

# Development and Use of a Training Manual

## “Participatory Land Governance: Preparing for Negotiation with Investors”

### in Zambézia province, Mozambique

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#### **Introduction**

In 2018 ORAM and Terra Firma were granted additional funding by the LEGEND challenge fund to develop materials and build capacity of Community Land Associations (CLAs) and their individual members to negotiate with investors. This initiative was designed to build upon the work already funded under LEGEND (establishment of 20 CLAs, delimitation of the 20 communities, delimitation of family parcels, and development of land use plans) undertaken to ensure that legitimate customary land rights were recognised by a major company (Portucel) holding government concessions for plantation forestry, and by government.

**Objectives:** to train and equip the members of 10 Community Land Associations established by ORAM through the LEGEND Zambézia project to be better able to negotiate with external investors, and to develop field tested training materials available for use in other communities and investment locations.

**Partners:** The work was carried out in partnership by ORAM Nampula, Terra Firma, a Mozambican legal expert (Dr Alda Salamão) and the Columbia Centre for Sustainable Investment (CCSI).

#### **Rationale**

The original LEGEND funding to the project enabled communities and residents to document their land rights. This enhanced legal position goes some way towards providing a foundation for discussions between communities and companies, such as Portucel, that are interested in large scale land based investments. However, even after having well-documented land rights, communities and families confront a very uneven playing field for negotiations. Multinational companies such as Portucel have professional staff who negotiate projects worth millions of dollars, whereas local communities affected by large-scale investments have no-one with comparable skills and experience. Communities need to understand the range of options open to them in these negotiations, but in reality few community members know what their options are, and many people living and farming within land concessions created for investment purposes believe they have no alternatives to the outright and permanent transfer of land required by a company, which can easily take place on highly unfavourable terms. Without additional support, communities involved in negotiations with Portucel or other investors run the risk of giving away their land rights for extremely limited and unsustainable benefits.

In this particular case Portucel had already accepted that in future it should only acquire and develop land parcels for eucalyptus production through negotiations, not only with community representatives, but directly with the individual families concerned. In the communities involved household level land rights had recently been documented by the LEGEND project, with certificates and parcel maps issued to the land holders by the CLAs. Community members and representatives therefore needed be fully informed about the available options within the law to defend their rights, to release land to a company if they wished to do so, or to grow trees or crops on its behalf, and about

possible contractual arrangements through which this might be done, and the costs and benefits they could expect. The CLAs were also in need of guidance on how to conduct negotiations and respond to proposals from companies for possible employment, partnership, or provide of assistance in kind in exchange for land, and the possible scope to take up opportunities for community-based business.

### **The negotiations manual**

The manual produced was entitled “*Participatory Land Governance: Preparing for Negotiation with Investors – A Training Manual on Land Delimitation, Community Consultations, Community Representation and Negotiation of Partnerships between Communities and Investors*”. It was developed from existing materials produced by CTV and other agencies, which were adapted, modified and updated for the current Mozambican context. Some components were designed specifically for this manual, such as guidance on how to understand and prepare to engage in discussions with the plantation forest industry.

Materials from the manual were used in four training sessions:

1. *In-service training with 6 ORAM staff, Oct 29 – Nov 1 2018*: Alda Salamão introduced ORAM staff to the material as participants during an intensive 4-day training. They then practiced using the material to prepare for engagement with communities.
2. *Initial training with community representatives, 26 – 28 Nov 2018*: 2 members of each of 16 associations met at the offices of the Locality of Namanda (Locality is the lowest level of government in Mozambique). ORAM staff led the training, with Alda and a representative of Terra Firma assisting.
3. *Awareness-raising with district government, Nov 29 2018*: At the request of the District Administrator, who was fully informed of this project a 1-day training was run for district government officials. These included staff from the Administrator’s office and the district economic development, and infrastructure and planning services. This training involved a higher-level review of the same material that was used with community members. For most, this was the most detailed training they had ever had on the land law, on community land rights, and the role of government in facilitating negotiations over land between potential investors and communities.
4. *Follow-up training with community representatives, 24 – 26 April 2019*: This involved representatives of the same 16 associations that were previously trained. In addition, four senior traditional leaders participated at their own request, based on what they had learned about the initial training. This involved a review of content learned in the first training, a discussion of events that happened in the interim period, and provision of new content, and planning for next steps.

ORAM field staff worked closely with the participating associations in the periods following the first and second trainings for community representatives. They supported the association members who were also trained to lead training sessions with association and community members who did not participate in the initial training.

### **Results**

1. Pre-existing training materials on community-company negotiations developed by CCSI and Namati were adapted for project staff and for communities in Portuguese language field tested and made available for subsequent use in other communities.
2. Six ORAM staff were trained in use of the materials. 25 local government officials from Ile district government of Ile were also given a 1-day training course

3. Due to high demand, a total of 16 associations involved in the LEGEND project participated in two extended training sessions. All received intensive support from ORAM staff to prepare for the first training, to undertake follow up work within the individual communities, and to plan next steps following the second training.

4. The Community Land Associations established relationships with legal specialist who led the preparation and delivery of the material, and put in touch with the Mozambican NGO CTV (Centro Terra Viva, <http://www.ctv.org.mz/>) focused on environmental issues. Since 2013 CTV has emphasized legal advice to rural communities to strengthen security of land tenure and establish beneficial partnerships between communities and investors, to undertake environmental education, and monitor community and public consultation processes associated with development and investment projects. Using its own funding after the end of the LEGEND project, CTV sent two staff members to run additional training with these 16 communities and a further 5 communities in the Portucel concession area, in August 2019.

The training was well received by the Community Land Associations and by district government. Portucel also expressed their interest in engaging with the associations after the training. The District Administrator and the District Director of Economic Services expressed their strong support for this training. They noted the value of ensuring citizens are aware of and are enabled to act upon their rights. They also noted that few district government staff had sufficient training on the Land Law, on community rights, and on the correct roles and procedures for government in the facilitation of discussions between potential investors and communities.

#### **Implications for negotiations with the company**

We assessed the outcomes of the capacity building done in relation to the assumptions made in the planning and management framework for the LEGEND Zambézia project regarding the likelihood of actual negotiations between local communities and Portucel taking place:

First, it was assumed that *Communities would overcome their prior reluctance to engage with investors, which arose because of widespread unhappiness with Portucel's initial approach to community consultations*: As a direct result of the training, CLA members became proactive in seeking to engage with Portucel and other private investors, as well as with government, to discuss investment projects in the area. Within 10 days of the first training for representatives of the 16 participating community associations, all participants had reported back to their respective associations on the content and issues arising. They then drafted two joint letters: one to District government, requesting clarification of the process used to grant a private concession for a 2,600 hectare for crop and livestock investment by a Mozambican national that impacted on community land holdings; another to Portucel, requesting a meeting with the CEO to discuss promises that community members felt were made verbally by the company but never honoured, and options for future engagement between communities and Portucel.

Second, it was assumed that *Portucel would address community interests and concerns proactively*: After the CLAs sent a follow up request for a meeting, with a copy to district government, Portucel indicated verbally that it wanted to meet with the associations, but unfortunately, as of early October 2019, after LEGEND project support ended, this had not taken place, possibly because the company did not feel ready to partner formally with the CLAs. It was concluded that ORAM needs to provide continuing support to communities in engaging with the company, and to push for the company to go beyond talking about talking.

## **Subsequent uses of the training manual**

ORAM has now used the manual in its work with additional 5 communities in an Integrated Land and Resource Governance (ILRG) project funded by USAID in Ile District. ORAM will also use the manual to train communities using new funding from the global Tenure Facility, which will assist a further 60 communities. This will involve expansion of the work piloted with LEGEND into 5 new districts and a new province, entailing training for a range of new district and provincial government officials and staff from two additional civil society organizations (Nitidae and LUPA) in use of the training materials.

The training will enable communities to plan for negotiations with diverse investors and conservation initiatives that seek to use or influence use of community land and natural resources:

- 10 communities in Gurue District, Zambezia Province, assisted by Nitidae and LUPA. This will involve collaboration amongst communities to develop a community conservation area to protect the endemic forest at the top of Mount Namuli, as well as likely engagement with water bottling and and tea estate companies.
- 20 communities in Ile and Mulevala Districts, Zambezia Province, assisted by ORAM. This involves expansion of the work done through the LEGEND project, with continued engagement with Portucel and potentially other private investors.
- 30 communities in Angoche, Moma and Larde Districts, Nampula Province, assisted by ORAM. This will involve engagement with Kenmare, an Irish mining company that has sub-surface rights for thousands of hectares for mining of heavy sands. It also will involve engagement with the management of the *Primeiras e Segundas* Environmental Protected Area, covering the entire coastal and off-shore area of the 3 districts, including areas of common-use such as mangroves.

## **Lessons learned from development and use of the training materials:**

1. *Training in preparation for negotiations is vital.* Even after having received in-depth training in land rights during the LEGEND project, many association members were surprised that they have the right to refuse new investments or to offer counterproposals that differ to what the companies are proposing.

2. *Communities need more than a manual.* A couple of 3- or 4-day workshops can help people understand their rights, and promote more proactive engagement with companies. However, they will often need on-going legal support long after the end of project funding. A few days of training does not completely level a playing field that involve sitting across the table from experienced negotiators representing multi-million pound investors.

3. *Training doesn't necessarily lead to agreements with investors.* We believe that this initiative will enable communities to gain more benefits from negotiations with investors. However, we cannot guarantee when such negotiations will occur. One of our guiding principles is that communities should be able to decide whether or not to enter into negotiations and, if they choose to do so, on which time frame. A donor funded project that directly or indirectly required that negotiations occur within the extension period would run counter to that principle, unless a company involved was also engaged as direct partner. In this case we decided not to pressure communities to negotiate within a defined time frame, and in practice the company itself did not appear ready to do so. For these reasons, the process was designed intentionally to help participants understand their rights, rather than to influence the communities to agree to negotiate, and much less to encourage them to reach agreements with investors.

4. *Some companies appreciate working with better-informed communities.* While there may be too many investors who willing to mislead communities, others truly want to ensure mutually beneficial relationships, if only as a way of establishing their social license to operate and to reduce the likelihood of future disputes. These negotiations can help to identify opportunities that were not originally on the table. For example, Portucel has not so far proposed formally the option of helping community members to grow trees and sell to the company through outgrower schemes, and no community members were aware that this could even be an option. However few people are willing to permanently cede more land to Portucel, and following the training, many expressed interest in becoming outgrowers, since this could provide an income source without giving up land rights. Many details are still to be worked out on the terms of outgrower contracts (for example, the prices farmers could expect to receive, and if the company can provide any advance payments during the 7 years before trees can be harvested).

To conclude, however, the ground is now clear for new discussions to focus on how Portucel accesses timber in various ways to support its operations, instead of focussing only on how it can access land.