

USING THE **LGAF** TO FEED INTO
THE DOMESTIC POLICY DIALOGUE
Lessons from **BENIN**'s experience

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BENIN: COUNTRY OUTLOOK

Region: West Africa
Currency: Franc CFA (XOF)
Land area: 114,763 km²
Population: 8.66 million
Population growth: 3.2% / year
GNI per capita: US\$ 690
Life expectancy at birth: 62 years
GDP: US\$ 6.68 billion
GDP growth rate: 5.1% (2008). 3.8% (2009)
FDI: US\$ 120 million
Aid Flows: US\$ 470.4 million
Merchandise trade: 45.5 % of GDP)
Main export: Cotton
Env. Sust. Index: 127th out of 149 in the World, and 21st out of 38 in sub-Saharan Africa)



LAND TENURE

type of rights/uses, description

Urban

Urban population: 42 %;

Average urban population growth 2005-2010: 4.01% (3.02% for the total population);

Main urban area : Greater Cotonou 1.2 million inhabitants, 30% of GDP.

Titled Individual property – Land plot recorded in the legal framework (Property Title TF – private property);

Individual property not supported by a title – land/housing with an Occupation Permit (without a property title but with a temporary and cancellable authorization for occupation);

Land plot/Housing with a **sales agreement**;

Land plot with a **Relocation Certificate** (recasement);

Suburban Land plot/housing under **customary tenure**;

Land plot organized with **no respect of urban planning rules or norms**;

Land **illegally occupied**.

Rural

Cultivable Land ~ 7 millionsha (63% of total land area);

Organized agricultural areas ~ 31,800 ha

Irrigable land (excluding Couffo and Pendjari) ~ 322,000 ha.

Titled Individual property – Land plot recorded in the legal framework (Property Title TF – private property);

Individual property not supported by a title – Agricultural land/parcel with a **Rural Land Certificate CFR**;

Concession granted to an individual or to a corporation through an **administrative authorization**;

Land belonging to the State (public land) but **occupied by an individual** ;

Customary Lands **without a Title (TF) or a Rural Land Certificate (CFR)**;

Land under **collective rights**

LEGAL RECOGNITION

General (all types of land)

Law No. 65-25 on Dahomey's Land system (Title TF)

Urban specific legal framework

- Law No. 60-20 of July 13, 1960 on Habitation **Permit system** in Dahomey and Decree no 64-76/PC/MFAE-EDT of December, 2, 1964 on the PH in Dahomey;
- Decree of May 2, 1906, setting a written **statement for agreements** between indigenous people in AOF colonies / Civil Code (sales agreements);
- **Customary Right**: mentioned in the **Decree** No 55-580 of May, 20, 1955 on land and domain reorganization in A.O.F and A.E.F. (The Coutumier is **not a legal document**);

Rural specific legal framework

- **Law 2007-03** on Rural land Holding in Benin;
- **Decree 2008-736** of December, 22, 2008 on regulating concession of State's land (Domaine) in Republic of Benin

PANELS

PANEL 1 - LAND TENURE

PANEL 2 - INSTITUTIONAL ARRANGEMENTS

PANEL 3 - URBAN LAND USE, PLANNING AND DEVELOPMENT

PANEL 4 - RURAL LAND USE AND LAND POLICY

PANEL 5 - LAND VALUATION AND TAXATION

PANEL 6 - PUBLIC LAND MANAGEMENT

PANEL 7 - LAND REGISTRY

PANEL 8 - DISPUTE RESOLUTION

The country land governance framework identifies needs for improvements in the following critical areas :

**disputes resolution
land registry
rural land use and land policy (one legal system)**

Urban group rights are not recognized in informal areas – LGI 1
Individually held properties in rural and urban areas are not
formally registered – LGI 2

PANEL 1 - LAND TENURE

LGI Dim

1 i	Rural land tenure rights are legally recognized.	A
1 ii	Urban land tenure rights are legally recognized.	B
1 iii	Rural group rights are formally recognized.	A
1 iv	Urban group rights are recognized in informal areas.	D
1 v	Opportunities for tenure individualization exist and are accessible.	A
2 i	The boundaries of communal land are surveyed/ mapped and rights are registered.	NE
2 ii	Individually held properties in rural areas are formally registered.	D
2 iii	Individually held properties in urban areas are formally registered.	D
2 v	A condominium regime provides for appropriate management of common property.	C
2 vi	There is compensation for loss of rights due to land use changes.	B
3 i	Non-documentary forms of evidence for recognition of property claims are acceptable.	A
3 ii	There is formal recognition of long-term, unchallenged possession.	B
3 vi	There is an efficient and transparent process to formalize possession.	B

PANEL 2 - INSTITUTIONAL ARRANGEMENTS : **NO INFORMATION**

LGI Dim

5i	There is an appropriate separation of policy formulation, implementation, and arbitration roles.	B
5III	Institutional (horizontal) overlap is avoided.	B
5iii	Administrative (vertical) overlap is avoided.	B
5iv	Land information is shared with interested institutions.	C

PANEL 4 - RURAL LAND USE AND LAND POLICY : **NO PARTICIPATION**

LGI Dim

4ii	Restrictions regarding rural land use, ownership and transferability are justified.	B
6i	Land policy is developed in a participatory manner.	C
6ii	There is meaningful incorporation and monitoring of equity goals in land policy.	C
6iii	The implementation of land policy is costed, matched with benefits and adequately resourced.	C
6iv	There is regular and public reporting indicating progress in policy implementation.	C
7ii	In rural areas, land use plans and changes in these plans are based on public input.	B
8v	Use plans for specific rural land classes (forest, pastures, wetlands, national parks etc) are in line with actual use.	NE

Planning processes still unable to cope with urban growth – LGI 8

PANEL 3 - URBAN LAND USE, PLANNING AND DEVELOPMENT

LGI Dim

3v	Formalization of urban residential housing is feasible and affordable.	B
4i	Restrictions regarding urban land use, ownership and transferability are justified.	A
5iv	Land information is shared with interested institutions.	NE
7i	In urban areas, land use plans and changes in these plans are based on public input.	B
7iii	The public captures benefits arising from changes in permitted land use.	B
7iv	Actual land use changes to the assigned land use in a timely manner.	C
8i	Land use planning effectively controls urban development in the largest city in the country.	B
8ii	Land use planning effectively controls urban development in the four largest cities in the country, excluding the largest city.	C
8iii	Planning processes are able to cope with urban growth.	C
8iv	Residential plot sizes are adhered to in urban areas.	B
8v	Use plans for specific rural land classes (forest, pastures, wetlands, national parks etc) are in line with actual use.	NE
9i	Applications for building permits for residential dwellings are affordable and effectively processed.	B
9ii	The time required to obtain a building permit for a residential dwelling is short.	B

**The property valuation and taxation have a lack of transparency –
LGI 10**
**Too many structures are involved in the land dispute system with
little efficiency – LGI 20**

PANEL 5 - LAND VALUATION AND TAXATION

LGI Dim	Note
10i There is a clear process of property valuation.	D
10ii Valuation rolls are publicly accessible.	C
11i Exemptions from property taxes are justified and transparent.	B
11ii Property holders liable to pay property tax are listed on the tax roll.	B
11iii Assessed property taxes are collected.	B
11iv Receipts from property taxes exceed the cost of collection.	A

PANEL 8 - DISPUTE RESOLUTION

IGF Dim	Note
20i Conflict resolution mechanisms are accessible.	B
20ii Decisions made by informal or community based dispute resolution systems are recognized.	C
20iii There is clear assignment of responsibility for conflict resolution.	D
20iv There is a process for appealing dispute rulings.	C
21i Land disputes constitute a small proportion of cases in the formal legal system.	C
21ii Conflicts in the formal system are resolved in a timely manner.	D
21iii There are few long-standing land conflicts.	D

Expropriated owners are not compensated promptly – LGI 14
Public land transactions are not conducted in an open transparent manner – LGI 15

PANEL 6 - PUBLIC LAND MANAGEMENT

LGI Dim		Note
12i	Public land ownership is justified and implemented at the appropriate level of government.	C
12ii	There is a complete recording of publicly held land.	B
12iii	The management responsibility for public land is unambiguously assigned.	C
12iv	Sufficient resources are available to fulfill land management responsibilities.	C
12v	The inventory of public land is accessible to the public.	B
12vi	The key information on land concessions is accessible to the public.	B
13i	There is minimal transfer of expropriated land to private interests.	A
13ii	Expropriated land is transferred to destined use in a timely manner.	A
14i	Compensation is paid for the expropriation of registered property.	A
14ii	Compensation is paid for the expropriation of all rights.	B
14iii	Expropriated owners are compensated promptly.	D
14iv	There are independent and accessible avenues for appeal against expropriation.	A
14v	Timely decisions are made regarding complaints about expropriation.	NE
15i	Public land transactions are conducted in an open transparent manner.	D
15ii	Payments for public leases are collected.	D
15iii	Public land is leased and/or sold at market prices.	D

First-time registration entail significant informal fees – LGI 3
Registry/cadastre information is poor and not up-to-date – LGI 17
Informal payments are not discouraged – LGI 19

PANEL 7 - LAND REGISTRY

LGI Dim		Note
2iv	Women's rights are recognized in practice by the formal system.	D
3iii	First-time registration on demand is not restricted by inability to pay the formal fees.	D
3iv	First-time registration does not entail significant informal fees.	D
16i	The mapping or charting of registry records is complete.	D
16ii	Economically relevant private encumbrances are recorded.	A
16iii	Economically relevant public restrictions or charges are recorded.	A
16iv	The registry (or organization with information on land rights) is searchable.	A
16v	The records in the registry (or organization with information on land rights) are accessible.	B
16vi	There is a timely response to a request for access to records in the registry (or organization with information on land rights).	C
17i	Service standards are published and monitored.	D
17ii	Registry/cadastre information is up-to-date.	D
18i	The cost of registering a property transfer is low.	D
18ii	The registry is financially sustainable through fee collection.	A
18iii	There is sufficient capital investment in the system.	C
19i	The schedule of fees is publicly accessible.	C
19ii	Informal payments are discouraged.	D

Analysis and recommendations

EFFECTIVENESS OF THE RECOGNITION OF RIGHTS (EXISTING LEGAL FRAMEWORK)

- **Urban land tenure rights** : a legal framework exists but is insufficient (no Code of Planning; procedure manuals are not available, the obsolescence of laws). The legal framework recognizes the rights of those with legally registered properties (recording), but this is not the case in the majority of situations. Forms of tenure that are not formally recognized exist and there are also criteria for a possible recognition of these rights; but there is a need to codify such procedures in order to enforce the practice. *(Panel 1)*
- **The legal framework makes no restriction for the recognition of rural land tenure rights.** If the rules for rights recognition exist, access to land holding (land property) remains a problem and people still cannot fully enjoy these rights. (In the current context of reform, registration of these rights is planned). *(Panel 1)*

LAND POLICY IMPLEMENTATION

(FINANCING & PUBLIC REPORTING)

- **No funding policy for the implementation of land policy** (both at central and local levels). Need for skilled human resources. Implications: land policies could be implemented inefficiently (*Panel 4*).
- **The resources allocated for managing the public domain** (administration and investment) **are clearly insufficient** to meet the requirements (*Panel 6*) – Regarding forests, the available resources are estimated at Fcfa 10 billions but it covers only 50% of the needs. And it is the same situation for the administration in charge of the Domains (estimated % of satisfied needs: 30%)
- **There is no practice in public reporting** (publication of monitoring & evaluation report). If there are some kind of follow-up activities with people, there is no real reporting regarding land policy implementation. The ways information is provided should be changed so that the people that are most affected can have access to relevant information (*Panel 4*).

EFFICIENCY OF URBAN PLANNING PROCESSES

- **The process for urban planning can hardly cope with the growing demand for services** (i.e. most new homes are informal). Urban development actually occurs spontaneously with facilities provided after urbanization. (Panel 3)
- **Formalization of this type of housing is doable but it does not lead automatically to improved housing security** because the owners may face dualism (risk of dispute). Another problem is the high cost for regularization and the important delays (theoretically the conditions are clear, simple, affordable, but in practice they are not applied consistently and transparently. (Panel 3)

Formalization = regularization of informal housing located on informal areas and built without proper authorization. This also applies to the illegal occupation of land.

REGULATION OF THE LAND MARKET

- **Need to review the land market regulation in Benin.** For example, there should be a legal text setting taxes values on the basis of market values while being affordable for taxpayer. There is also a need for a mechanism which allows to monitor sales prices. (**Panel 5**)

LAND INFORMATION

- Establish a system for information and data collection related to land governance and management. (**Panel 7**)
- Monitor and document the effectiveness of mechanisms for resolving land disputes at local level. (**Panel 8**)

**TO FEED INTO
THE DOMESTIC
POLICY
DIALOGUE ON
LAND ISSUES**

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1. The momentum - The LGAF should be implemented in an early stage of the reform. This would enhance its impact on the reform debate.

2. The buy in - It is important to have the results from the LGAF feed into the land reform process. We are planning to organize a workshop with land reform stakeholders (some of which were panel members) to present the results. A final LGAF report will be publicly available to open room for a transparent dialogue between actors in the land sector.

3. The assessment – It can be necessary to re-phrase some dimensions to the local context to ensure relevance of topic and of proposed ranking. The preparation of background materials is important.