by:

- Posting the application and supporting documents in the Provincial Office of the Department of Agriculture and Rural Development, the Municipal Administrator's office, and the Comuna Administrator's office; and
- Publishing the application in a national newspaper.

The notice must include:

- Name(s) of applicant (rural community);
- Locality;
- Description of land;
- Right to be granted; and

- Place and time period for filing any objection or challenge to the granting of the right. Anyone who objects to the application must make written objection to the Provincial Office of the DPADRP within 30 days.

### **STEP THREE: HANDLE ANY OBJECTIONS**

The public notice of the application should give interested parties at least 30 calendar days to raise any objection to the award of rights. Objections must be filed in writing with the DPADRP. Upon receipt of an objection, the DPADRP notifies the applicant of the objection and allows the applicant 10 calendar days to provide a response. Once the DPADRP has the objection and response, the DPADRP makes a ruling on the matter and enters the appropriate order to proceed with the acceptance of the application or act in accordance with a finding of a valid objection. Either party can appeal the ruling under the provisions of the civil code.

### **STEP FOUR: SUBMIT THE APPLICATION**

Once the DPADRP has accepted the application, the DPADRP issues the certificate of recognition of customary useful domain. As an example, a copy of a certificate issued in Huila Province is provided in Appendix G.

**Note:** While steps Two, Three, and Four are performed by government officials, the Implementation Group, with the support of the Management Group as necessary, may help facilitate the processes by creating calendars for required time periods, a checklist of the government duties, and confirming when all government obligations are met and the DPADRP can issue the certificate.

### **STEP FIVE: RECORDING**

Copies of the certificate recognizing the rural community's customary useful domain and the accompanying map should be maintained by the community, the project, the municipal administrator, and the DPADRP.

# PHASE VIII: INDIVIDUAL PERI-URBAN AND RURAL PARCELS: DEMARCTION, CONFLICT ASSESSMENT, AND DOCUMENTATION OF PLOTS

The following guidelines apply to projects that elect to demarcate individual parcels within peri-urban and rural areas.

## **STEP ONE: ADVISE COMMUNITY OF DEMARCTION, RIGHTS IDENTIFICATION, AND CONFLICT ASSESSMENT**

- Advise the community of the date for commencement of the demarcation process. (Note that the community must already have received general information during the sensitization process.)
- Notification should include review of purpose of demarcation, how the process will take place, what information the Implementation Group will collect, and what the Implementation Group will do with the information collected.
- Specifically advise landowners and land rights claimants of the need to identify those individuals with land interests (e.g., both spouses, groups of siblings) and the nature of the land interest held (e.g., individual, joint).
- Instruct landowners on the requirements for documentation of identity (e.g., documents, statements of community members).
- Expressly review the issue of gender equity in land rights and how the project will identify and support the land rights of women, e.g., requiring land to be formalized in the name of both spouses, or woman receiving individual rights to parcels.
- Advise the community of the process for land dispute identification and resolution, including the efforts that parties in known disputes should make to resolve their disputes in advance of the demarcation process.
- Advise the community that pending land disputes will preclude demarcation, but that parties can attempt to resolve their disputes using various processes (see Phase VI); if they successfully resolve their dispute within a certain time period, parties can ask the project for demarcation and assistance with the application for land rights.

**Note:** The Management Group should set a time limit for seeking demarcation and application assistance from the project. The Implementation Group should communicate that time limit to the community and to parties to land disputes. Those who miss the time limit can proceed to demarcate the land and make an individual application to the Municipal Administration, DPUA, DPADRP, or other appropriate government office, but must pay any costs themselves.

- Advise land owners and land rights claimants of the need to prepare for boundary identification, **identify all those with an interest in the land**, and be present for the demarcation. The Implementation Group should advise the community that any land owners and land rights claimants who cannot be present for the demarcation (such as an absentee owner) can be represented by an Authorized Representative. The requirements for an Authorized Representative are set forth in Appendix B. Both spouses should be present, if possible, but one spouse may represent the other spouse so long as the land will be titled in their names jointly, or individually in the name of the wife.
- Set dates and times to visit various areas of community for demarcation.
- Advise the community that if in the judgment of the Implementation Group, anyone knowingly attempts to deceive the group or deny another individual of land rights, the Implementation Group will suspend the process of demarcation for that person's land parcel and refer the matter to the dispute resolution process.

## STEP TWO: CONDUCT FIELD INTERVIEWS

**Organize equipment.** For individual parcel demarcation in peri-urban or rural areas, the Implementation Group will need copies of the Land Rights Formalization Process Tracking Form (see sample in Appendix D), a tape measure any other measuring devices the Implementation Group finds useful, pencils, and markers.

**Field procedure.** At least two members of the Implementation Group conducts the field visits for demarcation.

**Note:** For consistency and accuracy, one person should be responsible for collecting the information for the tracking form, preparing the tracking form, creating the land register, and entering the information into the database. Similarly, one person should be responsible for inquiring about land rights held, former and existing land disputes, recording the responses, and, to the extent necessary, advising parties how to proceed if there is a current dispute.

The Implementation Group invites the land owners and land rights claimants, neighbors, and any interested community members to attend the process. Landowners and land rights claimants or an Authorized Representative of the land owner or land rights claimant must be present. If the land owner, land rights claimant, or their Authorized Representatives are not present, the Implementation Group must reschedule the demarcation.

**Note:** If a married couple agrees that it holds a parcel jointly, either spouse can represent the interests of the other spouse at the demarcation. If one spouse claims that he or she holds a parcel individually, or that the other has something less than a 50% interest in the parcel, the Implementation Group will require the spouses to submit to the dispute resolution process before the group will demarcate the land, in order to ensure that no individual is inappropriately being denied a land right.

The field visit requires the following steps, outlined below: 1) identify landowners and land rights claimants; 2) inquire after any other or unidentified land interests; 3) inquiry whether there are any past or current land disputes; 4) collect information and fill out the tracking form; 5) review boundaries; 6) document boundaries and assign parcel number; and 7) complete the tracking form.

Using existing map or satellite image, the Implementation Group proceeds plot by plot. At each plot, the Implementation Group will:

- Identify landowner(s) or land rights claimant(s).** Ask for the landowners or land rights claimants to identify themselves. An Authorized Representative can appear for a land owner or land rights claimant. The requirements for an Authorized Representative are set forth in Appendix B.
- Spouses.** Landowners and land rights claimants must identify all spouses (including spouses in registered, unregistered, and polygamous unions) at the time of the initial identification of landowners and land rights claimants.
  - Protecting the rights of women.* If a married couple agrees that it holds a parcel jointly or if the couple states that the land is held by the woman individually, either spouse can represent the interests of the other at the demarcation. If a husband identifies his land holdings such that his spouse (or spouses, in a polygamous marriage) has no interest in the land, that he or she holds a parcel individually, or that the other holds something less than a 50% interest in the parcel, the Implementation Group should suspend the demarcation process and require the spouses to submit to the dispute resolution process before the Implementation Group will demarcate the land.
- Documentation of identity.** The Implementation Group must verify the identity of all landowners and land rights claimants by reviewing and obtaining a copy of one of the following:
  - Identity card
  - Election card
  - Birth certificate
  - Passport

### Regulations

These documentation requirements fulfill the terms of the Regulations, Articles 137–138.

- In the event that an individual does not have any of these documents, the Implementation Group can accept the declaration of identity made by two people who have identity cards or any document with a photograph and fingerprint and signature that states the name, sex, address, birth date, and parents of the individual.
- Documentation of land right.** The Implementation Group must inquire into the basis for asserting land rights (e.g., inheritance, purchase, encroachment) and review any documentation offered to support the land right. In most cases, the landowners or land rights claimants will have no documentation, but the Implementation Group should ask if any exists. If documentation does exist, it should be identified and noted on the tracking form.

**Note: Documented land right does not necessarily govern.** Any documentation relating to land does not necessarily govern the land rights held. For example, a married couple may buy land but the purchase document lists only the husband's name. The Implementation Group should document the land as jointly owned by the spouses.

### Gender Awareness

The Implementation Group must ask if landowner(s) or land rights claimant(s) are married (either formally or by common law) and if they have multiple spouses. All spouses of landowners or land rights claimants must be included as joint owners, or the women listed as individual owners. If any spouse refuses, the demarcation process should be halted and the matter referred to the land dispute process.

As a practical matter, the Implementation Group should advise the community of this requirement during the sensitization meetings in order that any issue regarding a spouse's rights can be addressed and resolved in advance of the demarcation process.

2. **Inquire about any other or unidentified interests in the land.** The Implementation Group should ask the landowners or land rights claimant and others gathered about any leases, easements, licenses, or other unidentified interests in the land, such as the rights of widows, orphans, and absentee owners. The Implementation Group confirms facts offered with neighbors and community members present and makes notations of any additional land interests on the register and tracking form.

**Note:** In the event that an ownership interest in the land is evident but denied by another (such as a spouse claiming 100% ownership of the land under circumstances where the other spouse has possible rights), the Implementation Group should treat the matter as an existing land dispute, suspend the demarcation process, and follow the procedures for disputes.

3. **Inquire whether there are any past or current land disputes.** The Implementation Group must specifically ask whether there are any past or current disputes regarding the land:

- *Past land disputes.* If the land was subject to a dispute in the past, the Implementation Group records this information on the tracking form. If the dispute was resolved in anticipation of demarcation, the parties to the dispute must sign the statement of agreement that the matter is resolved. The statement is contained in the tracking form (see Appendix D). If the dispute was resolved at a prior time and parties to the dispute are no longer available, the Implementation Group can note the details on the tracking form without obtaining signatures of the parties. In both cases, the demarcation process continues.

### Land Dispute Resolution Agreement

If the parties have resolved their dispute, the Implementation Group records the parties' resolution under the Land Dispute Resolution Agreement section of the tracking form. The Implementation Group should:

1. Confirm with the parties that the dispute is resolved to their satisfaction;
2. Explain that in signing the statement of resolution, they are affirming that the dispute has been resolved to their satisfaction; and
3. Confirm that the parties understand that the project will maintain the record of their agreement (with a copy to be returned to them).

The parties to the dispute, or their Authorized Representatives, sign the agreement. If one or more parties decline to sign or affix a mark on the Land Dispute Resolution Agreement but in the judgment of the Implementation Group an agreement has been reached by the parties, the Implementation Group can so indicate on the tracking form.

- *Current land disputes.* If there is a current dispute regarding the land to be demarcated, the Implementation Group collects information regarding the nature of the dispute and notes it on the tracking form. The Implementation Group advises the parties of the process for resolving land disputes, if they wish to do so (see box below). The demarcation process is suspended until the dispute is resolved. The Implementation Group issues the **Notice of Unresolved Dispute** (Appendix H). The Implementation Group advises the parties of how long they have to resolve their dispute and still participate in the project's demarcation process.

**Note:** The Management Group is responsible for setting a limit on the length of time a landowner or land rights claimant has to request project assistance to demarcate a parcel and make the application on behalf of the landowner or land rights claimant.

## Dispute Resolution Process

The dispute resolution process is a progressive system that draws on traditional and formal mechanisms and institutions. Parties to a dispute are encouraged to follow the steps outlined below, proceeding to the next level only if the prior step has failed.

- Attempt to resolve the issue by negotiation among the concerned parties.
- Seek the advice and assistance of a traditional authority (such as an elder in the community, the *soba*), the administrator, or an NGO or community group.
- Under the terms of the 2004 Land Law, request the appointment of a mediator and mediation.
- Under the provisions of the land law, request the appointment of an arbitration panel and arbitration.
- If the mediation and arbitration processes fail to resolve the matter, or if those institutions are not operating, seek resolution in the formal court system pursuant to the provisions of the civil code.

**Note:** Any dispute resolution process must be evaluated in terms of accessibility to women and marginalized members of the community. For example, women may not be as comfortable negotiating a dispute with a neighbor, and the traditional authorities, such as the *soba*, may not be as approachable for a woman. In addition, the principles applied in the informal system must be evaluated for equality of treatment.

4. **Fill in tracking from.** If the Implementation Group believes it has sufficient basis to confirm the land rights asserted, and there are no current land disputes, the Implementation Group enters the land rights claimant/applicant name(s) on the tracking form. (Note that while this Draft Manual has included a sample form, another form may be substituted that covers the same content.) The Implementation Group should enquire about multiple spouses and obtain the number of household members for entry on the tracking form.

**Note:** If it appears in the reasonable judgment of the Implementation Group, that the right to be recorded in the register will work an injustice (such as to an orphan or spouse), the matter shall be deemed an existing dispute, the demarcation suspended, and the dispute processes followed. All parties to the dispute will be notified in writing of the decision. A sample notice is attached as Appendix H.

## STEP THREE: CONFIRM AND DOCUMENT BOUNDARIES

1. **Review boundaries with assembled group.** Ask landowners or land rights claimants and neighbors to identify the boundaries of the parcel. In many cases, landowners or land rights claimants will likely have boundary markers to reference, such as stones, trees, or stakes. In areas where the on-the-ground situation varies from the image used or is obscured in the image, the Implementation Group may need to take ground measurements. The process of taking and recording any measurements should be witnessed by and the results agreed to by the landowners or land rights claimants and any owners or claimants of adjacent land.

### **Boundary Disputes**

If, in the course of verifying a boundary, a dispute arises regarding the location of the boundary, the Implementation Group should review the dispute resolution process with the parties. If the parties are unable to reach agreement at the time, the Implementation Group will cease the demarcation process, note the dispute on the tracking form, issue a Notice of Unresolved Dispute (Appendix H), and advise the parties of the next steps available to them, as well as to the time limit for requesting continued demarcation with the project if the dispute is resolved. If the parties resolve the dispute, the Implementation Group notes the resolution on the tracking form in accordance with the process noted above.

2. **Document boundaries and assign parcel number.** The Implementation Group records the boundaries on the map or image and assigns the parcel a number. The Implementation Group enters the parcel number on the tracking form.

### **STEP FOUR: COMPLETE THE TRACKING FORM**

The Implementation Group completes the tracking form for each parcel. The form provides space for:

- The date;
- The landowners or land rights claimant's names;
- The names of adjacent landowners or land rights claimants;
- A description of the parcel location;
- A statement that demarcation has been completed and boundaries agreed to by the landowner or land rights claimants and adjacent landowners or land rights claimants;
- A statement as to whether there are or have been disputes related to the parcel; and
- The assigned parcel number.

The form is signed by the landowner(s) or land rights claimant(s), or their Authorized Representatives, and adjacent landowners or land rights claimants. Copies of documents on the identity of landowners or land rights claimants, land rights (as available), and Authorized Representatives (as relevant) are attached. The Implementation Group keeps the original form and gives the landowners or land rights claimants a copy.

### **STEP FIVE: CREATE REGISTER AND MAP**

Following the demarcation field visit, the Implementation Group reviews the information collected during the field visit and prepares a land register and clean copy of the map. If the project has the equipment and software, the information can be digitized and maintained in an electronic database. However, the information can also be manually prepared and maintained.

# PHASE IX: APPLICATION FOR LAND RIGHTS AND RECORDING

The nature of land rights available for individual plots in rural areas under the 2004 Land Law is uncertain and the process for applying for rights, through a concession or otherwise, even less developed. This section of the Draft Manual is included, therefore, to provide some framework for those seeking recognition of individual rights, such as the de facto statement of occupancy obtained in the peri-urban area.

## **Rural Community Land Rights vs. Rural Individual Land Parcel Rights**

The Management Group should be aware that if a rural community obtains acknowledgement of customary useful domain, the land law prohibits the government from granting concessions within that boundary—a prohibition that may extend to granting residents formal individual rights to their land parcels.

## **STEP ONE: DETERMINE LAND RIGHT GRANTED**

As an initial matter (and likely in the course of early project design, see Phase IV, Step Two), if desired, the Management Group will determine the nature of the land right granted or documented in the formalization process. If no formal document will be sought, the demarcation process can be noted on the tracking form and a land register and map prepared. The project can file these documents as supplementary to the acknowledgment of customary useful domain and also maintain them until a time when the rights to individual parcels of rural land (and process for obtaining or documenting those rights) are clarified.

### ***Licenca de Arrematacao***

The document provided in a previous peri-urban pilot conducted in the Bairro Fatima, Huambo, Huambo Province Preliminary Manual is the *Licenca de Arrematacao*. The document identifies the name(s) of the occupant of the parcel, identifies the land by parcel number, bairro, comuna, and city. The document states that the occupant will use the parcel as directed by the DPUA, and that the occupant may construct one house on the parcel and must do so within three years. The document states that it is not transferable. The application for the *Licenca de Arrematacao* is granted free of charge to the occupant.

## **STEP TWO: PREPARE THE APPLICATION**

Based on the decision by the Management Group as to the nature of the right sought, the Implementation Group uses the information contained in the land register and tracking form to prepare the documentation of the land right for submission to the appropriate government authority.

## **STEP THREE: GIVE PUBLIC NOTICE OF THE APPLICATION**

The Implementation Group should assist the government officials as necessary in giving public notice of the application in a manner reasonably calculated to give potentially interested parties notice of the application and an opportunity to contest the award of rights. At a minimum, the application should be posted in the appropriate office (likely the DPUA, DPADRP, or Municipal Administrator's office) and published in a national newspaper. The notice must include:

- Name(s) of applicant;
- Locality;
- Description of land;
- Right to be granted; and
- Place and time period for filing any objection or challenge to the granting of the right.

## **STEP FOUR: ALLOW FOR AND ADDRESS OBJECTIONS**

The public notice of the application should give interested parties at least 30 calendar days to raise any objection to the award of rights. Objections must be filed in writing with the relevant authority (DPUA, DPADRP, or municipal administrator). Upon receipt of an objection, the appropriate government official notifies the applicant of the objection and allows the applicant 10 calendar days to provide a response. Once the official has the objection and response, the official rules on the matter and enters the appropriate order to proceed with the acceptance of the application or act in accordance with a finding of a valid objection. Either party can appeal the ruling under the provisions of the civil code.

### **Regulations**

These procedures for giving public notice of applications, a period for receiving objections, and consideration of objections are consistent with the Regulations, Articles 111–115.

## **STEP FIVE: OBTAIN ANY REQUIRED AUTHORIZATIONS**

Depending on the nature of the right granted, the Management Group may require one or more government offices to approve the application.

## **STEP SIX: OBTAIN SIGNATURES**

After the Implementation Group obtains the required authorizations, the group presents the original and one copy of the document to the landowners or land rights claimants. The landowners or claimants sign both the original and the copy, keeping the copies for their records.

## **STEP SEVEN: RECORDING**

The Implementation Group takes the original for recording with the appropriate government authority.

**Project files.** The project maintains copies of the documentation of the right granted for each parcel, all maps prepared, and the tracking forms.

**Documents to land occupants.** The Implementation Group provides the land occupants with a copy of the tracking form documenting the demarcation process and information gathered. Land occupants will also receive copies of the documentation of land rights as ultimately registered with the relevant government authority.

# FOLLOW UP

**Land disputes.** The Implementation Group should review the status of any land parcel that had a dispute at the time of demarcation at **six months** and again at **12 months** after the completion of the demarcation of the area. The Implementation Group notes the results of the review on the tracking form as follows:

- **No resolution of dispute.** If the parties have not resolved their dispute, the Implementation Group should complete the Notice of Unresolved Dispute form (Appendix H).
- **Resolution of dispute.** If the parties have resolved their dispute, the Implementation Group records the parties' resolution under the Land Dispute Resolution Agreement section of the tracking form. The Implementation Group should (1) confirm with the parties that the dispute is resolved to their satisfaction; (2) explain that in signing the statement of resolution, they are agreeing that the dispute has been resolved to their satisfaction; and (3) confirm that the project will maintain the record of their agreement (with a copy to the parties). The parties to the dispute sign the agreement.
- **Subsequent demarcation.** If, following the resolution of the dispute, the parties wish to have their land demarcated by the project, they can make a request for the project to do so, provided that the request is made within the time limit set by the Management Group.

**Monitoring and evaluation.** The project should monitor and evaluate the activities during implementation and at the conclusion of the project in accordance with the indicators agreed to by the Management Group.



# PART THREE. APPENDICES



# APPENDIX A. LAND RIGHTS FORMALIZATION PROJECT WORKSHEET

## **Phase I: Project feasibility assessment**

- Decide what entity will drive the project
- Conduct informal assessment of government interest and possible sites

## **Phase II: Engagement of key stakeholders**

- Identify stakeholders
- Conduct informational campaign
- Meet with local leaders
- Meet with other stakeholders

## **Phase III: Formal site selection and assessment**

- Gather information regarding possible sites
- Select project site
- Determine when to conduct baseline/benchmarking assessment

## **Phase IV: Creation and mobilization of mechanisms of control**

- Establish Management Group
- Convene Management Group
- Establish Implementation Group
- Convene Implementation Group

## **Phase V: Initiation of community participation**

- Prepare for initial Implementation Group meeting with community
- Conduct initial meeting with community
- Facilitate establishment of community group
- Conduct baseline/benchmarking assessment, if required
- Collect, analyze, and report data

## **Phase VI: Demarcation of rural community land, conflict assessment, and documentation**

- Advise community leaders of demarcation and conflict assessment process
- Prepare for field visits
- Advise community of demarcation and conflict assessment process
- Conduct field visits: community land demarcation
- Create clean register and map
- Prepare a statement of rural community boundary demarcation and application for useful customary domain

## **Phase VII: Creation of application for recognition of useful customary domain and recording**

- Obtain declarations
- Publish the application
- Handle any objections
- Submit the application
- Recording

## **Phase VIII: Individual Peri-Urban and Rural Parcels: Demarcation, Conflict Assessment, and Documentation of Plots**

- Advise community of demarcation, rights identification, and conflict assessment
- Conduct field interviews
- Confirm and document boundaries
- Complete the tracking form

## **Phase IX: Application for Land Rights and Recording**

- Determine land right granted
- Prepare the application
- Give public notice of the application
- Allow for and address objections
- Obtain any required authorizations
- Obtain signatures
- Recording

## **Follow-up (after all phases)**

- Review status of past land disputes at 6 and 12 months
- If resolved, obtain agreement to resolution and arrange for demarcating, as appropriate

# APPENDIX B. AUTHORIZED REPRESENTATIVES

Any land owner and land rights claimant who cannot be present for the demarcation (such as an absentee owner) can be represented by an Authorized Representative. The Authorized Representative, for the purposes of the activities set out in these guidelines, is a person who provides the Implementation Group with an authorization that is:

- In writing;
- An original document and not a copy;
- Signed or marked by the land occupant;
- Dated within two months of the meeting with the Implementation Group;
- Authorizes the representation by name; and
- Accompanied by a form of identification of the person making the authorization (e.g. electoral registration card, passport or other formal document necessary to identify the authorizing party to the reasonable satisfaction of the project manager in advance of recording [and not the Implementation Group]).

A Power of Attorney or similar document permitted by law may also suffice for identification purposes in these guidelines. Such a document is limited only by its terms and not by time limits in these guidelines.

The original authorization (but not a Power of Attorney) must be taken by the Implementation Group and kept on file. In the case of a Power of Attorney, the document must be copied and the original returned to the person holding the power.

An Authorized Representative cannot be the *soba*, municipal administrator, or other person having a formal or informal administrative role within the community unless that person is dealing with family property.

The Implementation Group must record the form of identification produced in relation to any authorization (both the authorizer and the representative). Usually, this will happen by the taking of a photocopy. In this case, the Implementation Groups will copy the documents and return them to the representative. If, in extraordinary circumstances, the form of identifications cannot be copied, Implementation Groups will record the type of identification produced and any relevant serial numbers or other form of unique identification on the documents produced on the Land Dispute Form. In this guideline, “extraordinary circumstances” means

- Any highly unusual or unexpected circumstance that prevents an ordinarily acceptable form of identification from being photocopied; and
- A circumstance is determined by the project manager (and not the Implementation Group) to be an “extraordinary circumstance.”



# APPENDIX C. TECHNICAL PROCEDURES FOR LAND DEMARCTION PROCESSES IN PERI-URBAN AND RURAL AREAS

These technical procedures focus on the mapping procedures in rural and peri-urban areas. These procedures expand on and should be used in combination with the procedures set out in the text of the Draft Manual to which these procedures are appended.

PROCEDURE	PERI-URBAN AREA	RURAL AREA
Imagery and Maps	<ul style="list-style-type: none"> <li>As a first step, the project should acquire recent digital color Quickbird high resolution satellite imagery.</li> <li>The imagery should be geo-referenced, preferably by the provider.</li> <li>Ideally the project has in-house GIS capacity that allows working with the imagery. If not, another source must be found for recent and detailed maps. Aerial photography may be available, provided in specific scales that then can be photocopied and multiplied.</li> </ul>	<ul style="list-style-type: none"> <li>For larger rural areas, there might be no satellite imagery or aerial photography available. If available, these might be too expensive, given the potential for an expansive project area. Alternatives include any other maps that are reasonably accurate. If GIS is used, such maps can be scanned and geo-referenced.</li> <li>In the absence of updated and high-resolution images/maps, information in the rural areas is taken with GPS.</li> </ul>
Print-outs	<ul style="list-style-type: none"> <li>Print-outs (on A4- or A3-sized paper) of the satellite imagery are then made of the area where demarcation will take place (1:2500 is a useful scale). Larger print-outs (A2 or bigger) are neither necessary nor practical for field work in peri-urban areas.</li> </ul>	<ul style="list-style-type: none"> <li>Print-outs (or photocopies) are made of the area where demarcation will take place. Given the probability of very large plot sizes, a map scale smaller than in peri-urban areas should be used.</li> <li>If necessary, print-outs can be made on larger paper in order to cover a certain part of the project area.</li> </ul>

PROCEDURE	PERI-URBAN AREA	RURAL AREA
Demarcation Processes	<ul style="list-style-type: none"> <li>The Implementation Group starts demarcation with the print-outs, using visual references such as trees, paths, big bushes, creeks, etc. (therefore the big scale of 1:2500).</li> <li>The plot limits are marked on the print-outs with a pencil and an assigned plot number.</li> <li>All information as stated by the tracking form is written twice, with one copy handed over to the land occupant.</li> </ul>	<ul style="list-style-type: none"> <li>The Implementation Group takes the coordinates of plot boundaries. Working with visual references in most cases is much more difficult than in peri-urban areas, due the smaller scale of maps and the limitations in accuracy of maps/imagery. Working with GPS is therefore is a great advantage.</li> <li>Boundaries can be drawn based on visual references if these references are clearly legible on the map/image.</li> </ul>
Digitalization and Physical Back-Up	<ul style="list-style-type: none"> <li>In the office following the demarcation exercise, the Implementation Group digitizes the collected information.</li> <li>The pencil-drawn limits on the map print-outs are digitized using GIS, creating one specific layer for this information.</li> <li>The tracking form information is entered into a digital database (Microsoft Excel or Access)</li> <li>If the project is working without GIS, the pencil-drawn limits and plot numbers of the print-outs are copied by hand onto a large transparent paper. This sheet remains in the office and whenever the Implementation Group brings back new pencil-drawn plot limits, they are copied onto the transparent paper. At the end of demarcation, this sheet gives an overview of all demarcations and plot numbers that provide the reference for the database containing plot occupant details.</li> </ul>	<ul style="list-style-type: none"> <li>Same as in peri-urban area.</li> </ul>

# APPENDIX D. LAND RIGHTS FORMALIZATION PROCESS SAMPLE TRACKING FORM

## **For Use for Formalization of Individual Plots**

*Project staff should review the content of this form and adapt it to the needs of the project.*

*This document collects all data relevant to the land rights formalization process by parcel. The information is used to prepare the land register and the application for land rights. The project should retain the original of this document and give the landowner or land rights claimant a copy. The information noted on the Tracking Form should reflect the principles adopted by the project, including support for the land rights of women through specific initiatives.*



## I. PROCESS DETAILS

Date of demarcation: \_\_\_\_\_

Demarcation team members: \_\_\_\_\_

## II. LAND LOCATION

Province \_\_\_\_\_ Municipality \_\_\_\_\_ Ombala \_\_\_\_\_ Bairro \_\_\_\_\_

Village \_\_\_\_\_

Parcel No. \_\_\_\_\_

## III. LAND CHARACTERISTICS

Approximate size of parcel: \_\_\_\_\_

Current land use(s): \_\_\_\_\_

## IV. LAND INTERESTS

Names of landowners or land rights claimants (must include spouses): \_\_\_\_\_

Evidence of identity of individuals (e.g., documents, witness statements): \_\_\_\_\_

### Land right origin

Inheritance	Purchase	Intra-family transfer	Government allocation	Gift	Other

Evidence of land ownership or claim of land right [copies of any documents must be attached] (**Note that the ownership rights on a document may be different than the rights identified at the time of demarcation.**)

Number of persons in household of landowners or land rights claimants (including landowners or land rights claimants): \_\_\_\_\_

Others with land rights [including any renters, lessees, easement holders, etc.] State name and right held or claimed:

- 1.
- 2.
- 3.
- 4.

## V. LAND-RELATED DISPUTES

[The Implementation Group asks these questions during the formal demarcation process and during the land dispute review process months 6 and 12 after completion of the formal demarcation process. Only land that was the subject of a dispute until the documentation of land rights is subject to review unless a dispute is otherwise brought to the attention of the Implementation Group.]

1. Was there or is there currently a known dispute in relation to this land? Y/N

DO NOT COMPLETE THE REST OF THIS FORM IF THERE WAS NOT AND CONTINUES **NOT** TO BE A DISPUTE RELATING TO THIS LAND

**Note: Project staff may elect to remove this section from the standard tracking form and reserve for use when there is a dispute.**

2. Was the land identified as being subject to a dispute *before* the participatory demarcation process? Y/N

a. If Yes to 2,

- i. What was the nature of the dispute? (e.g., boundary dispute, intra-family dispute, ownership/occupation-right dispute, other)

.....  
ii. Was the dispute resolved *before* the participatory mapping process? Y/N

3. If Yes, how? (e.g., local process, third party mediation, court process, other)

.....

4. Was the land identified as being the subject of a dispute *during* (but not before) the participatory demarcation process? Y/N

a. If Yes to 4,

- i. What was the nature of the dispute? (e.g., boundary dispute, intra-family dispute, ownership/occupation-right dispute, other)

.....  
ii. Was the dispute resolved *during* the participatory mapping process? Y/N

- I) If Yes, how? (e.g., local process, third party mediation, court process, other)

.....

5. Was the land identified as being the subject of a dispute *during* (but not before) the formal demarcation process? Y/N

a. If yes to 5,

- i. What was the nature of the dispute? (e.g., boundary dispute, intra-family dispute, ownership/occupation-right dispute, other)

.....  
ii. Was the dispute resolved *during* the demarcation? Y/N

- I) If Yes, how? (e.g., local process, third party mediation, court process, other)

.....

6. Was the land identified as being the subject of a dispute *after* (but not before) the demarcation process was completed? Y/N

a. If Yes to 6,

- i. What was the nature of the dispute? (e.g., boundary dispute, intra-family dispute, ownership/occupation-right dispute, other)

.....  
ii. Was the dispute resolved *after* the formal mapping? Y/N

- I) If Yes, how? (e.g., local process, third party mediation, court process, other)
- .....

### **Land Dispute Resolution Agreement**

*[Where a land-related dispute is resolved, the signatures or mark of the former disputants must be added here as a confirmation of the resolution of all land-related disputes concerning the land parcel. Before the parties affix their marks, the Implementation Group must:*

- Note the details of the dispute resolution below and confirm them with the parties;
- Explain to the parties that this document is a record of their agreement and by signing it, they are agreeing that the dispute has been resolved in the terms set out below; and
- Explain that the document will be kept on file for future reference if necessary.]

We AGREE that all land-related disputes concerning this land parcel are now fully resolved in accordance with the following terms:

#### **Signatures/Marks of parties to the former disputed land:**

*[Where this document is signed under an Authorization, a copy of the Authorization and Identification Documents must be copied and held with this form. In extraordinary circumstances where identification documents cannot be copied, their details must be recorded here—include the original Authorization for the file, type of identification document, name on the document, and any unique number or other identification on the Identification documents.]*

#### **DATE**

## **VI. STATEMENT REGARDING DEMARCTION**

*[At the conclusion of the field visit, the Implementation Group should read the following statement to the landowners or land claimants and adjacent landowners or land claimants who have agreed to the boundaries demarcated and ask for their signatures showing their agreement.]*

### **ACKNOWLEDGMENT OF DEMARCTION**

The parties signing below agree that they were present for the demarcation of the land identified on this Tracking Form, that they have identified themselves accurately to the Project Implementation Group, and that they agree that they have provided complete and accurate information about any rights to the land parcel and that the boundaries for the parcel are as identified referenced in the map prepared in the course of the demarcation.

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Signature of owner/claimant of parcel

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Printed name

---

Signature of owner/claimant of parcel

---

Printed name

---

Signature of adjacent landowners or land rights claimant

---

Printed name

---

Signature of adjacent landowners or land rights claimant

---

Printed name

# **APPENDIX E. IMPLEMENTATION GROUP GUIDELINES FOR DEALING WITH DISPUTES (AND THEIR RESOLUTION) IN THE LAND RIGHTS FORMALIZATION PROCESS**

These guidelines for Implementation Groups dealing with land-related disputes are integrated with the demarcation process described in the Draft Manual. These guidelines must also form the basis of project Team training before formal demarcation commences.

## **PRE-DEMARCATION ACTIVITIES**

1. The Implementation Group should not begin the demarcation process until the completion of:
  - a. Public information campaigns;
  - b. Local institutional support processes (e.g. capacity building activities with local leaders);
  - c. Community sensitization and other activities conducted prior to the land demarcation; and
  - d. Any other necessary activities set out in the Draft Manual.
2. The activities of the Implementation Group must be impartial and must be seen as such.
3. The Implementation Group must comply with the law in undertaking its activities.
4. The Implementation Group must uphold the highest standards of fairness and must not accept any gift or promise from any person involved in the rights formalization process (including community members, *sobas*, local administrators, etc.)

## **DEMARCATION ACTIVITIES**

5. Implementation Groups must meet with traditional leaders (e.g. the *soba*) or elected committees before undertaking land demarcation in order to determine the nature and severity of potentially unresolved land-related disputes in the pilot area. On the basis of this dispute assessment, the Implementation Group will visit the disputants to explain the rights formalization process (including the fact that the Project will not be deciding disputes and will only be ascribing details of land parcel occupation to those parcels that are not in dispute). The Implementation Group may encourage the disputants to resolve their disputes amicably and otherwise refer them to the process identified here.
6. The dispute resolution process is only a guide. At any time during the dispute resolution process, the parties are free to withdraw from the process and arrive at their own solution to a dispute so long as that solution is peaceful, fair and lawful.
7. Parties to a dispute are not required to resolve their dispute. They are merely encouraged to do so in order to participate in the rights formalization process.
8. Implementation Groups may only give advice to disputants that direct those persons to the process of dealing with disputes and encouraging resolution.
9. During the demarcation process, the Implementation Group obtains the signatures of the rights holders of all neighbouring land parcels to the map confirming boundaries.
10. If a dispute pre-dates the demarcation process or if a dispute arises in the context of demarcation, the following process will apply:
  - a. Where the dispute centers around the location of a boundary only, and/or
  - b. Where the dispute centers around an entitlement to rights in respect of the land in question, the Implementation Group will attempt to facilitate the resolution of the dispute between the parties on the spot. In undertaking these activities, at all times, the Implementation Group will act as a facilitator of dispute resolution and not as an arbiter of the dispute.
11. If, in the view of the parties to the dispute and the Implementation Group, the dispute cannot be resolved, the Implementation Group will refer the parties to the dispute process steps noted above.
12. Where land-related disputes are not resolved before demarcation by the Implementation Group starts, the Implementation Group will note the existence of the dispute on the Land Rights Formalization Process Tracking Form (see Appendix D) but will not complete the formalization process.
13. Implementation Groups will not record property rights in accordance with the rights formalization process where there is a manifest:
  - a. Dispute in existence;
  - b. Injustice in the rights to be recorded (e.g., there is a husband and wife occupying the land but there is insistence that only the husband's name be recorded as the rights holder); or
  - c. Where an institution noted in the dispute resolution process does not exist (e.g. for lack of a Regulation to provide that institution with procedures) that institution (process step) is by-passed and the next step is followed.

14. Where a dispute arises after the demarcation process has been completed (e.g., there may be a return to the area by a former occupant— returnee refugee or former IDP), the claim must be lodged in accordance with any notice period and process prescribed under the rights formalization process. If the counter-claim/dispute cannot be resolved between the parties, the Implementation Group refers the parties to the dispute resolution process noted above. Any claim awaiting formal registration by the relevant Government authority responsible for the registration of land rights, shall be either:
- a. withheld from presentation to the relevant government authority; or
  - b. withdrawn from the registration process pending resolution of the dispute. If the dispute is resolved, the recording methodology mentioned above will also apply to this situation.

## **LOGGING DISPUTES/RESOLUTIONS AND REVIEWS**

15. Known disputes (either before or during the demarcation process) must be logged by Implementation Groups on the tracking form.
16. Where a dispute in relation to a land parcel has been resolved by the parties to the dispute, the Implementation Groups must record that the dispute has been resolved on the tracking form and obtain the signatures of the parties.
17. The Implementation Group must review land-parcels that were (before demarcation started) or, at the time of demarcation, were still in dispute, must be reviewed 6 months and again 12 months after the completion of demarcation. The results must be logged on the tracking form. Where a dispute appears to have been resolved, the Implementation Group must record the parties' agreement on the tracking form.
18. Where a land-related dispute is resolved during the process noted above (whether it occurs during the formalization process or after), the signatures or mark of the former disputants must be added to the tracking form (section entitled Land Dispute Resolution Agreement) as a confirmation of the resolution of all land-related disputes concerning the land parcel. Before the parties affix their marks recorders must:
- a. Note the details of the agreement and re-confirm them, verbally, with the parties (and permit the parties to read the record if they are literate). An illiterate person *must* be informed by Implementation Groups that he or she is permitted to have a trusted, literate person read the record on his or her behalf so as to affirm the recorder's notes.
  - b. Explain clearly to the parties that the document the recorder is completing is a record of the agreement and by signing it, the parties are agreeing that the dispute has been resolved in the terms recorded.
  - c. The document will be kept on file for future reference if necessary.
19. The tracking form must be completed in the field in the presence of the parties unless otherwise agreed by them or their Authorized Representatives (e.g., if the parties agree to meet the recorders at another place). The requirements for an Authorized Representative are set forth in Appendix B to the Draft Manual.
20. If one or more parties (or Authorized Representative) declines to sign or affix a mark on the tracking form but appears otherwise to acknowledge the resolution of the agreement, this fact should be noted and the terms of the agreement, as understood by the Implementation Group, recorded on the tracking form. Parties cannot be coerced into signing the tracking form.



# APPENDIX F. STATEMENT OF RURAL COMMUNITY BOUNDARY DEMARCA TION AND APPLICATION FOR RECOGNITION OF USEFUL CUSTOMARY DOMAIN



Date: \_\_\_\_\_

Name of rural community: \_\_\_\_\_

Comuna: \_\_\_\_\_

Municipality: \_\_\_\_\_

Province: \_\_\_\_\_

On the date noted above, the boundaries of the rural community known as \_\_\_\_\_ were demarcated. The individuals listed below, as representatives of their communities, state that:

**I. Notice of demarcation and application for customary useful domain**

- Prior to demarcation, all residents of the community and the leaders of any adjacent communities received notice of the process of demarcation of the community's land and the application for acknowledgement of customary useful domain;
- Prior to the demarcation all individual and entities with any land interest adjacent to any boundary of the rural community land received notice of the process of demarcation and application for acknowledgement of customary useful domain; and
- No objection to the demarcation process or the application was received.

**II. Boundaries**

- The boundaries on the attached map accurately reflect the boundaries of the rural community;
- There are no current disputes regarding the location of the boundaries; and
- Any past disputes about the location of the boundaries have been resolved to the satisfaction of all interested parties.

### **III. Requirements for Recognition of Useful Customary Domain**

The rural community that is the subject of the demarcation has satisfied the requirements for recognition of its right of useful customary domain over all land within the identified boundaries.

---

Signature of *soba*

---

Printed name

*[Insert signature lines for all holders of interests in adjacent land and all sobas for adjacent community land]*

# **APPENDIX G. SAMPLE RECOGNITION OF USEFUL CUSTOMARY DOMAIN**





REPÚBLICA DE ANGOLA

MINISTÉRIO DA AGRICULTURA E DO DESENVOLVIMENTO RURAL  
DIRECÇÃO NACIONAL DE DESENVOLVIMENTO RURAL

**Título de Concessão de Terras**  
**(EM REGIME ILIMITADO) N.º0071/DP/DNDR/2005**

De acordo com o despacho de sua Exa. Sr. Ministro da Agricultura e do Desenvolvimento Rural de=17=de=Outubr =de=2005  
é concedido a título ilimitado ao Sr. ==COMUNIDADE SAN=====  
para fins de exploração == SOCIO-CULTURAL E AGRO-PECUÁRIA=====  
uma área com ==1 389==Hás =Localizada na Província == HUILA=====  
Município ==QUIPUNGO===== Comuna das ==HOMBO=====

O Director Nacional  
  
Eng.º Fernando Simões Gomes

Esta concessão é válida por tempo ilimitado  
Luanda, 26 de Dezembro de 2005



# APPENDIX H. NOTICE OF UNRESOLVED DISPUTE

Land Rights Formalization Process for Land Situated:

*[Insert local of land by district, comuna, and village and attach a map where one is available]*

TO: *[Insert names of parties to the dispute over land in question]*

THIS NOTICE is to inform the above parties that there is, in the opinion of the Project Implementation Group, one or more disputes in relation to the land parcels noted above which remain unresolved at the time that boundary demarcation was taking place.

The nature of that dispute is as follows: *[insert a brief description of the dispute]*

In these circumstances, the claimed rights to the land parcel/respective land parcels WILL NOT be processed at this time. Upon the fair resolution of the dispute, however, the land rights MAY be processed.

The parties to the dispute are encouraged to resolve the disputes fairly and in a timely manner. If the parties to the dispute are uncertain about how they may resolve their dispute, they are encouraged to ask a member of the Implementation Group about what processes can apply.

SIGNED: \_\_\_\_\_

Name of Member of the Implementation Group

DATE: \_\_\_\_\_





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