

# FORESTRY

## *The Land Governance Assessment Framework Technical Report*

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LANDnet Uganda  
Plot 213 Semwogerere Zone  
Mukalazi II Bukoto  
P.O.Box 14170, Kampala  
Email: [info@landnetuganda.org](mailto:info@landnetuganda.org)  
Tel No: +256-414-373782

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## **1.0. Introduction**

Forests provide a variety of goods and services, at the global and local levels. At the local level, in many countries, they are an important source of food, fuel and fodder and overall livelihoods for local communities. Forests provide important global public goods functions of which climate change mitigation (through carbon storage) is currently the most high profile one. Yet, forests are also one of the least well-governed resources, suffering excessive destruction and consequent (and often irreversible) loss of contributions to timber, non-timber forest products, biodiversity and climate mitigation. This needs to be controlled and improving the quality of governance is a key challenge needing urgent redress in this context.

This module aims to assess the quality of key dimensions of forest governance and how they might be strengthened when found to be inadequate. Through a core set of questions, the module probes governance aspects such as the available incentives in a country to promote climate change mitigation, how forest management and resources address the drivers of deforestation, legal recognition of the rights of indigenous people, participation of local communities in land use plans, efforts to control illegal logging and corruption, etc. Where existing systems are judged to be inadequate, the module points the way for further verification and analysis.

### **1.2. Objectives**

1. Gather evidence to make an expert assessment on a prescribed set of indicators from the LGAF that describe the level of governance in forest governance.
2. Deduce policy recommendations that would be in line with best practice given the contextual setting of Uganda.

## 2.0. Objective 1

Gather evidence to make an expert assessment on a prescribed set of indicators from the LGAF that describe the level of forest governance

### Indicators

#### 2.1. Country signature and ratification of international conventions and treaties in support of forest conservation

- The Convention on Biological Diversity (CBD) 1992: Uganda signed the CBD on 12th June 1992 and ratified it on 8th September 1993.
- Kyoto Protocol: Uganda acceded and ratified the Kyoto protocol on 12th June 2002.
- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)- Uganda ratified the convention on 18th July 1991 and acceded to it on 16th October 1991).
- The convention of wetlands (Ramsar Convention), 1971: Uganda signed the Convention on 4th March 1988 and ratified it on 4th July 1988.
- UNCCD – Uganda signed the agreement on 21st November 1994 and deposited the instrument for ratification on 25th June 1997.
- UNFCCC – Uganda signed the Convention in June 1994 and ratified it in September 1997.
- Protocol on environment and natural resources management of East African community: Article 11 of this protocol provides for Management of Forest and Tree Resources. Uganda signed this protocol in April 2006 but has not ratified it.

#### 2.2. Implementation of incentives to promote climate change mitigation through forestry

For PES, a Climate Change Unit (CCU), as one of the national measures to ensure action in the Country was created in 2008, directly under the office of the Permanent Secretary within the Ministry of Water and Environment. The main objective for the establishment of the CCU is to strengthen Uganda's implementation of the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol (KP). The main emphasis has been on CDM where the MWE is Uganda's Designated National Authority (DNA) for registering and monitoring CDM projects. The Climate Change Unit (CCU) is the secretariat to the DNA. (Source: <http://www.ccu.go.ug> Accessed 29th Nov 2013). To date there is 1 CDM forestry projects 1) Uganda Nile Basin Reforestation Project (with 5 phases) and 2 reforestation projects at validation stage (Namwasa CFR and Rwoho CFR). In addition, we have TGB initiatives implemented by ECOTRUST.

For REDD+, a REDD+ working group with NFA serving as a Secretariat as well as National Focal Point for REDD+ steered the country through the process since 2010. The R-PP was recommended for its approval and

implementation in June 2010. The Government of Uganda streamlined the institutional arrangement as a requirement by World Bank by moving the Focal Point from the National Forestry Authority (NFA) to the Forest Sector Support Department (FSSD) of the Ministry of Water and Environment which is the mandated institution to oversee forestry issues in Uganda. As of 2013, not much progress has been evident as the country awaits the due diligence to be performed by World Bank (disbursement of funds) before Uganda can embark on development of the country's REDD+ strategy.

### **2.3. Public good aspects of forests recognized by law and protected**

#### **The Constitution of the Republic of Uganda (1995)**

Objective XIII of the Constitution requires the State to protect important natural resources, including land, water, wetlands, minerals, oils, fauna, and flora on behalf of the people of Uganda.

Objective XXVII provides for the State, including local governments to promote the rational use of natural resources so as to safeguard and protect the biodiversity.

Article 237(2)(b) requires Government or a local government to hold in trust for the people and protect natural lakes, rivers, wetlands, forest reserves, game reserves national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens.

Article 245 provides for Parliament to enact laws intended to protect the environment from abuse, pollution and degradation as well as for managing the environment for sustainable development and promoting environmental awareness.

#### **The National Environment Act Cap 153 (1995)**

Section 2 (2) (c), (d) and (e) of the Act describes the principles of environmental management that indirectly recognise forest as important in providing public goods and services.

#### **They are stated in extenso as follows;**

- (a) to use and conserve the environment and natural resources of Uganda equitably and for the benefit of both present and future generations, taking into account the rate of population growth and the productivity of the available resources;
- (b) to conserve the cultural heritage and use the environment and natural resources of Uganda for the benefit of both present and future generations;
- (c) to maintain stable functioning relations between the living and nonliving parts of the environment through preserving biological diversity and respecting the principle of optimum sustainable yield in the use of natural resources.

Sections 39 and 40 of the National environment Act provides for Reforestation and afforestation of hilltops, hillsides and mountainous areas as a public good.

Section 45 (6) in extenso states that Notwithstanding subsections (3), (4) and (5), the authority may, in consultation with the lead agency, expressly exclude human activities in any forest area by declaring a forest area a specially protected forest.

This implies that the act provides for declaring certain areas as protected forest to provide public goods and services

### **The Land Act Cap 227, 1998**

Sections 44(1), (2) of The Land Act Cap 227, 1998 states that;(1) The Government or a local government shall hold in trust for the people and protect natural lakes, rivers, ground water, natural ponds, natural streams, wetlands, forest reserves, national parks and any other land reserved for ecological and touristic purposes for the common good of the citizens of Uganda.

(2) A local government may, upon request to the Government, be allowed to hold in trust for the people and the common good of the citizens of Uganda any of the resources referred to in subsection (1). This shows the importance attached to forests as public goods by this Act.

Section 19 (f) of The Uganda Wildlife Act Cap 200 (of 1996) describes the purposes of wildlife conservation areas which may include forested land. They include; to preserve selected examples of the biotic communities of Uganda and their physical environments; to protect areas of aesthetic beauty and of special interest; to preserve populations of rare, endemic and endangered species of wild plants and animals; to assist in water catchment conservation; to generate economic benefits from wildlife conservation for the people of Uganda. This shows the importance of these areas which may be constituted of forests to be public goods.

### **The National Forestry and Tree Planting Act, 2003**

Section 6 of The National Forestry and Tree Planting Act, 2003 provides for declaration of central forest reserves whose purposes are stated in subsection (2) (1);

- (i) Is protecting nature and scenic areas of national or international importance,
- (ii) Enhancing biological genetic resources in an undisturbed, dynamic and evolutionary state
- (iii) Preserving rare, endangered or vulnerable species, or high biological diversity.

All of these show that the law considers the forests as a public good.

Section 9 of The National Forestry and Tree Planting Act, 2003 provides for declaration of local forest reserves whose purposes are stated in subsection (2) (1) (a);

- i. is protecting nature and scenic areas of national or international importance,
- ii. enhancing biological genetic resources in an undisturbed, dynamic and evolutionary state
- iii. preserving rare, endangered or vulnerable species, or high biological diversity.

All of these show that the law considers the forests as a public good.

### **The Forestry Policy 2001**

The Forestry Policy 2001, recognizes that forests also provide important environmental services in the protection of watershed and soil. There are increasing pressures on important watersheds due to their high agricultural potential. Poor crop and livestock management practices, including the cultivation and over-grazing of steep slopes and riverbanks, have contributed to extensive soil erosion, and in some areas landslides. The destructive harvesting of forest resources in watershed catchment forests is further contributing to soil erosion and sedimentation, and to a reduction in the quantity and quality of water

#### **2.4. Forest management plans and budgets address the main drivers of deforestation and degradation**

The agencies responsible for forest reserves have not prioritized preparation of forest management plans for instance by 2011 out of 506 reserves under the National forestry authority only 12 had management plans which were approved (REDD Readiness Preparation Proposal for Uganda page 69). The REDD Readiness Preparation Proposal For Uganda identifies the main drivers of deforestation and degradation as agricultural expansion, population growth, unsustainable cutting of trees for charcoal, unsustainable cutting of trees for firewood, unsustainable harvesting of timber and livestock grazing and bush burning. The current management plans e.g. the one of Mabira central forest reserves do not have objectives to address any of the aforementioned drivers of deforestation.

#### **2.5. Country's commitment to forest certification and chain-of-custody systems to promote sustainable harvesting of timber and non-timber forest products**

Uganda is a signatory to the United Nations Non-legally Binding Instrument on all types of Forests (2008). This Instrument encourages the private sector, civil society organizations and forest owners to develop, promote and implement instruments, such as voluntary certification systems or other appropriate mechanisms, to develop and promote forest products from sustainably managed forests.

In the national Forestry Policy (GoU, 2001) Government commits itself to “develop codes of conduct and standards, and the development of criteria and indicators that can be applied to forest certification” (Policy Statements No. 1 on Forestry on Government Land, and No. 2 on Forestry on Private



Land). Section 92 (2) (v) of the National Forestry and Tree Planting Act, 2003 gives authority to the Minister to make regulations regarding

*“...the certification of forests and labelling of forest produce to verify its origin from sustainable sources of supply”*

(GoU, 2003).

The National Forest Plan (NFP) for 2011/12 – 2021/22 (FSSD, 2011), provides for development of the national standard as follows:

*“...forest management standards composed of criteria and indicators which have been agreed by consensus of all stakeholders will be developed and implemented. The quality of the standard will also meet internationally accepted principles of Sustainable forest management in order for the producers to benefit from international marketing arrangements based on sustainable forest management”.*

The Plan also on page 67 states “Uganda will undertake forest certification using the phased approach within the framework of the Forest stewardship council. Starting with selected forests, lessons will be generated that will guide further expansion of the certification programme”. The plan lists the strategies to be used, primary beneficiaries and the responsible agencies.

## **2.6. Country’s commitment to SMEs as a way to promote competition, income generation and productive rural employment.**

## **2.7. Recognition of traditional and indigenous rights to forest resources by law**

Subject to article 246 of the Constitution of the Republic of Uganda 1995, a traditional or cultural institution or leader may hold, own or manage a forest, subject to such directions as the Minister may prescribe. Subject to the Forestry and Tree Planting Act 2003 (26(1)), the Minister, the Authority or a local government may however provide technical services to the organization, cultural or traditional institution.

Section 13 (3) (b) (iii) of the National Forestry and tree planting Act, 2003 states that forests shall be developed and managed so as to promote fair distribution of their economic, social, health and environmental benefits. Further, Section 15 provides for the use of different forest categories.

For the forest reserves, a responsible body is expected to manage, maintain and control the forest reserve in accordance with generally accepted principles of forest management as may be prescribed in guidelines issued by the Minister. In this respect, use rights for both extractive and non-extractive purpose may be granted as long as they are in accordance with the forest management plan. For the forest reserves, a responsible body may subject to the management plan grant a licence to an interested person for the cutting, taking, working or removing of forest produce from a forest

reserve or community forest, or the sustainable utilization and management of the forest reserve or community forest. Further, Section 33(1), of the National Forestry and tree planting Act, 2003 states that subject to the management plan, a member of a local community may, in a forest reserve or community forest, cut and take free of any fee or charge, for personal domestic use in reasonable quantities any dry wood or bamboo. Under Section 33(2) no materials however may be collected in the strict nature reserves or from sites of special scientific interest.

For the case of group use rights, the Forestry and Tree planting Act 2003,(15) provides for collaborative forest management where a responsible body such as NFA or the local government may enter into a collaborative arrangement with a forest user group for the purpose of managing a Central or local forest reserve or part of it in accordance with regulations or guidelines issued by the Minister. In this case, communities bordering forest resources exercise specified access and use rights and take on specific roles and responsibilities to ensure sustainable utilization of the forest resource. There are several examples including CFM groups in Mabira CFR and Budongo CFR.

With regards to community forests, Section 19(1) stipulates that any revenue derived from the management of a community forest by a responsible body shall belong to and form part of the accountable funds of the responsible body and shall be devoted to the sustainable management of the community forest and the welfare of the local community.

With regards to private forests, Section 21(1) and 22(1) stipulates that a person may register with the district land board a natural forest or plantation situated on land owned in accordance with the Land Act 1998, or a forest or land in respect of which a licence is granted in accordance with this act. Further, Sec 21(2) and 22(2) indicates that all forest produce from such a forest belongs to the owner and may be used in any manner that the owner may determine, except that forest produce shall be harvested in accordance with the management plan and regulations made under this act.

## **2.8 Sharing of benefits or income from public forests with local communities by law and implemented**

Section 13 (3) (b) (iii) of the National Forestry and Tree Planting Act, 2003 states that forests shall be developed and managed so as to promote fair distribution of their economic, social, health and environmental benefits. Further, Section 19 (1) states, “Any revenue derived from the management of a community forest by the responsible body shall belong to and form part of the accountable funds of the responsible body and shall be devoted to the management of the community forest and welfare of the local community”. However, the law does not provide for benefit-sharing mechanisms for the communities participating in forest management activities. That is, for the higher ranked resources like poles and timber; without clear benefit guidelines, NFA cannot provide proportionate returns to the communities

from the different concessions. Up till now, NFA is using a case by case unstructured method to provide returns to participating communities.

The Wildlife Act mandates UWA to pay 20% of the park entry fees collected from a wildlife protected area to the local government of the surrounding area (s) for economic development. In some cases communities have realized their share. In addition to the cash benefits, UWA signs Resource Use Agreements (RUAs) with some neighboring communities to participate in the management of the park. The agreements differ in scope, flexibility, and in the roles and responsibilities of the agreeing parties. An example of Mt. Elgon National park indicates that communities come into agreement with UWA to access selected resources in the park in an organized manner aimed at promoting sustainability. Under this arrangement the participating communities sign an agreement with UWA and are allocated either a portion of the forest for bee keeping or a 10 meter width strip along the boundary to plant Eucalyptus trees.

## **2.9. Boundaries of the countries forest estate and the classification into various uses and ownership are clearly defined and demarcated**

The National Forestry Policy 2001, clearly indicates that forests cover approximately 24% of the total land area. Of this, 30% is designated as Permanent Forest Estate (PFE) including all forest reserve land and forested areas in the National parks and game reserves. The remaining 70% of forested land includes the large areas of forest and woodland found on private land. The Forestry and Tree Planting Act 2003 classifies forests into central forest reserves, local forest reserves, community forests, private forests and forests forming part of a wildlife conservation area declared under the Uganda Wildlife statute, 1996. Private forests are recognised by the existence of a natural forest or plantation on land owned in accordance with the Land Act 1998, or a forest or land in respect of which a licence is granted in accordance with this act. For example, Section 17(1) of the Forestry and Tree Planting Act 2003, states that the minister may after consultation with the district land board and the local community, and upon approval by resolution of the district council, by statutory order declare an area within its jurisdiction to be a community forest. In this case, the minister shall specify a responsible body for the community forest, and with effect from the commencement of the order the management, maintenance and control of the community forest shall be the responsibility of that body.

Despite these provisions in the Forestry and Tree Planting Act 2003, the National land use Policy 2009, indicates that the criteria for setting aside areas for conservation in the country are not well established or known. In addition, in circumstances where land under conservation has been degazetted, the rationale behind such action has not been clearly explained or understood. Consequently, there is a feeling that there is no regional balance in the distribution of protected areas, and that in general,

the total area under conservation in the country is neither adequate nor representative of all Uganda's ecosystems.

In relation to assigning responsibility of management, the Forestry Policy, 2001 indicates that half of the PFE is made up of the gazetted Central and Local Forest Reserves, which land is held in trust and managed by the National Forestry Authority and district local governments. The other half includes the forested areas of National Parks and Wildlife Reserves, which land is held in trust and managed by the Uganda Wildlife Authority. These areas are permanently designated for the conservation of biodiversity, the protection of environmental services, and the sustainable production of domestic and commercial forest produce (MWLE, 2001). Further, the Forestry and Tree Planting Act 2003, states the institutions or individuals responsible for the management of the central forest reserves, local forest reserves, community forests and private forests. The management of forests that form part of a wildlife conservation area is provided for under the Uganda Wildlife statute, 1996.

With specific reference to forest reserves, the Forestry and Tree Planting Act, 2003 5(1) stipulates that the Government or a local government shall hold in trust for the people and protect forest reserves for ecological, forestry and tourism purposes for the common good of the citizens of Uganda.

Under Section 28(1) a forest management plan is supposed to be prepared by the responsible body for the case of forest reserve or community forest, and the plan shall be prepared in consultation with the local community. This plan is supposed to contain a description of all matters relating to the forest including use, activities and the measures to be taken for the sustainable management of that forest. Under Section 28(3), the management plan is to be approved by the minister or by a person designated by the Minister for that purpose, and shall be disseminated to the local community. According to Section 28(7), forest management plans were to be prepared within one year after the coming into force of the Forestry and Tree Planting Act 2003, for every forest reserve declared under the Forests Act, and in existence at the Commencement of this Act.

In practice however, the boundaries of the forest estate under different management regimes are not clear and not opened regularly.

- 2.10. In rural areas, forest land use plans and changes in these plans are based on public input.**
- 2.11. Country's approach to controlling forest crimes, including illegal logging and corruption**
- 2.12. Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors**

LANDnet is an institution registered under the laws of Uganda with a mission to create an enabling environment for effective participation of all stakeholders in the efficient use and management of Uganda's land resources for sustainable development.

The foundations of LANDnet lie in the principles of equity and equality, in the desire to ensure inclusion and equal opportunities in access to and control over productive resources including land. Through this, LANDnet aligns itself to existing global frameworks such as Agenda 2030, the Voluntary Guidelines on the Responsible governance of Tenure of Land, Forests and Fisheries (VGGT) and Africa Framework & Guidelines on Land Policies in Africa.

The success of LANDnet lies in strong partnerships and a shared vision with its partners.

**LANDnet Uganda**  
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**Tel No: +256-414-373782;**