Land Conflict Prevention and Mitigation Program

Eastern Democratic Republic of Congo

UN-Habitat

Program Evaluation

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Note

This document is the report of the Evaluation of UN-Habitat´s Land Conflict Prevention and Mitigation Program in Eastern Democratic Republic of Congo. The report was commissioned by UN-Habitat in DRC. For further information, please contact:

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Disclaimer

This report was prepared by an independent consultant with no previous involvement in the activities evaluated. Responsibility for the contents and presentation of findings and recommendations rests solely with the consultant.

The views and opinions expressed in the report do not necessarily correspond to the views of the UN-Habitat or any of its funders or implementing partners.

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Acronyms and Abbreviations

ADR	Alternative Dispute Resolution
CFI	Commission Foncière Ituri
CLPC	Comité Local Permanent de Conciliation
STAREC	Stabilisation and Reconstruction Program for Eastern DRC
CNDP	Congrès National pour la Defense du Peuple
CARG	Conseil Agricole Rural de Gestion
DRC	Democratic Republic of the Congo
FAO	Food and Agriculture Organisation of the United Nations
GIS	Geographic Information System
GIZ	German Agency for International Cooperation
GoDRC	Government of DRC
GPS	Global Positioning System
HLP	Housing, Land and Property
ICCN	Institut Congolais pour la Conservation de la Nature
ICLA	information, counseling and legal assistance
IDP	Internally Displaced People
INGO	International Non Governmental Organsiation
ISSSS	International Stability and Security Support Strategy
LCG	Land Coordination Group
CLPD	Comité Local Permanent de Développement

M&E	Monitoring and Evaluation
MAF	Ministère des Affaires Foncières
MECNT	Ministère de l´Environnement, Conservation de la Nature et Tourisme
MoA	Ministère de l´Agriculture
MoNUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MoU	Memorandum of Understanding
NNGO	National Non Governmental Organisation
NGO	Non Governmental Organisation
NRC	Norwegian Refugee Council
PMP	Performance Management Plan
SIDA	Swedish International Development Agency
UN	United Nations
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children´s Fund
UNESCO	United Nations Educational, Scientific and Cultural Organisation
USAID	United States Agency for International Development
WFP	World Food Program

Summary of Findings and Recommendations

This report is commissioned by the UN-Habitat and contains the findings of an external evaluation of the Program on Land Conflict Prevention and Mitigation in Eastern DRC. The program is built around three components, namely i) addressing land disputes, (ii) building land administrations and (iii) legal framework development, with land dispute mediation remaining the core business. These are translated into five outputs.

The program as a whole has developed over some 30 months under very difficult context conditions; security situation, absence of everything, initial reluctance of some institutions and organizations to engage. Over this period UN-Habitat and its partners have built a rock solid program that responds to the initial objectives for which it was created.

The evaluation of progress made against the identified outputs concludes that:

Output 1: All quantitative targets set for 2011 are met or exceeded. There is a need however to evaluate the quality of the delivered services and to include a number of indicators that can measure this. There is need for better defining and understanding the objectives. Indicators need also to be better defined. The UN-Habitat team needs to report with more rigor on quantitative data. Program efforts are required to follow up on mediation cases that have resulted in an agreement to ensure that these are of a sustained nature.

Output 2: All quantitative targets set are met or exceeded. Some indicators overlap with others and do not add to value to measure progress. The establishment of peace building structures is a success and a milestone for the stabilisation of eastern DRC. The awareness creation strategy needs to be consolidated and must reach increasingly more women. An information dissemination strategy is to be designed.

Output 3: All quantitative targets set for 2011 are met or exceeded, with extra training provided to specific target groups. Some indicators are not clear or overlap with others. The quality of the training delivery needs to be evaluated in some more depth. Civil society groups need special attention.

Output 4: Targets set for the delivery of titles and registered rights are not met. The output presents a conceptual challenge on "tenure security". The indicators and the program interpret this in a strict statutory legal framework, disregarding more informal forms of tenure security. This requires clarification. Targets set for the training of land administration staff are exceeded. Available opportunities to improve quality of training delivery need to be explored.

Output 5: Provincial/district level Land Coordination Groups are set up as required and are operational. National level events are not yet organized. The program needs to reflect on a new strategy to best deal with policy/law development and advocacy with major efforts at the provincial rather than the national level.

There is however room for possible improvements that can be considered in the present program framework and be implemented within the next 12 months or so, under the present USAID funding. These refer mainly to (i) improving the process of mediation as the program´s core activity, and (ii) improving program implementation and management.

The program can improve the process of mediation, learning from the three different mediation approaches that were developed. Issues that merit attention for consolidation include efficiency for dispute solving, financial sustainability of service delivery, institutional sustainability ownership and local accountability, the standardization of certain procedures, improved data capturing.

The land program as such can also be improved. Information can be made available at a larger scale, monitoring and evaluation is essential and may require extra staff, further research can be envisioned especially in relation to the functioning of local land management systems, access to land for women, the functioning of customary authority. It is also essential that all team members have a common understanding on the objectives of the program, the basic concepts, the meaning of indicators

The mission concludes that it is too early to measure the impact of land conflict management on the daily life and livelihoods of the program beneficiaries. It recommends that the program establishes a basis for a future impact assessment, which includes a baseline survey and a perception survey to identify locally recognized indicators of possible impact.

The mission proposes to support pilot experiences for future policy development, including the fine-tuning of tools to implement these policies. Two opportunities are identified. First, management challenges of and around the Virunga National Park. Forced removals of concession areas, settlement and development of commercial activities within park boundaries that are not always compatible with certain forms of conservation, the return of refugees and the integration of IDPs constitute a good and rich environment to test a broader territorial livelihood approach to land management. A second pilot considers work in a rural-urban environment, such as the smaller towns of Fataki or Kpandroma, to underpin land tenure action for the return and reintegration of refugees and IDPs.

Discriminatory customary norms and practices continue to heavily impact on the rights of women and their active participation in society The evaluation takes note that the demand side for gender specific services is significant but that the delivered services not always fully respond to the needs. Suggestions are made for the program to better address gender issues including awareness creation through focus groups, the facilitation of women in workshops, facilitating access of women to land administrations, increased involvement of women in mediation.

So far, the major focus and achievements of the program, with considerable success, are the reactive "resolution" of a significant number of land conflicts through mediation. As long as some of the causes of these land conflicts are not addressed, one cannot genuinely expect a sustained stabilization process. The evaluation concludes that a much broader land program with a long view is required to address this, taking the UN-Habitat program beyond its present mandate. Such a program can be shaped on three pillars as follows:

1. Development of a broader approach to the land conflict management process;
2. Policy and law development, including advocacy for this to happen;
3. Support to the return process of refugees and the reintegration of IDPs.

The present program can lay some foundations for this future program as follows:

(1) Taking measures to develop the present Mediation Centers into Coordination Center. The UN-Habitat should use the comparative advantage it has over NGOs and even the public sector, and actively promote coordination rather than itself multiplying future mediation implementation capacity three-, five- or tenfold.

(2) Engaging in pilot experiences to underpin land reform in an informed and inclusive process. Concrete entry points to achieve this focus mainly on:

- The allocation, occupation and management of concessions and plantations;
- The management of protected areas where these are occupied by local populations and displaced people in search of livelihoods;
- Land use planning in protracted areas of land occupation, such as communal grazing areas, where pressure on land is exacerbated by the return and reintegration of refugees and displaced people.

(3) Development of an information framework to facilitate the return of reintegration of refugee and IDP as three-tiered exercise, as follows:
- Profiling of returnees on their expectations to confront and handle land issues;
- Quick land and property assessments in identified return areas provide guidance on how expectations of possible returnees can be met
- Development of simple message for returnees to ensure that decisions for an eventual return are taken on a free, informed and individual basis.

It is now the responsibility of the organization to turn these foundation laying activities into an operational program, identifying what can be financed under present projects, and negotiating with program donors the approval of eventual program and budget revisions to implement these activities. UN-Habitat will also need to identify new funding for tasks that cannot be covered under present donor funding. It is suggested that the project develops a longer term land program framework, covering some five years, which can serve as a reference.

1.   Introduction

This report contains the findings of an external evaluation of the UN-Habitat   Program on Land Conflict Prevention and Mitigation in Eastern DR Congo. It was commissioned by the UN-Habitat. The objective of UN-Habitat to have this evaluation was twofold. First, it was interested to have an external insight in the presently ongoing activities, and requested that recommendations for eventually improving these. Second, the organization was interested in the evaluation discussing and proposing strategic guidance and opportunities to develop the present program over the next few years.

The evaluation was conducted during January and February, 2012, and covered a total period of 21 working days including reporting. In addition to reviewing the available secondary data and reports, the evaluator visited intensively the field operations of the program, conducted a series of meetings with a range of stakeholders; the evaluation program is included as an annex. The evaluator gave a presentation of the initial findings to a reference group (UN agencies, Local NGO, Provincial Ministry of Land Affairs, Provincial Ministry of Agriculture, Provincial Ministry of Justice, Provincial Ministry of Environment, MoNUSCO) called together by the program management on 3rd February 2012, with relevant comments from this meeting been integrated into this report.

1.1   Report structure

The report follows a structure that is drawn from the evaluation goals included in the ToR.

Section 2 of the report provides some background to the UN-Habitat Land Program. It locates the current program within the broader context of the International Stability and Security Support Strategy (ISSS) and the Congolese program for Reconstruction and Stabilization of War Affected Zones (STAREC).

Section 3 comprises an evaluation of progress and achievements to date against the indicators from the program logical frame as proposed by USAID, the major contributor to the program.

Section 4 provides some recommendations for improving the implementation of the present program. It focuses on the mediation process but also makes suggestions for fine-tuning program management and implementation.

Section 5 provides a reflection on the impact analysis of the program on the return, reintegration and tenure security process. It suggests some tools that may be useful for such an analysis in the future.

Section 6 briefly discusses two pilot experiences implemented by the program to secure tenure rights of vulnerable. It makes recommendations for some new pilots adjusting somewhat the approach.

Section 7 covers some issues in respect to land access and securing tenure for women.

Section 8 identifies needs and opportunities to consolidate and develop the land program. It focuses on three major components to achieve this.

1.2   Areas chosen for evaluation

The UN-Habitat team decided that the evaluation would cover the program activities in Nord Kivu province and Ituri district, Oriental province. It is noted that additional program activities are implemented in Kinshasa and others recently started in South Kivu. The program management, jointly with the evaluator, selected a number of areas in which different program teams are operational. Field visits were organized to Kitchanga, headquarters of the Masisi-WalikaleMediation Center, and the Kiwanja Mediation Center that provides services to Rutshuru territory. Consequently the mission visited Bunia, capital Ituri district, and three of the 5 existing field antennae of the Ituri Land Commission, namely Fataki, Kpandroma and Largu. The mission´s itinerary and workplan are included in the annexes.

2.   Background to the UN-Habitat program

UN-Habitat started activities in eastern DRC in May 2009, in a partnership with UNHCR. It was part of the UN-response to implement the Goma Peace Agreement, signed in January 2008. The agreement provides for the return of DRC refugees living in neighboring countries under the supervision of a tripartite committee agreement signed in July 2010 by the Rwandan and DRC governments and the UNHCR. The major aim of this first 6-month project was to identify means and develop approaches to systematically address land conflict through mediation in return areas, so as to promote an enabling environment for both return and reintegration of IDP's and Refugees. It was followed by financial contributions of Canada (November 2009), the UN Peace Building Fund (August 2010), a further UNHCR support (February 2010) and finally major support under a new project by USAID (September 2010 onwards).

Over a period of some 30 months (at the time of writing this report) the UN-Habitat has been able to consolidate different donor projects into a coherent land program, covering three distinct areas. There is a phased approach, with first activities covering Nord Kivu and Ituri, with recent expansion to Sud Kivu. This is a major achievement, especially when considering the major logistic, security and coordination challenges that continue to characterize the region.

The program is part of the International Stability and Security Support Strategy (ISSSS) led by the United Nations Mission for the Stabilization of Congo (MoNUSCO) and the Congolese program for reconstruction and stabilization of war affected zones (STAREC). UN-Habitat is collaborating with UN Agencies intervening in the stabilization framework (Stabilization Unit, MoNUSCO Civil Affairs, UNHCR, UNDP).

In the light of the dynamic situation, the initial program has adapted and gradually expanded its goals and objectives.The three core components of the program include: (i) addressing land disputes, (ii) building land administrations and (iii) legal framework development. Mediation remains the core business but is expanding gradually into land

policy work. A policy advisor was recruited for this purpose, providing services within the Ministry of Lands in Kinshasa (Ministère des Affaires Foncières – MAF). There is also an increasing interest for collaborating more with land administrations at the provincial and lower levels.

The UN-Habitat has been instrumental in putting land tenure solidly on the agenda of the peace stabilization ad recovery process in the area. Gradually there is more interest from the government, institutions and organizations "to do something" in the land sector. This provides opportunities for expansion of the program, but also entails some risks if these new demands are not accompanied by adequate measures to deliver.

3. Analysis of indicators and their compliance with the objectives of the overall program

3.1 Overall appreciation of the program

There are a number of highly positive elements regarding the process, which deserve explicit recognition and which should form some context and background to later critical analysis on certain aspects. In particular, the evaluation notes the following:

- The program as a whole has developed over some 30 months or so under very difficult context conditions; security situation, absence of everything, initial reluctance of some institutions and organizations to engage. Over this period UN-Habitat and its partners have built a rock solid program that responds to the initial objectives for which it was created.
- The program has established a rich and wide network of present and potential collaborators, not at least with public institutions. This is a strong asset for further engagement and program development.
- The field presence of the team is highly appreciated by a wide number of stakeholders that are involved in one or the other way in land conflicts. Vulnerable groups as well powerful land owners seem to respect the program and its staff. It is the first time in several decades that ordinary people have a chance to share their grievances with someone who wants to listen and eventually may find a solution to their problems, even if this is sometimes of a temporary nature.
- The program is strongly action driven, and responds to urgent ad hoc requests from partners to intervene on the spot when necessary. In fact, the team is on a 24/7 stand-by for the Government of the DRC (GoDRC) and the UN system to provide its services to mitigate sometimes explosive situations. This is not without personal risk to the staff.
- The program is adaptive to different situations and contexts. It explores local opportunities to shape solutions to a wide set of challenges. This is only possible with certain flexibility from the donors, which needs to be further encouraged.
- The management team is over-stretched as compared to the permanent workload but succeeds to deliver quality in a timely fashion. It combines high levels of social intelligence with a good understanding of the political economic environment of land in the region.

- All by all the program is money well spent on which one can build to for future land challenges which are numerous and complex.

3.2 General issues

The project document prepared for the USAID support to the land program in Eastern DRC under Grant AID-623-G-10-00012-PIO includes a logical framework matrix. It centers around three immediate objectives: mediation of land conflicts, land tenure policy and support to land administration. The document suggests that for responding to periodical evaluations, the implementing team will develop a framework of indicators to be established in accordance with UN rules and regulations. It is noted that this matrix proposal does not include targets against which progress can be assessed.

The 2011 workplan proposes a detailed implementation plan with a timeline and targets to be met. Under the Program Monitoring and Evaluation Plan, a new logical framework is included, as well as a set of seven quantitative indicators, at the suggestion of the donor. This monitoring and evaluation framework is structured around five expected outputs, progress of which is to be measured by the proposed indicators, and a number of additional indicators that were identified by the project management itself. It is this last framework and the respective indicators that were used for the analysis of the program objectives (see Annex 2). Targets to be met during the program implementation are retained from the UN-Habitat proposals; these are also used for the organisation´s reporting to the donor.

In an effort to shed some more clarity on indicators, the UN-Habitat program management is working on another a list of "harmonized indicators" for the monitoring and evaluation of activity implementation. This set of indicators is developed for measuring progress on five outputs which do not fully correspond with these of the logical framework.

Comments on the present monitoring and evaluation framework are as follows:

- In a program approach it is difficult to measure progress under specific fund contributions of particular donors. The present evaluation focuses on the program, as it is implemented since 2010; some data refer however only to 2011 ;
- A logical framework, indictors and targets to be met should be the responsibility of the donor, and not the service provider and program manager. It is acknowledged that interaction between the two parties may result in a more satisfactory product.
- Several similar, though not necessarily identical indicators are used for measuring different achievements; there is some overlap between different indicators as indicated in the following sections; different sets of indicators exist;
- In the absence of clear definitions, several concepts that are used in the indicators lack clarity; what is a sensitization campaign? What is a community based reconciliation project? When is a reconciliation activity completed?
- All indicators are quantitative; none is qualitative;

The mission recommends that one single reference framework is used for the monitoring and evaluation of the program. This is to be developed in collaboration with the

respective donors. A Performance Management Plan (PMP) could be developed as a joint effort between the donor and the service provider. This would allow to jointly develop the indicators on the basis of a shared and common understanding.

For internal audit purposes, each individual donor to the program may maintain a specific framework. A single set of consolidated indicators should be used for each framework. A limited set of independent indicators is preferred above a wide set of overlapping indicators. Specific attention must be given to assess the quality of the delivered services. .

3.3   Output 1

Output 1 is phrased as follows "Local communities have access to peaceful mechanisms for preventing or mitigating land disputes". It requires a number of clarifications before progress can be assessed.

3.3.1 Accessibility

Accessibility to mechanisms and services for ordinary rural and urban dwellers to express grievances and eventually have their problems and claims over land and property addressed has a poor record in DRC. Before and since independence, land and property administration has focused on the few that could take advantage of existing legislation to secure rights as titled land. The 1973 Code Foncier in fact serves only a small percentage of the population, with a majority remaining sidelined. Local solutions to address grievances exist, but expectations for these being successfully are poor. This has probably resulted in a majority of people living with these grievances, even when their rights are severely infracted.

Figure 1 illustrates that the origin of land disputes registered by individuals and groups can date back significantly in time; the period 1991-2000 displays a high incidence of land conflict that are presented for mitigation to the program. Different rebellions caused major displacement while warlords appropriating land at will in the absence of statutory and customary land owners. The 2002 Sun City agreement resulted in a period of temporary calm. Violence re-emerged in the period of the 2006 elections and after when CNDP members engaged in large scale appropriation of many concessions, registered land holdings a lands claimed by local populations. The return of displaced people and refugees since 2009-2010 caused another series of disputes, but, in the presence of the land program, was an opportunity to lodge these for the first time.
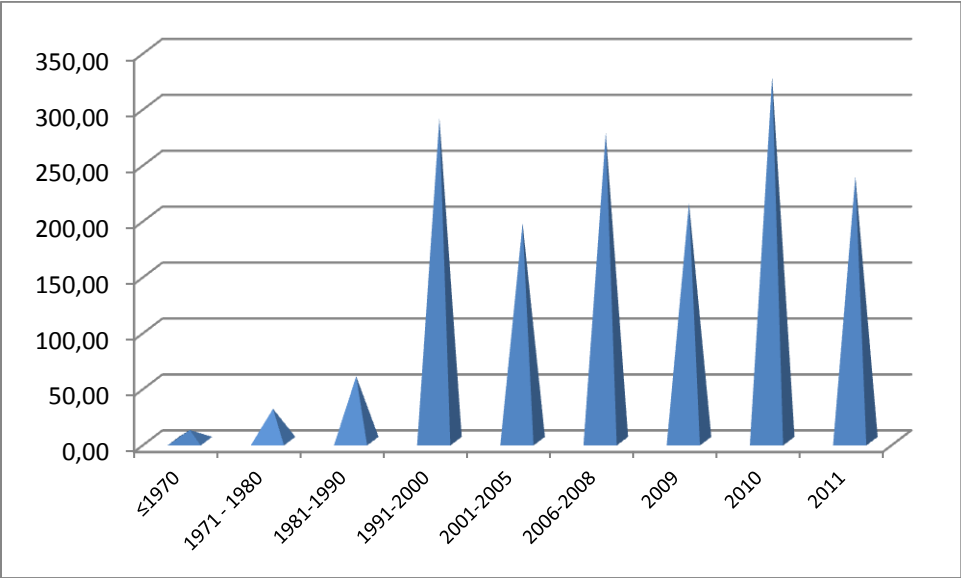
Source: UN-Habitat database

There is no doubt that UN-Habitat program has changed this considerably in these areas where it has some field presence. Providing opportunities for people to communicate their grievances is a major achievement; it is an essential part of a healing process that has often deep historic roots.

Reasons for this success include the following:

- The program is achieving a well established presence in the field. It covers areas that are still insecure, including these that are under a parallel administration system of opposition parties such as *Congrès National pour la Defense du Peuple* (CNDP) in Masisi. In fact, UN-Habitat is providing access in areas that are still controlled by CNDP, including entities in Kitchanga. This engagement is at a serious security risk for the program staff; several field missions need to be organized under MoNUSCO military escort. It is even more risky for rural dwellers themselves to travel over long distances to meet with land conflict mediators. In particular, women take serious risks by engaging in dispute mediation. There is anecdotal evidence that upon return from a mediation session outside the village environment, retaliation by local (customary) leaders and male family members is not uncommon.

- The program provides services free of charge. It breaks with a tradition of rent seeking of many actors, but also engenders challenges for future operational sustainability of the system in the absence of donor funding.

- The UN-Habitat, its staff and collaborators have established themselves as neutral and respected actors for most of the conflict stakeholders. This includes ordinary citizens but also concession holders, certain levels of public officials, local

authorities. Services are called in at any moment to handle unrest situations. This puts high levels of stress on the team, but also underscores the reputation it has built over a short period.

3.3.2 Preventing, mitigating and resolving conflicts

The project reports that support the program, as well as the logical framework, focus on land conflict mitigation and prevention as a contribution to the overall stabilization efforts. The program itself however does use the term "resolution" as a measure of output achievement and success. The concept of a "resolved conflict" is relative, and the measurement of success against indicators that refer to "resolved" is problematic. There is little doubt that an agreement between two or more parties is a first step towards the resolution of a conflict. It is also possible that agreements reached over a relative short period of time may not result in a sustained resolution of the problem. This requires assessment of agreement implementation over time, which is discussed below. There is however no doubt that an agreement is a substantial contribution to the mitigation of a land conflict.

At this stage of program implementation, it is recommended that the term "resolved conflict after mediation" is replaced by "agreement reached after mediation".

A major thread of this mission and the report is that more attention should be given to prevent conflicts rather than insisting on resolution. The many people talked to during this mission agree that in a substantial number of cases, a positive mediation outcome, resulting or not in a resolved conflict, are "bandages" only. There are a number of root causes that, if not addressed, will always undermine the sustainability of mutual agreements between different land actors. A number of policy issues need to be addressed, implemented and monitored. These are discussed later in the report under section 3.7.

3.3.3 Assessment

The logical framework indicators used for the assessment of Output 1 are:

- Number of reconciliation activities conducted and completed with the participation of two or more conflicting parties;
- Number of people participating in reconciliation activities conducted and completed with the participation of two or more conflicting parties
- Number of people reached through completed community-based reconciliation projects
- Number of land disputes registered and settled

The program reports on "resolved conflicts" as a indicator, replacing "reconciliation activities completed" and "people participating in completed reconciliation activities". This evaluation uses (i) " mediation cases documented" as a indicator for the number of reconciliation activities conducted, and (ii) "cases resulting in an agreement" as an indicator for reconciliation activities completed.

Table 1 - Number of mediation cases documented and cases resulting in an agreement

Indicator: Number of reconciliation activities conducted and completed with the participation of two or more conflicting – 2011				
	Nord Kivu	Ituri	Total	Target
Cases documented	1079	606	1685	650
Cases with agreement	401 (37%)	225 (37%)	626 (37%)	325 (50%)

Source: data prepared by UN-Habitat   staff Goma and Ituri for the evaluation mission

Targets set for the number of reconciliation activities to be conducted are significantly met and exceeded.

In fact the target set for cases to be conducted equals almost the number of cases that have resulted in an agreement. The proportion of 50% for the number of cases with agreement as compared to the total number of documented cases is not met. It is stressed here that the proposed 50% is high and probably does not correspond with what realistically can be achieved. Interviews with other mediation actors indicate that an agreement rate between 10-30% is more realistic. In this context it is observed that the rate of 37% achieved by the program is very successful.

It is noted that data prepared for this mission at the request of the consultant and these included in the annual reports prepared may differ. The consultant decided to use the former. These differences indicate some lack of rigor with which data are presented.

Data on the participation of households participating in mediation activities are as follows.

Table 2 - Number of households participating in mediation, resulting in an agreement

Indicator: Number of households participating in reconciliation activities conducted and completed with the participation of two or more conflicting parties – 2011				
	Nord Kivu	Ituri	Total	Target
Cases documented	15,117	38,511	53,628	
Cases with agreement	2,962 (20%)	8,607a (22%)	11,569 (22%)	10,000

Source: data prepared by UN-Habitat   staff Goma and Ituri for the evaluation mission

Targets set are slightly exceeded.

It is noted that the 2011- Ituri report indicates a total number of 6787 households that have benefitted from an agreement, and a number of 35,849 households with cases documented (first and second parties).

The data refer to households and not to individuals. The mission has observed that sometimes there may be a lack of clarity on this issue. It is noticed that several of the conflicts that are addressed are of a community or collective nature. In this case, all the households involved as participants and beneficiaries of the conflict are reported and included as "household" in the statistics. For instance, a conflict between 2 communities with 50 households each is reported upon as 100 households have benefitted from an intervention. This corresponds with the reality, but on the other hand may inflate somewhat the total number of beneficiaries, and eventually distort compliance with set

targets. Table 3 provides detail on the documentation of collective conflicts as compared to the overall dataset.

Table 3 - Occurrence and agreements of collective/community land conflicts

Occurrence and agreements of collective/community land conflicts - 2011				
	Nord Kivu		Ituri	
	Number	% of total	Number	% of total
Cases documented	109	10%	243	40%
Cases with agreement	33	8%	69	31%

Source: data prepared by UN-Habitat   staff Goma and Ituri for the evaluation mission

It is clear that collective cases are more commonly dealt with in Ituri as compared to Nord Kivu province.

3.3.4 Comments

Following comments and recommendations are made.

- There is a need for more rigorous reporting on quantitative data. There are several systems of data capturing, but most information is drawn from the database and reports that are prepared in the field. The whole set up is not entirely clear to the reporter, but it results in datasets that differ. Each reporting on data should clearly mention its sources, the period over which it was compiled.
- Several indicators need a clear definition.
- The existence of an agreement is taken as a proxy for a "resolved conflict", but there are still some additional steps that need to be taken to better measure mediation outcome success. In first instance, the program needs to finalise the mediation process. This implies that as part of the agreement, the necessary steps need to be taken to put the agreement into place. This may refer to the delimitation or demarcation of boundaries; the physical erection of boundaries such as the planting of a line of life trees; inventory, land and property valuation for eventual compensation.
- The compliance of the agreement needs to be monitored, not necessarily by the mediators but probably by a local body. This may refer to the effective respect that incumbents demonstrate for erected boundaries, continued encroachment on the land of others, payments of compensation.
- The logical framework does not put into place qualitative tools and indicators to measure the quality of the mediation and its outcome. This needs to be addressed as a matter of urgency. In the first place it is recommended that the team and donor reflect on including a few qualitative indicators. Second, the reporter proposes that a Customer Satisfaction Survey is conducted, targeting (i) the quality of the mediation services delivered, (ii) the quality of the agreements reached, (iii) the expectations on the sustainability of the outcome of the agreements.

3.4 Output 2

Output 2 is phrased as " Factors contributing to land conflicts and violence related to the natural resource sector are monitored and mechanisms for deterrence are set up throughough raising awareness, training program and education on land issues"

Indicators to measure progress on this output are:

- Number of community-based reconciliation projects completed;
- Number of Peace-building structures established or strengthened that engage conflict-affected citizens in peace and/or reconciliation processes;
- Number of sensitization campaign conducted;
- Number of people assisted with advice on land and property matters;
- Number of brochure on land and property given to community.

3.4.1 Community based reconciliation projects

Two specific community based reconciliation projects are in a phase of being completed:

- Luhonga case opposes some 512 households, mainly former laborers of an agricultural plantation and the new concession holder who has strong political and military influence. This project was visited by the mission;
- Hewa Bora case which deals with the challenges of the resettlement of vulnerable groups, including indigenous groups such as Twa, (pygmees), close to protected areas and concessions.

The Luhonga case stands out as a success story in the make, although some issues still need to be dealt with. This is further discussed under section 6.

It is clear for the reporter that a number of successful high profile cases are strategically important for achieving higher levels of stabilization and social peace. They can also contribute to establish knowledge and vision on how volatile situations that have often deteriorated into violence can be dealt with in a rather successful way. The outcomes of these pilots are not the final answer to deeply rooted outstanding land policy issues, but offer possibilities for further dialogue.

3.4.2 Peace building structures established or strengthened
Major program achievements under this output are:
- creation of specific structures for land conflict mediation;
- support and facilitation of the functioning of a number of structures that have emerged as part of conflict mitigation process;
- support to existing structures that are involved in conflict mitigation.

Table 4 summarizes the achievements.

Table 4 - Number of peace building structures established or strengthened

Nature structures	Nord Kivu	Ituri	Trained people	Target
Mediation Center	2		5 mediators; 16 animators	4 Mediation Centers set up;
CLPC	7		170	
CLPC sub committee	7		-	10 Local structures strengthened;
Elder Committee	2		50	
Specific ad hoc groups	4		-	
CFI mediation antennae		5	3 mediators; 27 animators;	20 Mediators trained
Local conflict monitoring structures		10	50 monitors	
Bureau du contentieux – land admin	4*			

Source: field work; reporting requested by evaluator to mediation centers and CFI support group; reports on training achievements;* direct info land administration Kiwanja

Quantitative targets set for this progress indicator are met beyond any doubt.

It is noted that animators have been trained as mediators; hence the total number of mediators exceeds the target of 20. The approach to handle mediation through Mediation Centers is only used in Nord Kivu. Actually, two such centers are fully operational, and a third one is anticipated to be set up. In Ituri, the CFI replaces to some extent a Mediation Center while its Antennae engage in day-to-day mediation.

It is noted that the program adopts a strategy of creating ownership and sustainability by supporting an important number of existing local, customary institutions such as elder committees. It also supports new institutions that are put into place by the GoRDC to promote stabilization and peace, including the Local Permanent Conciliation Committees (Comité Local Permanent de Conciliation – CLPC) and their subcommittees. This strategy merits however some further thought (see section 4.1.2.4).

It is interesting to see that as a result of some collective land conflict mediation efforts a number of civil society based groups have emerged, albeit with pro-active facilitation of the program. These include, for instance, a reflection platform between concession holders and former concession laborers (Luhonga and some other cases in Masisi), a negotiation platform between cattle herders and farmers (Kiwanja).

The mission was not able to assess the functioning and performance of the conflict monitoring structures set up in Ituri.

3.4.3 Number of sensitization campaigns conducted

The program considers two different forms of awareness creation. First, awareness is created in specifically designed events, workshops and similar, to inform participants on a variety of issues such as the land project objectives, possibilities offered to address conflicts, approaches to mediation, procedures to lodge a grievance and register a conflict. In this event driven approach, specificallyspecifically designed workshops have been organized mainly in 2010 under the partnership between UN-Habitat and UNHCR.

Table 5 - Specific awareness activities organized in 2010 under the UN-Habitat - UNHCR project

Nord Kivu	Ituri
36 targeted meetings mainly focusing on displaced people, populations impacted by concessions and protected areas; unknown number of participants	10 workshops with a total of 700 participants
	3 two-day events with a total of 1276 participants including 51 women
	4 workshops with a total of 800 participants

Source: field information; program reports

It is evident that other events organized by the program will address, by default, issues of awareness raising among participants. To avoid duplication and overlaps with other indicators and goals to be achieved, these are however not included here as specific and event driven awareness creation meetings.

The second approach to more specifically create awareness on the registration and mitigation of land conflicts, is of a more permanent and systematic character. Field mediation teams use every opportunity when providing services in the field to raise awareness in the visited areas. This strategy seems to be used increasingly during 2011, with both Nord Kivu and Ituri having functional field teams in place. Achievements are as follows.

Table 6 - Permanent and systematic sensitization efforts linked to field visits by mediation teams

Number events/people reached	Nord Kivu	Ituri	Target
Number of field sessions	280	177 sessions organized by CFI Antennae	100 campaigns/workshops
		268 sessions organised by UN-Habitat (a)	
Number of exposed people	20,111	24,658 (51% women)	
		18,158 (2%) (a)	

Source: field information compiled during this mission (all info Ituri and number sessions Nord Kivu); program report (people exposed Nord Kivu); results refer to year 2011

Note: (a) Before the functioning of the CFI antennae in mid 2011, UN-Habitat   mediators and animators delivered awareness creation directly to targeted communities

Depending on the different interpretations that can be given to "session", "campaign" and "workshop", there is little doubt that the set target is met.

It remains however difficult to qualitatively assess the delivery of awareness raising during routine field work of mediation teams. The target indicator is not clear: it puts the idea of campaign at the same level as workshop. A workshop is an organized event, whereas a campaign is a set of different activities spread over time.

The number of people that have been reached by these activities is important. Compared to the number of households that have engaged in conflict mediation, it can be concluded that there is some sort of internal awareness creation effect among the people themselves.

It is somewhat worrying to observe that direct UN-Habitat awareness creation efforts have reached few women (2%). The community based CFI antennae efforts have reached many more women as compared to these of the Mediation Centers in Nord Kivu.

Reaching out to women, involving women in land debates, having women in mediation teams and taking up positions in land administration remains a major challenge in eastern DRC. Serious cultural blockages persist, and are reinforced by the armed conflict, the presence of male dominated militias (in Central and Latin America engagement of women in armed militias is much more pronounced; many women were fighters in the Liberia conflict), violence on women used as a tool to maintain instability.

3.4.4 Number of people assisted with advice on land and property matters

It is not clear whether advice refers to being exposed to some activity of awareness creation, or actual engagement in conflict mediation. In the first case, Table 6 provides information on the status of this indicator for the year 2011. In the second case the indicator overlaps with indicators discussed under section 3.3.3.

3.4.5 Number of brochures on land and property given to communities

Table 7 summarizes the achievement for this indicator. It is noted that no targets are set to assess progress made.

Table 7 - Leaflets and other material prepared for awareness creation

Item	Numbers printed	Field distribution – Ituri
Newsletter	Seven editions; 3 in 2010 and 4 in 2011; 5000 copies each	100 copies each
Program information leaflet (3 languages	10000 and 10000	300
Land acquisition procedures leaflet (2 languages)	10000	300

Source: direct field reporting from field teams

The Newsletter is published at regular intervals (a major achievement), is of a good quality and instrumental in transmitting a number of good life stories and messages.

Two leaflets are produced, but fall short to be genuine instruments for the targeted public, ie. people who are in need of help for resolving land conflicts. The leaflet on land acquisition is more targeted to this narrow layer of society that is already well informed on how to use and misuse the 1973 Land Code. .

It must be of concern to the team that the objective of producing mass information dissemination materials is to reach out to the large target public, mainly poor, vulnerable and illiterate people, with many women being analphabet. The objective of the message to be disseminated is (maybe falsely) simple " the whose, wheres and hows so solve my problem". The inclusion of mobile phone numbers on which mediators can be contacted is excellent but not enough. Some more thought is required for future leaflets, especially in relation to contents and target public.

The key question remaining to be answered refers to the indicator as it is spelled out: How many of these brochures and leaflets have **reached** the communities? Or, in other words, which is the leaflet the best tool to reach the populations?

It is observed that the distribution of the written materials to the field may be somewhat problematic. On the basis of information provided by the Ituri team, few copies have reached this district for distribution..

In a society where analphabetism remains high, especially amongst vulnerable groups and women, the use of other dissemination media needs to be explored. Rural radio is used in Ituri, and merits further attention. A radio broadcast program is being developed in partnership with the Provincial Ministry of Land Affairs, with first emissions anticipated for mid March 2012.

It is also noted that the program has developed a solid series of briefing notes on specific land conflict cases and their handling. The concept notes prepared by the Ituri team stand out. There is potential to use these materials more efficiently; editing and making these available to a broader public is recommended.They constitute good background material for policy advocacy work .

3.4.6 Comments

Awareness raising has many facets: it aims at reaching different groups for different purposes, and uses different tools to achieve its objectives. Awareness raising in the program seems to evolve from specifically organized events to day-to-day exposure created by the mediation field teams. Some groups are better targeted than others, with on some occasions women not being reached in a satisfactory way.

Information dissemination, especially written information, is part and parcel of the awareness creation strategy. Although several of these are produced in local languages, there remain doubts whether they are the best tools to reach different groups. The latter do not only include people that are confronted with land conflicts, but also other players that are instrumental in supporting the implementation of the program, including the GoRDC and donors.

The mission suggests that the program management team reflects on consolidating the awareness raising process, including its information dissemination strategy. The assistance of specialized short term technical input is required to achieve this.

The evaluation mission has identified a number of opportunities and needs that may be considered as part of such a strategy, as follows:

- Consider to use adapted tools to target specific groups of people; oral information, including radio emissions are probably best for communities; leaflets better target administrators; technical concept notes and newsletters keep donors, partner organizations and institutions informed. The possible use of mobile phone is yet to be explored. A program webpage may expose the program to an international audience..
- The program can consider making use of existing rural networks. It can work through focus and local civil society based associations/organizations who are often in a better position to create awareness among their members and supporters. Certain women associations offer good opportunities to implement such a strategy. The program´s responsibility here is to provide the necessary training to a selected group of trainers.

3.5   Output 3

Output 3 reads as " Keys actors at the community level are endowed with strong training on alternative dispute resolution mechanisms so as to better manage land dispute and to reinstate credibility and social cohesion spirit towards community members."

Indicators used to measure progress are:

- Number of facilitated events geared towards strengthening and understanding conflict affected groups;
- Number of civil society activities supporting high-level, official peace or reconciliation process negotiations supported;
- Number of keys actors trained on ADR and land dispute mitigation.

3.5.1   Number of facilitated events geared towards strengthening and understanding conflict affected groups

This indicator overlaps with a number of others such as awareness creation, support to mediation efforts, etc. As a matter of principle most groups that are targeted under the program are conflict affected, and most events, including sensitization, conflict mediation, training are facilitated by the program. Achievements related to the number of specific events organized with " training" as the main objective are reported under section 3.5.3.

3.5.2   Number of civil society activities supporting high-level, official peace or reconciliation process negotiations supported

The exact meaning of this indicator is not clear to the reporter, or to the field teams who were requested to provide more clarification and eventual inputs to evaluate this indicator. It is probable that progress made under this indicator is yet again captured by other indicators.

3.5.3 Number of keys actors trained on ADR and land dispute mitigation

This indicator is interpreted as referring to specific training events, organised by the program. The main objective of these events must be the mitigation and management of land conflicts using Alternative Dispute Resolution (ADR) methods. Other training efforts and activities are captured under other indicators. It must be mentioned that the program has restricted the use of ADR methods to mediation.

Table 8 provides information on the number, nature and venue of the organized events, the number of participants, all covering the period mid 2010 – end 2011. It is noted that most training events have been documented in the form of a Training Workshop Report.

Table 8 - Mediation training events

Training Event	Venue/Number events	Number participants	Date	Target 2011
General 2-day information training workshop (a)	Kiwanja/1	98	May 2010	10 civil society organizations trained
	Lubero/1	43	May 2010	
	Beni/1	97	May 2010	
	Nyanzale/1	114	May 2010	
ADR 2-day training workshop judiciary (a)	Goma/1	60	June 2010	200 local administration members trained
3- and 4-day workshop on conflict mitigation for customary authority (a)	Kiwanja/1	50 (0 women)	March 2011	
	Masisi/1	42 (0 women)	March 2011	
	Lubero/1	51(3 women)	March 2011	
	Beni/1	52 (0 women)	April 2011	150 traditional authority members trained
5-day Workshop CFI members and animators	Bunia/1	29 (7 women)	May 2011	
6-day training workshop mediators, animators	Goma/1	15 (3 women)	May 2010	
5-day training workshop members CLPC (a)	Kamuronza/1	24 (6 women)	July 2011	
	Biiri/1	22 (11 women)	August 2011	
	Bashali-Mukoto/1	31 (14 women	August 2011	
	Kihondo/1	19 (8 women)	August 2011	
	Buhumba/1	19 (6 women)	SeptemberSeptembre 2011	
	Kisigari/1	24 (6 women)	August 2011	
	Binza/1	33 (12 women)	August 2011	
3-day training workshop subcommittee	Kiwanja/1	28 (8 women)	September 2011	
	Kitchanga/1	36 (14 women)	September 2011	

CLPC (a)				
Members elder committees Kitchanga, Kiwanja	4	105 (5 women)	August-October 2011	
Training workshop ADR, monitoring for community leaders	Fataki, Jiba, Drodro/3	110	September 2010 – January 2011	

Sources: (i) workshop reports for (a) ; (ii) others: data prepared by UN-Habitat staff Goma and Ituri for the evaluation mission

Matching achievements with set targets results in the following conclusions:

- The number of 300 trained customary authority members in workshops exceeds significantly the set target of 200 for 2011. Customary leaders are also members of CLPCs and their subcommittees; they are also well represented as community leaders.
- The target of 200 local administrators is met when considering the workshops organised for the CLPC, and their subcommittees, community leaders.
- Specific training sessions for civil society organizations were not organized. Their presence in the general 2-day information training workshops was however more than satisfactory. Table 9 indicates, to the best knowledge of the reporter, that 124 civil society organizations, often local NGOs, have been exposed to training, mainly organized at the early stages of the program, ie. mid 2010. This exposure is not necessarily the equivalent of "being trained", but the achievement can be measured as more than satisfactory.

Table 9 - Civil society groups represented in the general 2-day information training workshops

Training event	Number of civil society groups represented
Kiwanja	41
Lubero	18
Beni	35
Nyanzale	30

Source: Training Workshops Reports

The mission stresses the extreme low participation of women in these training events (see Table 8). The highest presence of women is observed in events targeting the CLPC and its subcommittees. This is however a result of the statutory determined need to have both a woman and a man representing each involved community. Gender specific issues are further discussed section 7.

It is noted that a 2-day workshop targeting the judiciary was organized. This is a well thought strategic decision that is encouraged for the future.

3.5.4 Comments

As with many other outputs and indicators, the quality of the delivered services is not measured. This remains a major challenge for further development of a logical framework.

In the particular case of training workshops, it is possible to gauge to some extent its quality, using a set of quantitative and qualitative variables that characterize the event. These data can be assessed against some accepted rules of thumb, as follows:

- Number of participants; multi-day training events focusing on participatory methods with more than 25 participants become difficult to manage and impacts negatively on the its quality
- Duration; 2-day training workshops to handle complex and multi-layered issues such as land governance, land conflict mitigation are rather short;
- Delivery mode; participatory methods with several practical exercises and field visit(s) are often preferred above ex-cathedra delivery methods. The use of real life practical examples brings participants closer to reality. A participatory workshops generally requires more time to deliver;
- Program contents; a good indicator to assess whether specific training workshops are really targeted to the participating public and whether the delivered materials respond to the need;
- Participant satisfaction survey; can be used but with care

The major condition for this assessment to happen is that that the events themselves are well documented in reports, which is the case for several of the program´s workshops. It is recommended that a more in depth future evaluation looks at this issue.

3.6   Output 4

Output 4 reads as "Land tenure security is promoted among community members through land administration capacity strengthening". The evaluation focuses on two important aspects that are captured in the output description: (i) providing security of tenure to community members, and (ii) strengthening the land administration capacity to achieve this.

Achievements and progress are to be measured against the following indicators:

- Number of community members with **registered rights** on land;
- Number of plot of lands given to landless;
- Number of land administration staff trained;
- Number of title delivered by the land administration.

Specific targets to be met for 2011 were not identified by the mission.

A number of preliminary clarifications are required.

3.6.1 Conceptual issues: Code Foncier, tenure security, registered rights and titles

Land tenure is the relationship, whether legally or customarily defined, among people as individuals or groups, with respect to land and associated natural resources (FAO Thesaurus). Security of tenure is a relative perception between these different people as to how sure they are that they can enjoy the use of their land without that it can be taken

away. Providing tenure security is thus more than an objective technical issue; it is in fact a subjective relationship issue.

The 1973 Code Foncier regulates access, holding and use, transfer of land. The Code is in fact a 399-article legal text to regulate the concession of state land to individuals and corporate entities. All land is deemed to be state owned property, falling either under its public (land for public use) or private domain. A concession can be perpetual (mainly in urban areas for private national citizens) or limited in time (an ordinary concession, often in rural areas). Land that is acquired through the arrangement of a concession needs to be occupied and used (*mise en valeur*) for a certain purpose and on a continuous basis; a change of land use needs in principle to be approved by the state (art 93). The major requirement for maintaining a concession is its use and the payment of the annual land use taxes.

An ordinary concession can take on different legal forms: the "*emphytéose*" (a concession for 25 years), the right to use the surface (*droit de superficie* – 25 years), a usufruct right (*l'usufruit* – 25 years), a land use rights (*droit d'usage* -15 years), and the lease right (*location* – 3 years). All rights are renewable to different degrees (art 109). All these provision are generally categorized as "land title" (titre foncier).

Section 5 instructs the procedures for obtaining a concession, including the institutional responsibilities. It requires a preliminary assessment (*enquête préalable*; art 193-203) to identify whether the requested land is free for use, whether some part is are already occupied or used by others, whether there are local objections for the state allocating the land

The customary land rights of some 200 different ethnic groups, totaling a population of in excess of -60 million, are dealt with in three articles altogether; this alone merits their integral reproduction below. Article 387 turns all community and customary land into state land; article 388 recognizes that customary rights include both common and individual and supports to some extent a territorial concept for handling community rights. Article 389 supports that customary land use rights need to be regulated under a specific law. The absence of such a law for almost forty years is the single most significant indication that DRC has never taken customary land rights seriously.

The following brief comments can be made on the Land Code:

- The law is exempt of any provisions to legalize customary land rights on which a large majority of citizens depend for accessing land;
- A local consultation process is required to declare a parcel vacant of any other rights before a land title can be issued;
- The concept of concession is based on the actual use of the land for a specific purpose; these are instruments to monitor the proper use of granted land rights but in practice the auditing does not take place;
- The issuance of concessions is remarkably restrictive with regard to the size of the plots that can be allocated at different levels of decision making; there is no doubt about the centralized character of land allocation and the powers it brings along to control land;

- The law responds to a number of important market dynamics: allocated concessions can be transferred without too much bureaucracy, can be mortgaged and subleased;
- Land administration and management is the responsibility of the state only; there is little to no official role for traditional authorities or customary land management institutions;

The 1973 Code provides some form of tenure security to a very restricted group of people. Ordinary citizens cannot make use of this instrument because it is not accessible: too expensive to be used (real and opportunity costs to get a title); defunct land administrations serving clients on a conditional basis – low levels of good land governance; insufficient knowledge on its existence (although the mission was informed that several customary leaders know the law well, at least some essential articles).

In the present post conflict situation, the issuance of land titles for securing is even more problematic. Land is allocated in the absence of other (customary) rights holders; administrations allocate overlapping parcels; levels of rule of law in general and good land governance in particular are very low, among other things.

The conclusion is that the issuance of land titles creates insecurity rather than security in post conflict eastern DRC.

3.6.2 Alternative forms of tenure security

In the absence of accessible statutory mechanisms to secure tenure, people and local authorities are developing their own security tools. This provides these incumbents at least with some form of security, as long as there is not too much interference from outside, including from the land administration. The following tools were identified during this mission:

- ***Acte parcellaire***; document signed by the « chef de groupement or chefferie » to confirm the occupation of a certain parcel by a person or family ; the document is not legally recognised ;
- **Fiche d´occupation parcellaire :** document signed by a local administrator (the mayor in urban areas ; the territorial administration in rural areas ; sometimes considered as a first step towards a land title but not recognised per se in law ;
- ***Demande de terre***: issued by the land administration after a request for title ; recognised in law as one of the first steps to acquire title
- ***Acte de vente***; signed agreement of land sale between two parties ; can be notarised or not;
- ***Acte de reconnaissance coutumier*** ; certificate issued by a customary chief as a proof of land occupation
- ***PV de attribution***

The reporter did not evaluate these mechanisms in enough detail to form a solid opinion on their nature and use.

The existence of these tools indicates however that people want to secure their lands, often in their own way, using eventually the law on their own terms. This is a practice that is also widely applied in several countries of the region, even when statutory law provides "official" and accessible opportunities to secure land (Uganda, Tanzania, Rwanda, Liberia, Mozambique just to name a few). These instruments are legitimate for the land holders, although they are not legally recognized by the land administrations. In certain countries, commercial banks accept these legitimate documents to issue credit on the basis of land collateral. This underpins that the informal dimension of tenure security is widely accepted. There are two essential issues for informal tenure securisation tools acquiring a high status of legitimacy (see also experiences in Madagascar, Uganda, Rwanda, Ivory Coast). First, there is a need to document these. Second, the documentation is legitimized by the approval of local authorities, both public and customary, through signing as witnesses.

3.6.3 Tenure security for host communities: the welcoming capacity

As tenure security is a relationship issue, it needs to look at different parties simultaneously. Returnees and newcomers need to share with the host community a finite resource base that is contained within the boundaries of a community management territory. The success of a return process to rural areas of origin, by far the best scenario for re-integration and recovery if this is indeed possible, is conditioned by the willingness of host communities to receive newcomers without conflict and by the capacity of the resource basis to support the populations. When host communities do not enjoy security of tenure, they will be very reluctant to receive returnees or dislocated for (re)settlement. On some occasions, IDP and (re)settled refugees acquire stronger rights than the hosts, which inevitably lead to conflict. In this particular needs context, providing security of tenure for all actors (including temporary rights), resolving and preventing conflicts, assessing the "accommodation or welcoming capacity" of host communities, planning the future use of the land and natural resources, developing mechanisms to share resources between different social groups (such as host communities and the IDP's), are all ingredients of tenure security.

3.6.4 Number of community members with registered rights on land; with title delivered by administrations

So far no registered rights for community members were issued under the program. There are however signs that the beneficiaries of (i) the Hewa Bora resettlement scheme, and (ii) the Luhonga case may be issued with some kind of documented right in the near future. In Hewa Bowa the land administration has issued a local variant of a "*petit papier*", a JETON, which includes a parcel index and family name of the beneficiary. This requires however further investigation before action is taken. These cases are discussed in some more detail under section 6.

The evaluation mission observes that the concept of "registered right" is used in the indicator description. This does not necessarily refer to a land title (titre foncier), which is positive and in line with the need to add value to informal arrangements. The ideal scenario would be that informal but documented and locally approved land rights are legally recognized in future land legislation.

Indicator 4 under this output measures however the number of land titles issued under the program. No land titles have been issued by land administrations. Against the conceptual background discussed above, this is not necessarily a negative outcome for the program.

3.6.5 Number of land plots given to landless

The concept of landlessness is subjective, especially in the context of massive displacements during the war, secondary occupations of land and property, forced land evictions, specific livelihood strategies (nomadism and other forms of mobile livelihood strategies), among other things.

The two concrete cases of mediation and settlement mentioned above can categorise, arguably, as a contribution to this indicator of achievement.

3.6.6 Number of land administration staff trained

This indicator refers to specific events targeting land administration staff. Quantitative achievements are as follows.

Table 10 - Specific training delivered to land administration staff

Event	Venue/Number events	Number participants	Date
3-day Training workshop land administrators (a)	Goma/1	40 (2 women)	January 2011
3-day Training workshop land administrators (b)	Beni/1	39 (3 women)	January 2011
Training workshop land administrators (b)	Bunia/1	37 (3 women)	November 2011

Source: (a) Goma: Report on training workshop; (b) other workshops synthesis note on training progress provided by the program management

The logical framework does not include specific targets to be met for the year 2011. The Proposed Workplan for 2011 refers to a target of 40 land administrators trained in Nord Kivu and Ituri. This target is exceeded considerably.

The Goma training workshop report provides some insight in the scope, objective and quality of the training delivery. The 2011 Workplan sheds light on how the program envisages the support to land administration services. Following comments are made.

3.6.7 Comments

As with many other indicators, quality and adequacy of delivery is not measured. In the light of the above discussion, this seems however more than pertinent here.

As a general practice, and from GoRDC´s viewpoint correctly so, land administrations are trained to better apply the existing regulatory framework and its instruments, ie. the Code Foncier 1973. This aim is clearly reflected in the training program. A significant part of

the course is dedicated to the understanding of the Code, land titling, expropriation of land for public use (!), the functioning of different land administration institutions. Different concepts of securing tenure, some understanding of customary tenure systems, possible informal tenure securisation instruments are not being dealt with. The training program does not seem the locate land administration in a specific post conflict context. There is no reference to best land administrations practices that are developed and used in other countries under similar conditions.

It is however good to see that land governance, or deontology as it is referred to, has its place in the training. Indeed, the 1973 Code includes some important mechanisms that, when applied and used well, can curb a number of current practices that have a major negative impact on the overall tenure security situation. It is also encouraging to learn that some participatory sessions were organized in working groups. The participation of trainees covers well the different institutions and functions that fall under the denominator "land administrators", including: senior level provincial management staff, registrar (conservator of titles), cadastre, registration, property people, land tax people, conflict arbitrators, representatives of cadastral field teams, agronomists attached to the Ministry of Agriculture, trainers from the National Cadastre School.

There is some real potential to use the training of land administrators for supporting the dissemination of a much broader view on "tenure securisation", and adapting present interventions in a flexible way to the specific post conflict situation. A strategic intervention with possible high impact would be that the program establishes a partnership with the regional branch of the Ecole National du Cadastre. The UN-Habitat staff or visiting consulting could deliver some ad hoc guest courses. The involvement in a Curriculum revision, with a view to adapt the administration to present day needs, would be a more substantial input, with longer lasting impact.

Apart from training support, land administration also benefit from material support, as reflected in the 2011 workplan. This includes the purchase of basic equipment for "securing community land rights" (GPS, theodolite, hard and software), GPS and GIS purchase and training. This support needs to be taken with care. It is not technology that will solve conflicts, but people. Some basic equipment is needed, but the land administration staff needs to be made aware that the delivery of technology only will not solve the problem of land administration and good governance. Land administrators need to broaden their skills kills in a more holistic way, including management, communication, knowledge on customary land management practices.

A stronger collaboration is advocated between the program teams, including the Mediation Centers, the CFI and its antennae, the program management team on the one hand and respective land administrations operational at the same levels on the other. All sorts of opportunities need to be explored. In Masisi (Kitchanga) for instance it is recommended that office space is provided in the Mediation Center for accommodating the CTI chief. He holds presently office in Goma with little accessibility to transport for executing his job in Masisi.

Another set of interventions should consider to provide support to land record compilation and management as follows:

- Support the physical decentralization of cadastral archives, from Kisangani and Bukavu to respectively Ituri and Goma;
- Support the compilation, digitization, and copying of land records held at various locations;.
- Upgrading and maintenance of archives to meet physical and procedural requirements for convenient but safe public access to records and their preservation (appropriate shelving and storage materials for land records, needed registry supplies and a fumigator to prevent insects from destroying land records)

Gender specific issues such as access to land for women, involvement of women in land administration and mediation, participation of women in the execution of the land program remain challenges. The socio- cultural environment is not very enabling for women to exercise a more prominent role, but there are exceptions. The mission met with the administrator of Kiwanja, a woman who managed to register some land in her own name. Such examples should be guiding the team to mainstream more gender issues in the land program. The results of the scheduled study on land access for women may shed more light.

3.7   Output 5

Output 5 is framed as "An inclusive framework is set forth both at the national and provincial levels in order to promote a comprehensive dialogue related to various land issues with the aim of improving the land legal framework which is a major cause of the irrational land management and the lack of tenure security in post-conflict area."

Indicators to measure the program´s achievement are:

- Number high level or officials involved in land conflict prevention and mitigation at national and provincial levels;
- Number of land workshops held both at the national and provincial levels;
- Number of Land Coordination Groups set up;
- Number of Ministries involved in the process of Land Coordination Groups;
- Number of meetings held with the Land Coordination Group;

3.7.1 Context issues

There is no doubt that the existing legal framework governing land in DRC is up for revision if it wants to be used for securing land rights of ordinary people (see 3.6.1).The post conflict situation in eastern DRC will also require that some specific measures are taken to handle certain particular issues that are addressed in this report.

First, there is a need for some institutional analysis. The Ministry of Agriculture (MoA) has taken the lead on this reform. It has drafted a law on Basic Principles for the Agricultural Sector (some sort of Code Agricole) which was approved under 11/002 in

December 2011.It includes a number of articles dealing with the acquisition of land (articles16 – 27) but reinforces the notion of a dual approach to land rights, commercial rights and rights for communities and its folks, without any significant detail on how to deal with the latter.

The Ministry of Environment, Nature Conservation and Tourism (MECNT) has made serious progress with the forest law reform, that includes important elements of land tenure. The concept of Local Community Forest Concession for instance responds to a certain extent to the need to formalize the legitimate customary rights of rural dwellers over natural resources. So far, it is practically the only tool available to formalize customary rights.

The MoA has conducted the revision of parts of the Land Code without real involvement of the MAF which has the institutional mandate over land administration. Interaction between the MoA and MECNT on issues of community land rights is not known but appears to be weak or inexistent.

It is thus clear that the Ministry of Lands (Affaires Foncières – MAF) is not the only public institution that is involved in reforming the sector. In fact it seems that part of its mandate is taken over by other ministries.

Second, reflection is required on the different levels of intervention that are possible and desirable to initiate, facilitate and conduct a land policy and law reform process. This mission concludes that efforts at the provincial level should be supported as much as possible. The Constitution embraces the principle of concurrent powers for policy and law development (check article). Land legislation supports that several issues are regulated by the provincial governor and other provincial institutions. The provincial governor has decision making powers over the allocation (and consequently the cancellation, renewal, and auditing) of concessions that do not exceeding 200hectares. This category is arguably widely present in eastern DRC.

A senior land administrator in Goma suggested to the reporter that Article 389 of the Code Foncier " *Les droits de jouissance régulièrement acquis sur ces terres seront réglés par une Ordonnance du Président de la République*" could eventually be dealt with by a provincial government law. Although this seems unlikely to happen soon, it illustrates the desire at the provincial level to get more pro-actively involved in policy and law development. Another senior public officer interviewee affirms that " *the revision of the Agricultural Code is inspired for 90% by work in the Kivu provinces*".

It is a useful exercise to analyse more in detail the the concurrent powers on land management between national and provincial level, as stipulated in the Constitution and eventually other law. In practice, the land sector seems to gain weight on the political agenda of the new government; the presidential inauguration speech highlighted its importance and the MAF initiated work on concessions.

Third, in case the DRC decides to engage in a land policy and law reform process based on informed decision making, field work is required to develop, test and validate a new regulatory framework. The province in this case would take on the function of a lobbyist to the national level to make the results of this piloting and testing known and acceptable.

It is against this roughly sketched background that Output 5 is evaluated.

3.7.2 Land coordination groups, meetings and officials involved

The program response to the indicator " *Number high level or officials involved in land conflict prevention and mitigation at national and provincial levels*", is considered as relevant when put in the context of the resolution of some high profile land mediation cases. The program has achieved this under the Luhonga case, and at least on one other occasion that involved the present leadership of the opposition party in Nord Kivu. Any case that involves a major concession holder can in fact qualify under this indicator as most are high level and/or official. The total number of such cases seems to be less important than the real impact that a limited number of cases can have on society.

The achievements to be measured by the other indicators evolve around the creation and functioning of Land Coordination Groups (LCG). One such group was set up in Nord Kivu under the auspices of the Provincial Ministry of Land Affairs and one in Ituri under the lead of Ituri Land Commission (CFI). The LCGs count on the membership of local public administrations, NGOs and international organizations working on land issues under various forms (advocacy, land mediation, protection). Their major aim is to coordinate and harmonize interventions on the ground, with meetings organized on a monthly basis to achieve this. A summary on their functioning is presented in the following table.

Table 11 - Land Coordination Groups

Number Land Coordination Groups set up (LCG)		Number of LCG meetings (2011)		Participation	
Nord Kivu	Ituri	Nord Kivu	Ituri	Nord Kivu	Ituri
1	1	9	8	4 public provincial administrations 18NNGO 3 INGO 2 UN organisations 1 donor	4 public district administrations 2 NNGOs 1INGO 4 UN organisations

Source: Synthesis report on Land Coordination Group Nord Kivu; information from Ituri project staff

It is stressed that the program operates at the district level in Ituri; hence district officials participate rather than provincial delegates who have offices in Kisangani. There are strong indications however that during this legislature Ituri may be upgraded from district to province. This may have considerable, hopefully positive implications for the land program itself, but will require strategic thinking, extra inputs and resources to provide good services in such a large province.

There is documented evidence that the meetings are organized at regular intervals with good participation and adequate coordination agenda points. An auto-analysis of the Nord Kivu LCG indentifies that the provincial government should engage better and take

on a more prominent leading role in the coordination (report prepared by the Land Program). There is also a perceived need to engage more and better provincial ministries, or respective district representatives of these ministries on a consistent basis, with the MAF, MECNT and MoA being suggested as indispensable.

The LCGs have good potential to achieve better levels of coordination, which, in the light of a proliferation of institutions and organizations, is highly desirable.

3.7.3   Comments

The UN-Habitat program agreed under the USAID grant to make an international policy advisor available to the MAF to deal with policy at the national level. The evaluation of this part of the program is not specifically included in the ToR of this mission. In the light of the above, it is advised to assess the adequacy and efficiency of this option, on the basis of the following:

- Is the MAF the best institutional venue to initiate and conduct land policy and law reform and advocacy to achieve this?
- Can a rather isolated expert in Kinshasa achieve this task if it appears that the option is appropriate?
- What are the options to ensure that the program contributes to an inclusive and informed policy reform that is underpinned by realities on the ground? What are the arrangements to be made to ensure that the program experiences are feeding into this reform process?

3.8   Summary on compliance with logical framework

The evaluation mission concludes that:

Output 1: All quantitative targets set for 2011 are met or exceeded. There is a need however to evaluate the quality of the delivered services and to include a number of indicators that can measure this. There is need for better defining and understanding the objectives. Indicators need also to be better defined. The UN-Habitat team needs to report with more rigor on quantitative data. Program efforts are required to follow up on mediation cases that have resulted in an agreement to ensure that these are of a sustained nature.

Output 2: All quantitative targets set are met or exceeded. Some indicators overlap with others and do not add to value to measure progress. The establishment of peace building structures is a success and a milestone for the stabilisation of eastern DRC. The awareness creation strategy needs to be consolidated and must reach increasingly more women. An information dissemination strategy is to be designed.

Output 3: All quantitative targets set for 2011 are met or exceeded, with extra training provided to specific target groups. Some indicators are not clear or overlap with others.

The quality of the training delivery needs to be evaluated in some more depth. Civil society groups need special attention.

Output 4: Targets set for the delivery of titles and registered rights are not met. The output presents a conceptual challenge on "tenure security". The indicators and the program interpret this in a strict statutory legal framework, disregarding more informal forms of tenure security. This requires clarification. Targets set for the training of land administration staff are exceeded. Available opportunities to improve quality of training delivery need to be explored.

Output 5: Provincial/district level Land Coordination Groups are set up as required and are operational. National level events are not yet organized. The program needs to reflect on a new strategy to best deal with policy/law development and advocacy with major efforts at the provincial rather than the national level.

4. Recommendations for improving present program implementation

This section discusses possible improvements that can be considered in the present program framework. In practice, this refers to recommendations that can be initiated within the next 12 months or so, under the present USAID funding. It focuses on (i) improving the process of mediation as the program´s core activity, and (ii) improving program implementation and management.

The present program also deals with a number of other processes that need to be considered for possible improvement, including policy and law development, tenure securisation, advocacy and continued awareness creation. These are made part of the development of a robust longer term HLP program discussed in section 8. It is essential to understand that conflict mediation remains a remedial, reactive though very much needed approach for maintaining peace and promoting stabilization. The longer term HLP program must focus on addressing the real causes of the land conflicts, and develop preventive mechanisms. A combination of the two will continue to be necessary for a long time to come.

4.1 Recommendations for improving land conflict mediation

The UN-Habitat program has put into place a functional and successful system to respond to grievances and claims over land and property from mainly rural dwellers. It has established itself as an institution that is respected by a many actors, including the poorest but also by the more influential political and economic figures, and, to a certain degree by some of the main land rights offenders. To achieve this it has used an adaptive strategy in Nord Kivu and Ituri, and more recently in Sud Kivu. It has taken into account different security situations, built on existing institutions when these existed, and created new ones when there was a vacuum.

Somewhat half way through the present financing period of the major donor, the mission has attempted to get a better insight on the functioning of the mediation processes. Special focus was given to two key concepts which are beyond doubt essential for improving existing systems: proximity and sustainability. Sustainability has different faces, but more specifically refers to institutions, costs, system maintenance, among other things.

4.1.1 Three mediation systems

The project started off with the model of Mediation Centers in Nord Kivu province, with centers established in Kitchanga and Kiwanja. A different approach was developed in Ituri, mainly relying on the existing CFI to channel mediation efforts to the land users. The mission has noted that while there are two different approaches on paper, the Mediation Center model has in fact developed differently in Kitchanga and Kiwanja. This has resulted in three distinct systems, but using the same sequence of activities, in a simplified form as follows:

- Awareness creation in the field to inform people on the possibilities for addressing land conflicts through mediation;
- Identification of specific conflicts;
- Registration of the conflict by the first party;
- Invitation of the second party to engage in mediation;
- Mediation both in the field and in the centers;
- Agreement or not on mediation outcome;
- Documentation of agreement;
- Monitoring and follow up on the implementation of the agreement.

Significant differences are observed in the set up and the implementation of this series of activities.

4.1.1.1 Ituri CFI approach

This approach relies on community based animators for mediation. These are knowledgeable people (teacher, administrative assistant, agriculturalist) who live in the rural areas and smaller peri-urban centers, and are trained by the program in mediation techniques. The animators are identified by local authorities (chef de collectivité) and customary leaders (vieux sages), and consequently nominated by the local administration (président) to participate in the program. Five to six of these animators form a CFI-Antenna, which has an office space in one of the towns. In fact, CFI antennae are an operational, decentralized branch of the CFI. It is noticed that mediation team membership is ethnically balanced.

Animators work in their areas of residence, equally divide their time between the field and the Antennae office, the latter to secure permanency. Animators have limited transport means (one motorbike for the team and each a bicycle), are not remunerated but receive an incentive of 65-75US$/month to cover some costs. Distances between the residence of animators, areas on intervention and the Antenna office are considerable: 45-80km.

The CFI attempts to visit each of the 5 established Antennae once a month, providing guidance, supporting directly more difficult mediation cases, compiling information. The main resource people for these visits are the CFI´s President and Vice President. These visits turn out to be expensive as several auxiliary CFI finance and administrative staff are included in the party. Animators rarely visit the CFI headquarters in Bunia.

The mediation sequence is mainly implemented in the field, with some identified particularities as follows:
- Awareness is raised on a routine basis during field visits. Teams take however also advantage of special events and media to reach out: local radio, soccer games, funerals, religious services;
- Conflicts are mostly identified in the field; the registration of a conflict (using a specially designed fiche) invariably happens at the antenna office;

- Different register systems were identified all with their own qualities and weaknesses; a common feature is the lack of a unique index for a conflict entry; all registers are handwritten;
- Some registers are not kept updated;
- Second parties are identified and briefed in the field. A written invitation is prepared only after this first contact. There is no evidence that copies of these invitation letters are kept at the office;
- Mediation between the two parties takes place in the field;
- The agreement (PV de compromis) is signed by local authorities (chef de groupement), the two parties and a number of witnesses;
- In the absence of supporting equipment and materials, mediation teams have been creative producing their own calendars, participatory maps to indicate operational areas for different animators;
- All three of the visited antennae have requested more management, administrative and logistic support; the latter includes documents (concession sketches, cadastral maps), a camera to visualize some important steps in the mediation process (the peace hand shake with witnesses), register books, etc..

4.1.1.2 Kitchanga approach

The Kitchanga Mediation Center hinges strongly on centralized operations at the center itself, which is staffed by 2 mediators (from the legal profession), 7 animators including two women, administrative and logistic support staff. All staff is recruited by the program and are remunerated (an animator at 1200US$/month). Mediators are outsiders to the communities that are targeted by the program. Animators were recruited from the area but not necessarily from the targeted communities. It is acknowledged that ethnicity and its representation in field team lays sensitive in eastern DRC. Community members want to see their group represented in teams. The two senior mediators exercise substantial managerial functions in addition to providing mediation advise to animators, and mediating themselves. One mediator is reported to spend most of his time on managerial tasks. All are well equipped with hard and software. Animators and mediators are all resident in Kitchanga.

Animators regroup for field visits, several of which are organized under armed escort; all field missions are by car. Accessibility to several of the covered areas is problematic. The distribution staff time spent on field and office activities is presented in Table 12. It indicates well that the Kitchanga team spends considerable time at headquarters. The office is established somewhat peripheral to the operational area that is covered.

Table 12 – Number of field and office mediation sessions in mediation centers of Nord Kivu

Center	Field sessions	% of total	Center sessions	% of total
Kitchanga	505	19,3%	2106	80,7%
Kiwanja	365	71,4%	146	28,6%

Source: Mediation Center generated data, calculated on the basis of field trip reports (fiches de déplacement); for Kiwanja from June 2011 onwards; for Kitchanga for the year 2011

The mediation itself follows a similar sequence of activities, but it is substantially different in the implementation of these activities, illustrated by some salient examples as follows:

- Awareness is created in the field during the daily visits; there is no mention of specifically organized events;
- Conflicts are identified both in the field and at the office. In the latter case complainants present themselves at the Center (which is well secured and guarded), wait in an outside room, solicit to meet an animator and explain the case. There is evidence that women prefer to come to the Center rather than to talk to mediators in the field, partly out of fear for being identified in loco as being a complainant, but also for socio-cultural reasons. Some interviewees stated that sometimes difficulties arise for meeting mediators (in fact animators);
- The conflict registration always happens at the Center and requires travel by the first party; parties complain about the distances to be covered; one visit may take a total of three days (for a distance of 60km);
- An invitation request for the second party to enter in a mediation process is always in written form. The party is invited to for a presentation at the center. Only in case there is no visit within a reasonable time, the invitation is channeled to a local leader for handing over to the party;
- Mediation sessions are organized both in the field and at the center. Mediation at the center is however more frequent (see table 12); it is conducted in an office. Registers and documentation of processes seems to be entered directly in a digital form;
- An average individual mediation process takes 3-5 sessions before eventually reaching an agreement;
- Mediation agreements are signed by the parties, a local chief and eventual witnesses.

4.1.1.3 Kiwanja model

This model emerged as a replication of the Kitchanga approach but has taken its own way and developed into a method of higher proximity. It is a "field model" but remains "centralized" (the Center) and "external" (outsiders as mediators). It has however established reasonable links with the local land administration services, which are located close the Center. The Center itself is also centrally located in the target area. Some specificities of the process are as follows:

- Conflicts are mainly identified in the field (70%), with an estimated 20% at the center; up to 10% are referred to the center by organizations and institutions;
- A request for entering mediation to second parties is made orally, and if required through local authorities; this is followed by a written invitation; 80% of second parties react positively to such a request;
- Mediation is mainly conducted in the field (see table 12); on average 4-5 sessions are required to come to an agreement in a conflict between individuals;
- Up to an estimated 80% of the agreements are reached with involvement of local authorities;

- Up to 15% of mediation cases are initiated by women;

4.1.2 Preliminary lessons learned and recommendations

After somewhat more than one year of full operations in Kitchanga and Ituri, and half a year in Kiwanja, it is early to assess in depth presently used processes and methods and come up with solid recommendations. A good evaluation mission at the end of present USAID support project will be better placed to achieve this. The present mission has however directly been exposed in the field to several of the mediation teams (but not to mediation itself), exchanged ideas with their members, observed office and field conditions, examined registers and some databases. This allows at least providing some flavors on what seems to be more successful than other things, to identify some trends, and have an opinion on some direction for the way forward. This can constitute a basis for the program team itself doing some further analysis. Supporting tool for such an analysis are the field registers, the different (monthly) reports and notes form the animators, and especially the program´s database. So far, the database is mainly used to generate data for reporting, not for in depth analysis of the mediation process itself. Efforts were made to initiate this during this mission, with different results being presented in this report.

4.1.2.1 Efficiency

The time to reach an agreement during mediation decreases considerably from the beginning of the project up to end 2011 (see table 13). This may indicate that service delivery is becoming more efficient and successful. Formal and on the job training, experience and fine-tuning of procedures may be at the origin of this trend. The result may however be influenced by the use of different approaches. Kiwanja started to be fully operational only in 2011. The team needs to reflect on this trend.

Table 13 – Duration of mediation cases that resulted in an agreement

Year	Cases with agreement	Duration process
2009	32	236 days
2010	68	124 days
2011 (up to 30/10/2011)	375	38 days

Source: analysis of the project database; data from Nord Kivu and Ituri

4.1.2.2 Financial sustainability

It is highly unlikely that the external driven models of Nord Kivu can be replicated outside a project context. Financial efforts required to maintain a mediation center and its service delivery operational are unsustainable. The Ituri approach is more realistic. This model requires however continued technical support, at least for a certain period, from a more senior mediator team, which is fielded close to the antennae. Recent changes to

have this support team moved from Fataki to Bunia erode the proximity quality of this approach. This weakness was remedied during the mission, by fielding this team again in Fataki.

4.1.2.3 Proximity

Many people met during this mission leave no doubt that proximity is the key issue for successful mediation. The distance and formality between incumbents and mediation facilitators need to be reduced. Mediation facilitators with roots in communities may be in a better position than outsiders to handle local conflicts, especially when they are chosen by the local populations and their representatives. The Ituri model responds best to this. Care must however been taken; some situations may require outside rather than inside facilitation.

Making Mediation Centers more client friendly is part of a proximity strategy. Presently, and mainly because of security reasons, centers are not always an inviting place for people to visit. An analphabet woman may find it difficult to enter a security guarded compound hidden behind closed iron gates in search of a computer-armed animator. Some insiders argue that the presence of security guards and the branding of the centers, cars, mediators/animators as UN or rather as UN-Habitat may just give confidence to people.

4.1.2.4 Institutional sustainability and local accountability

The program works through a number of local institutions and their representatives in day-to-day mediation, such as: committee of elders (comités des sages), CLPC in areas where they exist, local authorities including customary leadership, land administrations (in some cases the conflict resolution services – service de contentieux). Local leaders act as witnesses; they are mobilized to inform the second party on a mediation request; they sign off mediation agreements. The program has organized specific training activities to reach these institutions and to build their capacity in several aspects of mediation.

Any future institutional sustainability will pass through local institutions. The program bets heavily on an integration of mediation service delivery in CLPC. These are created by the GoRDC as part of the implementation of STAREC, the Stabilisation and Reconstruction Program, which is an outcome of the 2009 Peace Agreement. Out of a total of 43 scheduled structures, 7 CLPCs have been created in 2011, with another 7 are scheduled to be created before mid 2012. Details on their composition, ToR, operational financing were drafted and approved. The program trained 7 CLPCs and their respective conflict prevention and resolution sub-committees which are specifically created to handle mediation. The functioning of CLPCs and their subcommittees is questioned by several actors, and will require further assessment.

Involving customary institutions and traditional leaders is strategic, but not without challenges. Customary leaders from the village, locality, sector and *chefferie* or *groupement* are to be considered to some extent as public officers, a legacy from colonial indirect rule. Customary and local public authorities are thus strongly interwoven. The mission was informed on numerous occasions that these leaders at the *chefferie* or *groupement* level are causing conflict through mal-practice rather than mitigating the challenges. It is recommended that research is conducted into the present and possible future role of customary authority in mediation, but also in a broader sense of land administration.

A third strategic partnership refers to the cooperation with local land administrations, (mainly cadastral circonscription and brigade level). This cooperation is sometimes less than desirable, especially in Kitchanga where these services are just not present in the field (they remain in Goma). It is recommended that, when required, the Mediation Centers should provide a minimum of office space and logistic support for having these services operational in the field.

It is clear that the program is reaching out to several local institutions in search of some embryonic forms of institutional sustainability. There are however also a multitude of other institutions and organizations that are involved in conflict mediation and which are not yet part of these efforts. Sometimes they are the result of project or NGO intervention; but on other occasions they have more permanent and durable roots in society. The mission has identified the following:

- *Barza communautaire;* still operational in Ituri and interesting as a forum for awareness creation and the identification of conflicts; is used as an interface between community awareness creation and individual conflict mediation;
- Local and Permanent Development Committee (CLPD): a government initiative to institutionalize planned recovery and development at the local level; initiative of the Ministry of Planning with support from UNDP; CLPDs are operational in 3 territories in Beni;
- *Conseil Agricole Rural de Gestion* (CARG); a public platform for agricultural development at the territory level;
- Churches: sometimes instrumental in addressing land conflicts through mediation; other times a major party in conflict situations as one of the biggest land owners in DRC; there is also evidence that several concessions registered by churches are a source of major conflict with local populations;
- *Bushenge*; a customary based conflict resolution structure in the Hunde community;
- *Commission d´acceuil et reinsertion*; created and supported by NRC to handle land conflict mediation;
- *Noyau de resolution de conflicts fonciers*: supported by NGO AAP
- Youth Forum: created by national NGO AAP to engage in awareness creation

It is recommended that all these structures are properly mapped and assessed on the basis of their functionality, legitimacy, efficiency before that further massive investment is made in institutional support.

4.1.2.5   Standardization of certain procedures

Whereas processes can flexible and be adapted to certain specific conditions, some procedures need be harmonized on the basis of best practices. The different mediation teams are creative on some occasions to respond to situations where there is always something missing. It is recommended that these teams can exchange their experiences and tools that were developed with others, in a procedural consolidation workshop. Issues that may merit attention include:

- The use of different media and techniques for awareness raising; the use of focus groups (women, youth) seems to have potential. It is also suggested that the project focuses more on the training of trainers of local organizations and

institutions, rather than taking on itself awareness creation activities and campaigns;

- Identifying strengths and weaknesses of presently used tools, such as the mediation fiche, different registration tools, invitation letter formats, agreement forms; standardization on the basis of consensual best practice; identification and use of new tools such as digital photography;

- The implementation mode of different mediation activities; local and central registration of conflicts; oral and written invitations for second parties; mediation sessions in the field and at the office; strategies of mediation itself (individual hearings, confrontations); timing of different sessions; possibilities for cutting off a mediation efforts at certain stages and referring these to other possible mitigation mechanisms (see 8.1 on this);

It is recommended that the program considers this consolidation effort as part of the production of the Mediation Guidelines document that is presently being drafted by the team.

4.1.2.6   Data capturing
Mediation data and their outcome are captured in the field with as major objective the reporting on progress made. This includes mainly quantitative data on the number of conflicts identified, registered and eventually solved. Monthly reports are also prepared, reflecting good detail on specific mediation cases. The *fiches de mediation* are equally rich in information; the database seems to be well developed and functional.

There is a lot of potential to better explore existing data and to use the information for instructing processes, rather than for reporting purposes only. This may require some additional data capturing on the processes, for instance on issues such as: acceptance of invitations by second parties; time required for second parties entering the process; efforts required for a second party participating; number of mediation sessions and their timing; number of field visits by animators; information on compliance rate.

It is recommended that the program explores extra data capture and process analysis.

4.1.2.7   Managerial and administrative support
All visited teams are particularly well engaged, combining a multitude of tasks under extremely difficult and often dangerous conditions, responding positively to many ad hoc requests that are so characteristic for post conflict situations. The prominent presence of a strong UN contingent, the recognized importance of land tenure issues in the conflict, a proliferation of civil society organizations, weak and sometimes absent government structures, all contribute that the program staff being overstretched by the multitude of tasks. These are often reactive, as in fact the mediation of conflicts is. The program deals however with processes rather than with activities, and these need to be adequately managed at all levels. Major and successful efforts have been made so far, but with the present capacity and expanding activities this becomes increasingly difficult. Some program management issues are addressed in section 4.2.

Field teams do need more managerial and administrative support. Apart from the good work of few individuals, the Ituri based CFI is operationally almost defunct. Its antennae are staffed by volunteers with few of these having been exposed to previous managerial and administrative tasks. Management of Mediation Centers is guaranteed by senior mediators, from the legal profession, dividing their time between field and office work. Animators in Kitchanga spend 4-5 working days, thus one week, a month on reporting.

The consultant recommends that each team has at least one person trained in managerial skills. This person can spend more time on organizing the office, monitoring and managing the processes.

4.1.2.8 Making information available

Field teams, especially the Ituri CFI antennae, do not have good access to information materials and tools, such as reports prepared by the program, folders, succinct briefing notes, information on the activities in other program areas. Access to cadastral information is even more problematic. It is recommended that each office is provided with a minimum set of materials.

4.1.2.9 Monitoring and further support

A mediation process seems to have successfully been completed once it has resulted in a written agreement. The consultant is not convinced that the program dedicates the necessary attention to monitor whether the agreement is effectively implemented, and/or whether the agreement is sustained over time. There is evidence that follow up attention is given to some high profile cases, but not necessarily to the average conflict.

The program is making genuine efforts to transfer this monitoring and follow up to local authorities, by, among other things informing these on the outcome, and co-signing the agreement. The implementation of some of these agreements requires additional efforts; local peace ceremonies, the planting of negotiated border lines with life trees, surveying costs. It is recommended that the program takes these extra needs into account.

It is also possible that additional support is required, beyond the agreement clauses, to make the outcome more sustained. This often refers to the mitigation of larger collective conflicts, such as the Luhonga case, and may involve small support projects, specific services such as agricultural extension, the planting of a small community forest, etc.

It is recommended that the program considers a specific budget line to finance these follow up activities. The teams can also take on an advocacy role to get these activities financed by more specialized agencies such as NGOs, UNICEF (boreholes), WFP (food for work), FAO (seeds, tools, veterinary services).

4.1.2.10   Achieving common understanding

The evaluation of the logical framework, its indicators and the respective responses from the different teams to provide answers to issues included in these monitoring tools do not leave doubt that:

- Certain basic concepts of the program are not well understood by the teams and its members;
- Several concepts are differently interpreted by various teams and individuals.

Issues such "resolved conflict", "tenure security and titling", "legitimate and legal land rights", "the use of GIS and GPS to provide tenure security", are some of these that are interpreted differently and often out of its post conflict context.

It is essential that ALL team members have a common understanding on the objectives of the program, the basic concepts, the meaning of indicators. It is imperative to focus on longer term processes rather than on short term specific activities that are part of such a process. It is recommended that a workshop is organized, possibly with external assistance, to address this.

4.1.2.11   Judicial support for mediation outcomes

Adding a certain degree of legal value to a mediation agreement may be part of a strategy to reach higher levels of process efficiency. It may stimulate incumbents to better comply with the outcome, and reduce to some extent possibilities for opportunistic legal forum shopping. It is recommended that possibilities are examined to register a mediation agreement at the Peace Tribunal (Tribunal de Paix) and/or make the agreement subject to the signature of the judges of this local court. The program has made progress on this in South Kivu (Kalehe) where tribunals accept the registration of the awards. In Nord Kivu however Peace Tribunals are not yet operational. Tribunals can be encouraged to refer to mediation outcomes in the case an incumbent starts a legal procedure after such an agreement was reached. Fair but limited appeal options are part of an efficient system.

4.1.2.12   Research

As part of future consolidation and improvement efforts, mainly focusing on different dimensions of sustainability and proximity, the mission has identified that research is required to underpin this process. The program has started analytical work on some issues, such as the typology of conflicts. This work is of a good quality and interesting, highlighting the importance to better understand issues such as the rights of former concession workers over concession land and sharecropping arrangements.

It is recommended that following research be considered:

- Mapping and assessment of local institutions and their present and possible future role in land (conflict) management;
- The role and functioning of customary authorities in land management;

The UN-Habitat program does presently not have the required capacity to engage in this research. It is recommended that strategic partnerships are established with NGOs and researchers; the program can aim at the coordination of efforts. It is possible that additional funding is required.

4.1.3 Summary of Recommendations

Recommendation	Activity	Responsibility	Comments
Consolidation Logical Framework	Develop single program framework	Donors/UN-Habitat	This is a joint task that can be addressed under a Performance Management Plan for the USAID support. The donors in fact identify indicators against which service provision is assessed
	Consolidate single set of few independent indicators	Donors/UN-Habitat	
	Identify qualitative indicators	Donors/UN-Habitat	
	Clearly define outputs and indicators	Donors/UN-Habitat	
Impact Assessment	Baseline Survey	External service provider	Check funding under existing program
	Perception Survey	External service provider	Check funding under existing program
	Impact survey	External service provider	To be implemented after 2012 by an independent service provider
Mediation	Follow up on putting into place mediation agreement conditions; data capturing; provision of funds and services	Field teams (mediation centres and CFI antennae) with guidance from UN-Habitat Management team	
	Data capture and monitoring of agreement compliance	Field teams (mediation centres and CFI antennae) with guidance from UN-Habitat Management team	
	Design, funding and advocacy for post agreement support activities	Design: UN-Habitat and partners\n\nFunding: Initially UN-Habitat and UN partners\n\nAdvocacy: UN-Habitat team	Funding to be discussed with donors and UN organizations
	Customer Satisfaction Survey	External	Check funding under existing program
	Assessment and consolidation of best practices and tools:	UN-Habitat team with participation of all field team	

	workshop and inputs into mediation guide		
	Examine possibilities for agreement registration at courts	UN-Habitat management team	

Reporting	Quality control of data	UN-Habitat management team	
	Single dataset with detail on sources, periods covered	UN-Habitat management team	
Awareness creation	Strategy consolidation	UN-Habitat team	
Information dissemination	Strategy development	External	Check funding under existing program
Research and assessments	Identification of possible research partnerships with local and external organisations	UN-Habitat management team	
	Investigate concurrent powers for policy, law development	Policy advisor	
	Institutional assessment on land policy and law development	Policy advisor or external	
	Institutional mapping and assessment on functioning local land conflict resolution, mitigation	External	Check funding under existing program
	Mediation process analysis using database		It is suggested that the program establishes the post of M&E and Reporting Expert to be filled by an existing senior staff or new recruitment
	CLPC functioning	External	Check funding under existing program
	Role of customary authorities in conflict resolution; land administration	External	Check funding under existing program
Training	Management training of mediation teams	UN-Habitat management team if possible; otherwise external	

	Workshop to achieve better understanding program objectives, activities, concepts	UN-Habitat team with outside inputs	
Support to mediation teams	Provide field teams mediation supporting documentation including maps, documentation, cadastral information, especially CFI antennae	UN-Habitat management team	
	Establish an information corner in each office	UN-Habitat management team and field offices	
Support to land administration	Adjust training courses for land administrations	UN-Habitat management team with external support	Consider short term consultant input
	Establish partnership with National Cadastre School	UN-Habitat management team	Guest courses; Curriculum development

4.2   Recommendations for program management

The evaluation of program management is not specifically part of the ToR. In view of the recommendations that are made in this report, and the impact that these may have on the present program, the reporter wants however to make a few comments.

The reporter is well impressed by the response, enthusiasm and passion that senior program staff displays in implementing and managing this program. The team leader and regional coordinator are very well informed on the present land landscape, have good technical skills, are highly dedicated, maintain daily contacts with field teams, provide follow up in a timely way to ad hoc requests. But, beyond doubt they face a challenge that will increasingly be difficult to meet. In fact this increased workload is one of the results of the success of the program.

UN-Habitat needs to consider strengthening the team. There is a need to have a permanent qualified person for monitoring and evaluation of the mediation processes. This person can also be instrumental in report preparation, data quality control.

The program should also consider to have well defined support from external short term consultancies to prepare the longer term HLP program (see section 9). Opportunities need to be explored for subcontracting service delivery from preferably national organizations, including NGOs.

The nature of support expected to be provided by the international policy advisor, based in Kinshasa could be reviewed. In the light of recommendations under section 8, it is recommended that this expert provides more services at the provincial level.

5.   Impact analysis of the program on the return, reintegration and tenure security process

Measuring conflict mitigation impact on the return and reintegration of displaced people after 1-2 years of intervention is premature. These initial years were mainly used to put into place systems and turn these operational on a routine basis. It is also questionable whether impact should be measured on the return and reintegration process only, as displaced people and their return are not the only program´s target group.

There is little doubt that there is already a significant impact in different senses. First, there is certainly an impact on the perception of people that, after years of deprivation, some justice may be done for these who have lost land and property before and during the conflict. This is achieved by the physical presence of the program in the field. Complainants sometimes walk for more than a day through hostile territory to meet with mediators. There is probably also a significant impact on the mindset of people that impunity has limits. The program has documented several cases where it has successfully intervened with security authorities to release ordinary people who were detained for opposing indiscriminate ruthless behavior of land grabbers and post conflict speculators (34 cases in Kitchanga for 2011).

The program has established itself as a solid partner in the UN system that facilitates the return and reintegration. On the spot interventions are called upon in cases where a land conflict may explode immediately in violence.

The assessment of the impact of the program on the daily life of citizens requires however a more structural approach. A number of different impact dimensions should be analysed, including:

- Return and reintegration of displaced people in their areas of origin or in new resettlement areas;
- Social stability; this can take on different forms such as strengthened cohesion in communities as a result of individual conflict mitigation; or stability between different groups (ethnic but also communities versus large landowners) as a result of collective conflict management;
- Livelihoods of people, especially those who depend on the use of land to achieve their livelihood goals;
- Tenure security in its larger context, ie. perceiving that used land is protected against arbitrary alienation from in-and outside.

It is recommended that the impact analysis is set up as follows:

- **Baseline survey.** It is suggested that a baseline is drawn from the set of mediation efforts that have resulted in an agreement;
- **Perception Survey**. It is doubtful whether classic indicators alone, such as the number of restituted land plots, the amounts of compensation paid, will create a

good picture of possible impact. It is suggested that the Perception Survey is used to identify locally recognized indicators;

- **Impact Survey** itself.

The baseline survey can be implemented in 2012 on the basis of a questionnaire to be developed; the program management is actually in a process of doing this. The perception survey can also be considered during the present program phase. The timing of the Impact survey itself needs to be discussed; it seems that at least 2-3 years are required after an agreement is reached to measure such impact.

The program must also reflect whether the adopted strategy for mediation is possibly creating unintended consequences for specific land user groups. There is anecdotal evidence that the deployment of mediation teams in Kitchanga has created friction with traditional leadership, who perceive that their task of peace maker is taken over by outsiders. Supporting CLPC as mediation groups with group chiefs (chef de groupement) as their president seems to constitute another risk. Some of these chiefs are reportedly involved themselves in several land conflicts, by adopting bad land governance practices.

A major possible negative consequence is the impact that tenure regularization for some groups may have on the situation of other groups. This specifically refers to rural communities who receive returnees or are host to resettlement schemes. Providing rights to newcomers without considering the hosts has resulted in conflict in other countries.

6. Recommendations for piloting the clarification and securisation of land rights

The program has engaged in two pilot experiences for securing the land rights of vulnerable people. These are briefly described and some lessons are drawn for future consideration. Consequently it is proposed to support further pilot cases as lessons learned from these are important for future policy development, including the fine-tuning of tools to implement these policies. These new pilots need however to be addressed in a broader context and depart from a narrow approach that focuses only on providing some kind of land rights as a goal per se. It is important to make tenure securisation part of a more holistic approach that focuses in the first place on recovery and development. A failure to do so invariably leads to temporary solutions that are easily undermined when new stress situations occur.

6.1 Existing pilot experiences

The Hewa Bora case focused on the resettlement of 751 households, including 147 Twa (pygmy) who occupied plots allocated to victims of the 2002 Nyiragongo eruption. This case of adverse possession was addressed under a partnership with UNHCR. After mediation efforts by UN-Habitat, the provincial government decided to create 600 new parcels to relocate 751 households on land with a tenure status that is not documented. The program´s task is to parcel, survey and demarcate the allocated land into household

plots. Consequently other organizations may provide additional support to facilitate the resettlement. This includes shelter building for the Twa households only (implemented by GIZ with UNHCR funding); infrastructure development by public services; sanitation by OXFAM.

The Luhonga case is better documented in a good quality 17-page note prepared by the program. It refers to a high profile mediation case between a concession holder and a group of more than 500 households that contest parts of the concession. The households are mainly ex-workers of the former plantation concession (- coffee), which was nationalized in 1973 and later privatized and transferred on a number of occasions. The ex- workers claim rights over at least 115 hectares of a total of 389 hectares, on the basis of good faith occupation (no one seems to have contested their occupation since early 1990s until 2005). Over more than two years of mediation and field work by the UN-Habitat team (and a total of approx. 80 mediation sessions and field visits by various teams), the case has resulted in 24 hectares of land being allocated for residential purposes to 512 families including 169 female headed. The UN-Habitat team has supported the parceling, surveying and geo-referencing of the plots in partnership with the public cadastral surveyors, at a cost of 8000US$.

The site visit to Luhonga was instructive in that a delegation of the local population requested additional support for (i) the physical demarcation of the plots; (ii) the construction of infrastructure (school, health center), and most importantly (iii) for additional cultivation land at an estimated area of 1,5hectares/household, thus a total significantly more than the total area of the concession.

There are still some issues that need follow up as part of the mediation agreement: (i) a new survey in line with "urban standards" as rights of way between the plots and plot blocks are not yet included; (ii) dealing with compensation for ex-workers who planted trees on the concession´s land; (iii) physical demarcation of individual plots with cement monuments (at 40US$ for each); (iv) providing documented proof of tenure securisation for all beneficiary households. There are also some outstanding issues to be handled in addition to the agreement, such as (i) possibly providing access to land for new comers, ie. outsider households who, by word of mouth, are informed that land is available for settlement; (ii) dealing with illicit practices of some local administration representatives who are apparently transferring plots to outsiders.

6.2   Lessons learned

It is acknowledged that the Luhonga case is strategically important for different reasons, several of which are referred to in different sections of this report. At the end, this pilot demonstrates that some solutions can be encountered to respond to difficult challenges which are marked by severe power imbalances. The pilot exercise provides a good background against which some improvements can be suggested for future work, such as the following:

Parcel and territorial livelihood approach. Both pilots have centered on providing residential plots to groups of people that mainly depend on access to land for their

livelihoods. Livelihood strategies are still rooted in the extensive use of different land resources such as upland, lowlands, wetlands, forests (charcoal making, hunting). Luhonga farmers are clear on this: they need land for cassava (sandy upland), beans and sweet potato (lower lands with eventually possibilities for small scale irrigation). The Luhonga residents are heavily engaged in charcoal production, probably using forest resources located in neighbouring protected areas. Accessing a residential plot only does not provide any basis for implementing these agrarian livelihood strategies. Beneficiaries will continue their search for access to productive land. This may transfer the land conflicts from one area to another. This leakage effect can be avoided to some extent by considering a territorial planning approach centering on the territorial livelihood strategies of different land user groups.

Temporary solutions and longer term mitigation. A narrow vision approach inherently results in temporary solutions, not necessarily in longer term mitigation measures that can be sustained. The Luhonga case still illustrates a number of issues that will require interventions, as mentioned above. A new conflict between ex workers starting to cultivate on their residential plot and free grazing concession cattle is still a challenge to be addressed.

Another dimension of temporary versus longer term solutions is provided by the outcome of the mediation itself. In fact the case resulted in the concession holder maintaining the total area that he claims. The 24 hectares that were allocated to the ex-workers are the result of a mismatch between area specific information of the title document and the actual area on the ground which exceeded the former by 24 hectares. Pressure on the concession land will continue; hence why not engaging in earlier efforts for a achieving a fairer win-win situation?

Finalisation of tenure securisation efforts. The Luhonga case did not result yet in beneficiaries receiving a documented and registered right to the allocated land. They remain in a weak position vis à vis the concession holder. Tenure securisation processes need to be finalized and followed up for full compliance. But this is then part of creating capacity for good governance.

Technical approach and local ownership. The parceling of 24 hectares in more than 500 plots, geo-referencing and possibly physical demarcation, using urban standards of precision seems to be unbalanced with the needs. Would it not be possible to provide a collective title to the land, with the ex-workers organized in an association with legal personality, and leave subdivision as an internal affair? This would also create more ownership, although temptations for manipulation by a few will always be a risk.

Des-equilibrium situations. The Hewa Bora case does not leave any doubt; pygmies will receive a better treatment, in the form of shelter, then other resettled people. Similar situations are created when returning refugees and IDPs receive sometimes stronger land access rights than home communities. This kind of unbalanced approach needs to be avoided by simultaneously addressing the needs and the rights of all.

6.3   New opportunities

The mission has identified two new opportunities to test securisation of tenure, taking into account some suggestions for improvement as made above. The Virunga National Park case is a good example to test a broader territorial livelihood approach. It presents a situation where local communities, returning refugees, mobile IDPs, concession holders, long term park occupants, public park authorities are in a process of procuring access to land and livelihoods under dynamic conditions. The UN-Habitat   program has already been contacted by the park management (ICCN) and conservation supporters such UNESCO to engage in finding durable solutions. The southern area is covered by the Mediation centers of Kitchanga and Kiwanja. This is another high impact pilot that can be used to test and validate an approach and tools to handle this kind of situations.

The FAO/UNDP/UN-Habitat   project proposal "*Sécurisation foncière   intégrée pour la reintegration et la relance communautaire à l'est de la RDC*"   to the Stabilisation Program provides funding opportunities. It includes already activities to handle the development of participatory territorial management plans.

A second recommendation considers a pilot exercise in a rural-urban environment, such as the smaller towns of Fataki or Kpandroma. It will support land tenure action for the return and reintegration of refugees and IDPs. It is surprising to the reporter that UN-Habitat, under its logo " For a Better Urban Future" has so far not been that active in this environment. The challenges are however well known and documented by the program: adverse possession, illegal occupation, contestations of property transfers, land owner boundary disputes, administrative boundary disputes, forced evictions, multiple allocation of transfer of plots.

A rural-urban pilot focuses in first instance on the preparation of a good inventory on ownership and occupancy of property and plots; a mismatch between the two may indicate a potential or active conflict. Different methods to do this exist, including the " "Count Me In" tool developed by UN-Habitat. Possible solutions need to be framed in a context of urban planning, rather than in a perseverance to implement some universal principles as physical restitution and compensation. The creation of new plots as part of this planning will be important. The authorities of Kpandroma are presently working on the basis of an urban plan dating back to 1986. Support to revise this plan and use it as a tool for return and reintegration is an option.

The mission recommends that concept notes are prepared to provide detail on how these pilots can be implemented.

7.   Recommendations for better addressing land access for women and gender related issues

Women are subject to horrific abuse in eastern DRC. This has resulted in a number of specific interventions such as projects against sexual and gender based violence (SIDA, UNDP, several NGOs). Specific action to address gender challenges in the land sector are however scarce. The Ituri office has produced a succinct note on gender specific issues

related to the prevention and resolution of land conflicts; it discusses statutory and customary law for women accessing land. The program has also developed ToR for a study on access to land for women in eastern DRC.

The demand side for such services is however significant. Authorities of the visited IDP camp Kahe, in Kitchanga, report a significant number of women headed households and single women, including widows, that need assistance to address their problems and access land. Disaggregated gender specific beneficiary statistics compiled by the program are not very clear on the gender dimension. They refer to women as "beneficiaries", not necessarily to women that have lodged a conflict. Specific statistics can however be generated on the basis of the conflict fiches. The 2011 Ituri draft report indicates that 14% of the documented conflicts are registered by woman. The 2011 Kitchanga report gives 17% for the number of conflicts registered by women and consequently resulting in an agreement.

The supply side for addressing specific gender issues is weak, at least if the presence of women in facilitating mediation teams is considered as a proxy.

Table 14 - Women´s representation in land program mediation teams

Program Institution	Men	Women
Kitchanga mediation team	9	2
Kiwanja mediation team	9	1
Kpandroma CFI Antenna	5	1
Largu CFI Antenna	4	1
Fataki CFI Antenna	4	1

Source: field work and program reports

The presence of women in meetings organized by this mission was also weak, with some selected examples as follows:

- Luhonga public meeting: approximately 50 participants, with less than a handful of women;
- Luhonga committee meeting: 10 members including 1 woman;
- Fataki local leadership meeting: approximately 30 participants including 1 woman;

A remarkable exception to this was the meeting organized with 3 women associations at the Kitchanga Mediation Center. The presence of 19 women, many of whom were well voiced and excited to share their problems and suggest possible solutions, demonstrates that they should be valued in their traditional role of peace-makers.

The Ituri-note on gender issues is clear that women are in a vulnerable position for accessing and securing land. The Constitution and subject statutory law (Family Code for inheritance issues) provide some mechanisms for women to secure land access. Gender

specific principles are however not addressed in other important legislation such as the Land Code. The major challenge is that in most areas customary law prevails with women being treated as second category citizens. Practically the only option she has to have secure access to land is by purchasing land with her own means. There is evidence that this is again problematic for the average woman. Upon a request to witness or regularize such a purchase, administrations seem to insist that husband or other male representatives are present; women can practically not buy land (although the mission has witnessed exceptions). We have also noticed that there are several difficulties for women initiating a conflict resolution process on their own. Women are also subject to possible retaliation in such cases and may need protection.

The evaluation has identified, as a first step, following practical ways that can be considered for better addressing land access for women.

- **Awareness creation through focus groups**. Several interviewed women associations have suggested that the program should consider to prepare their representatives as trainers. Fourteen such groups with a total of 700 members are present in and around Kitchanga. This approach seems to be more effective than the UN-Habitat trainers and staff delivering directly awareness creation activities to the broad public.
- **Facilitating participation in workshops**. Women often face major challenges for participating on multi-day events, requiring displacement and lodging in other than resident villages and towns. There is evidence that this may result in domestic violence. Some women have suggested that organizers should make efforts for participants being hosted by family members.
- **Facilitating access to land administrations**. Mediators can play a prominent role to bridge the gap between women and land administrations. This would certainly be supported when local land administrations work more closely together with the program.
- **Gender balanced mediation teams**. Presently women are largely under-represented.

The UN-Habitat can seek support for some of these activities from UN partners who have demonstrated in interest in eastern DRC, including UN Women and UNFPA.

A more fundamental issue deals with the status of women as Congolese citizens. Statutory law protects women but many do not necessarily qualify to use these laws to achieve higher levels of tenure security. In general, civil registration is weak in DRC, but arguably affects women more than men. The election registration card is mainly used as civil documentation, rather than the identity card. Other essential documents are often missing: the birth certificate which grants a person citizenship and legal personality; civil marriage and death certificate which qualifies women to use the Family Code, including its civil inheritance procedures.

The development of civic registration systems is part of a larger public service effort (but with immediate impact on tenure securisation). Programs and NGOs can however support these efforts. The Norwegian Refugee Council (NRC) is instrumental in

supporting this through their ICLA program. In other countries (Burkina Faso for instance), civil marriages are encouraged for women, and organized as collective events.

Some more practical immediate measures can be considered. Public officers can be sensitized to handle women with missing papers in a more flexible way. Reliance of local and oral testimony can be encouraged. There are also possibilities to decentralize the civil affairs offices (bureau état civil), a decision that can be taken by the provincial governor.

In some cases, dowry payment was mentioned as an obstacle for youngsters to marry. Sensitization of the bride´s parents us recommended.

The drafting of the note "*Analyse sur les femmes et le programme de prévention et résolution des conflits fonciers exécuté par UN-Habitat en Ituri, RDCongo*", is an important step for the program. More research on how to practically deal with this challenge is however recommended. A specific issue that is not yet addressed is the situation of women under polygamy relations and unions, and its impact on land rights, including these of the children born out such relations.

8. Identification of opportunities to consolidate and develop the HLP program

This last section refers back to the core of the program, ie. the prevention of land conflicts. So far, the major focus and achievements of the program, with considerable success, are the reactive "resolution" of a significant number of land conflicts through mediation. Prevention is restricted to awareness creation and field monitoring. Mediation teams are also called in to quickly deploy hotspot areas where confrontations suddenly explode.

Conflict mediation remains however a bandage solution. As long as some of the causes of these land conflicts are not addressed, one cannot genuinely expect a sustained stabilization process. Addressing root causes has to do with land governance in all its dimensions: good policies and laws that take on these root causes, a correct implementation of this legal framework, functioning institutions, rule of law, transparency, etc.. Most of these are presently absent in Eastern DRC.

At the same moment there is a need to continue responding to the requests from all layers of society, but especially from the vulnerable who are many, to handle land conflicts. The UN-Habitat program has established itself as a respected actor, and it needs to build on this. At this moment there are not that many options open for these people to share their grievances. The task ahead is however immense. An external organization that is operational in a short term project environment cannot face this challenge all by itself with the limited number of tools that it is presently using.

Threats to stability will continue to persist for several years to come. Some of these are difficult to manage, while others may be controlled if adequately tackled. The return of refugees from Uganda and Rwanda to eastern DRC, as well as the reintegration in society

of in excess of 100,000 IDPs still living in camps may constitute such a threat when not well managed. In fact handling issues of access to land during the return process was the core business under the UN-Habitat/UNHCR partnership in 2008. A good management of this process is still pertinent and requires the attention that it deserves.

A future land program with a longer term horizon can thus be shaped on three pillars as follows:

1. Development of a broader approach to the land conflict management process;
2. Policy and law development, including advocacy for this to happen;
3. Support to the return process of refugees and the reintegration of IDPs.

8.1 Development of a broader approach to the land conflict management process: from Mediation Center to Coordination Center

The UN-Habitat program focuses on mediation only for land dispute management. The program implements itself mediation and measures its success against quantitative targets of "resolved conflicts". There are however many more conflicts requiring resolution than the program will ever be able to address on its own.

The mission takes notice that not all parties involved in conflicts favor mediation and the 50-50, win-win agreement that is often promulgated by the mediation teams. Interviewed parties confirm that a win-win situation does not exist; there is always a loser. Certain cases are clear, and one or the other party should not be compelled, albeit in a pacific way, to come out as a loser. Under these circumstances, the "solution" may be of a temporary nature.

It is also noted that mediation efforts over the last two years have resulted in a "success rate" of 37%. This is high compared to other experiences but also indicates that a majority of land conflict mediations did not result yet in a positive outcome.

Section 4.1.2.4 illustrates the existence of many more land conflict resolution systems presently used by other players. In general terms these can be regrouped in: (i) customary based systems, (ii) local government official´s systems and (iii) civil society based systems. All are operational through existing institutions, or new institutions are being created, resulting in a high degree of institutional proliferation. Not all of these systems are using mediation as a resolution tool. Land administrations often use arbitration and adjudicate. There is of course also the court system, with the Peace Tribunals (Tribunaux de Paix) emerging as institutions. Their functionality remains to be assessed.

Each of these approaches and actors are part of an overall land conflict management system that provides a rich pallet of options for all parties to have conflicts addressed and eventually solved. The coordination between these different avenues and their actors is however limited. Achieving certain acceptable levels of coordination, turning options more operational, enhancing transparency, guiding parties to make choices and directing these to appropriate tools are essential for this overall system to function.

This coordination needs to be addressed, rather than multiplying the mediation implementation capacity three-, five- or tenfold. The UN-Habitat has established itself

as the institution by excellence to facilitate this process. The organization should use the comparative advantage it has over NGOs and even the public sector, and actively promote coordination.

Coordination requires a clear understanding on the functioning of the different options, the interaction of their actors, how these tools link together with several actors displaying sometimes multiple functions, clear procedures for different options, a certain hierarchy in the choice of options, clear procedural and administrative procedures, a framework for referring clients to different options. In practice this implies that the Mediation Centers in Nord Kivu, and a structure in Ituri (a reformed CFI, see section 8.2 below) are transformed into Coordination Centers.

Some lessons on this coordination can be learned from present efforts supported by UN-Habitat in Liberia, also a post conflict country where access to land and land governance are considered as root causes. Following suggestions on the purpose and functions of the Coordination Centers are drawn from a report prepared by consultant C. Moore for the Liberian Land Commission (C. Moore, 2011; *A study on ADR Systems in the Republic of Liberia: Strategies for Coordination and Operationalization of Systems to Enhance their Effectiveness*).

The purpose of such a Coordination Center should include:

- Promoting coordinated, effective, efficient and timely resolution of land disputes, either within individual institutional systems and/or facilitation of interaction between them within the network system;
- Providing some degree of standardization of administrative procedures (but not necessarily dispute resolution processes, as a range of procedures and paths for disputants to choose from should be supported and encouraged);
- Assisting disputants to select and making referrals to appropriate dispute resolution institutions and procedures that will assist them to best meet their substantive, procedural and psychological goals, objectives and interests;
- Coordinating accessibility of support services to component institution/systems and users of the network system, including as appropriate: cadastral and other informal documentation searches, access to legal information and advice and support for land demarcation and surveys;
- Promoting, encouraging and facilitating institutional learning to make changes at the institutional, procedural, policy or legal levels, which will improve the resolution of land disputes.

In practical terms the Centers would exercise following functions:

- Promote linkages and coordination among and between various system partners;
- Enhance public education and increase the awareness of potential or actual disputants about the range of procedural choices to resolve land disputes and how to access them;
- Educate the public and potential disputants about land law—customary and statutory—as a means to prevent disputes and prepare parties to engage in productive dispute resolution initiatives;
- Develop a land conflict early warning system and prevention strategies to anticipate and respond to potentially volatile disputes. The system should include procedures to: identify serious emerging land conflicts, engage diverse individuals

and groups (including youth, women and representatives of local parties and strangers) to monitor them, conduct early investigations, develop appropriate resolution strategies and approaches to educate involved parties about how contested issues can be settled in an amicable manner;

- Establish uniform case intake procedures, forms and registration process, procedures for case investigation, conflict analysis and resolution strategy design.

- Counsel parties on their procedural alternatives for dispute resolution and the time, cost and potential outcomes that can be expected from each;

- Provide assistance to disputants to select the appropriate method to resolve their dispute;

- Refer disputants to appropriate entities that can provide legal advice, counseling and/or other assistance that will prepare them to understand and adequately advocate for their interests;

- Provide convening assistance if the second party, respondent(s) or other parties are reluctant or refuse to participate in a dispute resolution process provided by network partners;

- Prepare Land Coordination Center system partners to brief parties on effective dispute resolution attitudes, procedures and skills to promote settlement. This could involve brief training programs in interest-based negotiation for disputants;

- Monitor the path of dispute resolution, and assure that an appropriate sequence and hierarchy of procedures is followed;

- Provide guidelines, forms and assistance as needed to network partners to help parties and intermediaries to draft and record agreements in the form of a MoU and implementation steps;

- Promote the use of closure rituals by Land Coordination Center system partners or other service providers to help parties recognize the end of the dispute and let go of their differences, promote reconciliation and encourage commitments to follow through with agreements;

- Provide oversight and monitoring of parties' compliance with agreements or third-party decisions, through: periodic visits to former disputants, inquiries about whether they are following through on settlements and, if not, suggesting appropriate follow-up measures such as reopening a case for further negotiations;

- Provide introductory and advanced culturally-appropriate land dispute resolution training for third party intermediaries. Training should include basic conflict management and resolution skills, and customized modules for specific Land Coordination Center partners or disputant groups (women, youth, squatters, etc.) or resolution of specific kinds of land conflicts;

- Monitor, observe and coach intermediaries working in network partner institutions to assure quality control of procedures and personnel;

- Monitor and evaluate dispute resolution processes and outcomes, both in the field and through desk studies of information collected in the database;

- Collect, analyze and document "lessons learned" to identify patterns, trends and structural sources of conflicts that can be addressed, remedied or prevented through changes in law, rules, regulations or dispute resolution procedures;

Many of these functions are appropriate in the Eastern DRC context; several are already being addressed by the UN-Habitat program, both at the central management level, as well as at the Mediation Center/CFI and support group level.

8.2 Land policy and law development

Access to and control over land is at the heart of the political economy of Eastern DRC. Land issues are complex, multi-dimensional and multi-sector, embedded in a social and polarized ethnic fabric. Colonial legacy remains strong, with land legislation that responds better to a concession policy than to the need to address access rights of ordinary citizens. The mission´s field visits leave no doubt: in areas such as Rutshuru, Masisi and the Bunia plains, population densities are high, land is intensively used and many dwellers are spatially compressed between concessions, plantations, conservation areas and dense forest. The present government does seem to consider it as a priority. The President declared in his inauguration speech that land reform and mitigate land conflict as priority of the current mandate. An advisor on land and environment was already appointed to strengthen the Presidency.

Opinions and suggestions on how to possibly deal with these stress situations take on extreme dimensions. One administrator affirmed without hesitation that "there is an urgent need for a redistributive agrarian reform". A major concession holder communicated to the program team that " in case of an agrarian reform, we will take up arms again".

Two contributions to a longer term solution are recommended. First, any progress on the land tenure securisation agenda will pass through better land governance focusing, in first instance at least, on improving the use of the presently existing regulatory framework, including the 1973 Land Code. Second, policy and law reform is a longer term undertaking, but that needs some foundation building at this point. These two elements are the core of the land policy component. They are in fact already part of the present UN-Habitat program. The strategy that is proposed here differs however from the present set up, as discussed below.

8.2.1 Concrete entry points

Improving land governance and initiating land policy development is best dealt with on the basis of some clearly identified practical challenges that require immediate action. The following were recognised in the program areas:

- The allocation, occupation and management of concessions and plantations;
- The management of protected areas where these are occupied by local populations and displaced people in search of livelihoods;
- Land use planning in protracted areas of land occupation, such as communal grazing areas, where pressure on land is exacerbated by the return and reintegration of refugees and displaced people.

Masisi presents many different situations of concessions including the CNK blocks, more recently issued concessions in the 1990s, aggressive conversion of plantations into grazing

lands combined with massive tree cutting and intensified pit sawing activities. Dynamics on the fringes of the Virunga park are also clear; populations are pushed away from concession lands, have no alternative livelihoods and settle in the park where they engage in charcoal production and hunting. Commerce and mobility are incentivized by the presence of the important North-West road axis running West of the park. The situation will be exacerbated by the possible return of more than 100,000 people who fled Rutshuru and Masisi for the refugee camps in Uganda and Rwanda. In Ituri, farmers are pushed away from grazing lands and occupy lands that belong to others. New concessions were issued in the 1990s during the conflict and in the absence of local populations. There is also a colonial legacy of ethnic enclaves. in the particular case of Ituri. The government is actually considering the relocation of the grazing lands to the west, including the resettlement of large population groups to the eastern fringes of the tropical forest.

The baseline is that eastern DRC has a long history of concession agricultural but this economic model is not feasible anymore under present conditions of population pressure and the need for local populations to have access to land for their recovery after the armed conflict. The poor handling of the concessions by land administrations under the 1973 Land Code, as well as their actual use and management by sometimes opportunistic concession holders are at the heart of the problem. Many concessions have changed hands in the absence of any state authority or their knowledge on such transfers.

It is recommended that the program builds on its experience (see the Luhonga case) but takes this a few steps further by following concrete activities: :

- Producing an inventory of concessions. This includes granted concession areas; contract details including expiry dates; prescribed land use; social agreements and conventions with workers. This activity has already started in Nord Kivu under the auspices of the MoA with whom the program should team up. The mission has identified some very interesting cadastral maps that can be used as tools.
- Assessment of the local consultation process (*enquête préalable*). A concession grant (and renewal) is preceded by a consultation of the local populations to verify whether the pretended land is "free" of other land rights and claims. This procedure is not always followed or ill implemented by the administrations.
- Audit on the effective use of the concession area and the compliance with the prescribed land use. Many granted concessions are only partly used, or not used at all. Certain concession change present land use from the contractually prescribed land use without following the required procedures. Conversion from agricultural concessions into grazing land has a major negative impact on the livelihood conditions of ex-plantation workers;
- Audit on share cropping practices – *métayage* - ; a significant number of concessions are explored on the basis of highly exploitative practices; this practice is turned into a lucrative business for absentee landlords;
- Audit on renewal procedures;
- Assessment of actual population occupation and existing land claims over concessions areas;

- Assessment of the situation of ex workers; do they have rights established? Do forced evictions exist?
- Analysis of share cropping arrangements with concession holders. Sharecropping is often used in cases of absentee landlords or land speculation; there is evidence that several churches engage in exploitative crop sharing agreements, resulting in conflict.

These assessments, audits and evaluations can establish a good knowledge platform for an informed debate on procedures, as part of a future land policy and regulatory framework. Some themes that can be part of this include:

- Decentralisation of concession allocation; to the reporter´s knowledge only Liberia has a more centralized system (sale of public land);
- Improved local consultation procedures;
- Local conventions between concession holders and local populations; social agreements;
- Functioning of local negotiation tables between concession holders and populations;
- Templates for *cahier de charge* of concession holder;
- Improved renewal procedures;
- Regulations that recognize that existing agreements between different parties are transferred to new holders in case of transfer; this already seems to be addressed in the revised Code Agricole, Art. 24.;
- Consideration of some form or legal recognition of land rights for workers and tenants over parts of concession land (a good reference is the 1998 Uganda Land Act dealing with the rights of tenants on *mailo land*).

The conditions for UN-Habitat engagement look good:

- There are signs that the MAF is in a process to declare some sort of moratorium on the issuance of new concessions and/or the renewal of existing ones. There is thus indication that procedures may be revisited sooner than later;
- The MoA has started activities on concession inventory;
- The UN-Habitat program has already established a partnership with the Virunga National Park management team to look into a more holistic approach to deal with populations that are occupying parts of the park. This can be further explored.
- The mission met with some land administrators in Nord Kivu that are open to work on the concession issue with the UN-Habitat program;
- The program has established itself as a valuable actor on concession conflict resolution being successful in the high profile case of Luhonga.

Un-Habitat needs to investigate which of these proposals can be integrated in the present program under available funding, which ones can be negotiated with donors to be

integrated in the present program and which ones need extra funding under new proposals to be presented to the donors.

8.2.2 Strategic issues

There are signs that DRC may adopt a strategy for policy and regulatory framework development giving more decision power to provinces. The Constitution supports the principle of concurrent powers between different levels of decision making. The decentralisation law clarifies that customary rights are to be dealt with at the provincial level. The recently approved Law on the Fundamental Principles of Agriculture (revised Code Agricole) instructs that each province is responsible to develop an agricultural cadastre to facilitate and manage the granting and use of agricultural concessions (Art. 13). The provincial governor is responsible for the creation of a Provincial Consultative Agricultural Council (Art. 9) which takes on responsibilities of guaranteeing equitable land access and securisation of tenure (Art. 10).

It is recommended that the Land Program fully supports this decentralization process. It can shift the direct support provided by the national policy advisor from the national to the provincial level (Nord Kivu, South Kivu but especially Oriental provinces). The advisor can also play a more prominent facilitating role between the provincial government of Oriental province and the Ituri district to revitalize the CFI and accompany the process of preparing it for a possible provincial mandate.

The necessary advocacy work between the provincial and national level can better be provided by well placed nationals including locally elected assembly representatives, the provincial executive (the provincial Nord Kivu MAF minister seems to be well prepared to take on this task).

Decentralisation must also be accompanied by inclusiveness for policy and law development. There is a need to establish a new social contract between decision makers and ordinary people, land owners and users so that they can participate in these processes. In the absence of a strong state and functional administrations, local populations have devised their own solutions to a series of challenges. The challenge is now find a meeting point between these locally legitimate practices and legally defined principles. The land debate needs to be democratized, and not be restricted to national and provincial capitals.

8.2.3 Institutional arrangements

In the previous section it is recommended that Mediation Centers are transformed into Coordination Centers in the medium term. This is a response to the need for providing more options to people to address land conflicts and to coordinate these efforts in an efficient way.

It is equally important to design an institutional structure that can accommodate land policy development, and later law and regulatory development. This institutional venue needs to correspond with the basic principle that such a reform requires: multi-sector, multi-task. It is another, next step in institutional development which can result in a Land Center. The proposed Coordination Center can be part of such a Land Center, and exist

as a branch that coordinates the resolution of land conflicts. The Land Center will thus not only be tasked with a facilitation and coordination role to resolve land conflicts but also be a driving force to prevent and mitigation such conflicts through policy advise and development. In fact, this is the final aim of the present USAID- funded project.

A model to achieve this exists already, though in an embryonic form and at the moment in a defunct state of operations – the CFI. Its present status of poor functionality is in fact a result of its conception. The UN-Habitat land program has inherited this situation and turned at least the CFI antennae in valuable and performing structures. The CFI will however need a good overhaul for it to become performing, with recommendations to achieve this presented in the table below.

Table 15 – Suggested reform for the Ituri Land Commission

Present CFI	Future CFI- suggestions
Created by District Arrêté CDD/IT/320/032/2008 (signed by district commissioner)	To be enacted by Provincial Decree
Mandate unclear with references in the 3-article Arrêté to (i) conciliate land conflicts and (ii) receptor of grievances on land conflicts. The mandate is further clarified in the internal regulations with reference to research, law dissemination, education on law compliance and rule of law	Clear mandate with 5 components: (i) supporting on a consultative basis actions that contribute to better??? land governance and land policy/law development; (ii) advocacy for good land governance and policy development; (iii) coordination of land conflict resolution; (iv) coordination of research; (v) acting as a provincial land information center
Complex and heavy structure with a (i) General Assembly, (ii) 6-person Management Committee, (iii) Advisory Group, (iv) two 8-member working groups	A lean but functional structure with a 3-4 person Commission, and (ii) a 4-5 person Technical Secretariat. A reference group may act as a steering committee and meets twice a year
Committee members elected by Assembly	Appointed Committee members and Technical Secretariat; guaranteed representation of civil society.
Funding from donors	Funding through the Provincial budget with possibilities for grants and contributions from other parties. The UN-Habitat can consider financial and technical secretariat staff support in a first phase
Logistic field support from UN-Habitat Land program	Land program supports the commission with at least one permanent land expert
Weak collaboration with Land Administration	MAF, MoA, and Environment support the Technical Secretariat
Part time voluntary staff	Full time salaried staff for Commission and Technical Secretariat

It appears that the newly elected government intends to upgrade the status of Ituri from district to province within the next few years. This is an opportunity for the CFI to

establish itself as a second-to-Kinshasa institution in the land sector. This opportunity needs to be explored and prepared from now onwards.

8.3   Returnee and reintegration information framework

Some 60,000 Congolese refugees in Uganda, almost 55,000 in Rwanda, an estimated 60,000 IDPs spread over 24 camps (Rutshuru, Masisi) have all the territories of Rutshuru and Masisi as their place of origin. With an average population density of over 100hbts/km2 and little land available for settlement between the concessions and protected areas such as the Virunga National Park, the return of these people to their ancestral lands is problematic and may result in another land conflict layer.

One of the basic principles of a sustainable return process is that IDPs and Refugees have the right to make an informed decision whether to return or not and/or when to return. The Pinheiro Principles state under principle 10.1 that *"Voluntary return in safety and dignity must be based on a free, informed, individual choice. Refugees and displaced persons should be provided with complete, objective, up to date, and accurate information, including on physical, material and legal safety issues in countries or places of origin."*

Developing an information framework that supports decision making by refugees and displaced people on the return process is the third pillar of the future HLP Program. In fact, addressing the return and reintegration in a preventive fashion was part of the initial partnership agreement between UN-Habitat and UNHCR in 2008. Over time it has evolved into an action oriented conflict resolution program, leaving aside somewhat the preventive dimension of information provision to these vulnerable groups.

Return and reintegration scenarios are subject to a number of different conditions and situations. The returnee may want go back to his/her place of origin or not; (s)he may return as an individual or as a member of a social group (household, family, community); (s)he may intend to go to urban or rural areas; (s)he may have enjoyed different rights before displacement (ownership, usufruct, lease, possession).

Resettlement in urban areas occurs probably under statutory law, whereas resettlement in rural areas most likely under customary law. Reintegration in a community of origin is different from claiming individual, specific rights in an alien place. Customary law in eastern DRC varies along ethnic groups but in general is not always favorable for displaced people to reclaim their lands. Some interesting research is already published by a number of NGOs including SYTP, FOPAC, FAT, AAP. It appears that under Hunde law, usufruct rights are lost when the land is not used for a consecutive period of six months. In Nande communities this period extends to three years. Some research indicates that principles of abandonment through "force majeure" exist under Nande law, while other sources do not mention this. It is recommended that research into customary law focusing on land and property issues is supported by the HLP program.

There is little doubt that access to land is easier for men than for women. Access to rural land can be easier than access to urban plots; access to land in places of origin could be

easier than in new settlement areas. Some of the Pinheiro principles are also difficult to implement in eastern DRC. Physical restitution of secondary occupied plots in towns such as Fataki, and Kpandroma is difficult. Cash compensation for lost property, or for infrastructure improvements on occupied property to original owners is problematic.

It is recommended that an information framework is developed to facilitate the return of reintegration of refugee and IDP as three-tiered exercise, as follows:

8.3.1   Returnee profiling

It is necessary to know who the returnees are, from where they originate, where they intend to go, what they left behind, what their livelihood expectations are upon return.

The following information can be useful to establish different returnee profiles:

- Is the returnee going back to his/her place of origin?
- How long ago has (s)he left the place?
- Is (s)he returning alone or as a member of a group (family, community)?
- What kind of right was (s)he enjoying before leaving?
- Was this right directly entitled to him/her or the family?
- Was this land situated in an urban or rural area?
- Does (s)he have any evidence of his/her right? Papers? Local witnesses?
- Are there any family members buried on the abandoned plot?

Another information set deals with the expectations of the returnees, such as:

- Do returnees intend to reclaim their land and property in case it is occupied?
- Are they willing to settle on other land?
- What are the necessary conditions to settle on other land?

Each of these expectations will undergo different processes, with different rules and regulations.

8.3.2   Return area characterization

Quick land and property assessments in identified return areas provide guidance on how expectations of possible returnees can be met. Such surveys include issues such as:

- What is the situation of secondary occupation, adverse possession, destruction of infrastructure, presence or removal of tenure securisation signs such as fruit trees, fences, removal?
- Who are the customary leaders in the place of origin? How are they functioning?
- Is there a land administration functional? Is there any documentation available? Archives?
- Is there any legal aid is available, e.g. lawyers, local community based organizations, church, local NGOs, international NGOs, UN agencies
- Do any plans for new urban development exist?

- What is the "welcoming capacity" of rural communities? Do they have their tenure rights secured? Are these open to receive returnees?

8.3.3 Return message packages

Matching the returnee profiles with the assessment outcome in the return areas may result in a set of simple messages. This information should be provided preferably in the camps or places of departure before the return, but complementary info may also be provided in the way stations and at their final destinations. These messages can take on a format of "do no harm", but also focus on more instructive information on avenues to retrieve lost property, to provide evidence of lost property, on options for conflict mitigation. Messages are targeted to specific returnee groups identified through profiling.

The role of the land program is to support more specialized institutions and organizations such as UNHCR, NRC, other NGOs to develop this framework. The latter are also responsible for the assessments.

9. Summary of foundation laying activities

Section 8 lines out the 3 components that are part of a longer term land program. There are a number of foundation laying activities that can be initiated during the ongoing program as indicated in the table overview below:

It is now the responsibility of the organization to turn these foundation laying activities into an operational program, identifying what can be financed under present projects, and negotiating with program donors the approval of eventual program and budget revisions to implement these activities. UN-Habitat will also need to identify new funding for tasks that cannot be covered under present donor funding. It is suggested that the project develops a longer term land program framework, covering some five years, which can serve as a reference.

Issue	Activity	Comments
Coordinating land conflict management	Assess options on the future transformation of mediation centers set up by the program into coordination centers	External consultancy The eventual transformation of these centers into land commissions is an effort of longer duration, but the centre lay the basis
Implementing pilots to secure tenure	Drafting a concept note and ToR on a pilot experience to test a territorial livelihood approach in Masisi – Rutshuru, focusing on the existing concessions, the Virunga National Park, the local communities and returnees. This pilot can be implemented under the new PBF funding request. It will contribute to establish a holistic multi-sector vision to achieve higher level of tenure security for all stakeholders, strengthen reintegration and local development.	Concept note: external Implementation: UN-Habitat program 2011-2012
	Drafting a concept note and ToR on a pilot experience to test methodologies to handle the return and reintegration of refugees and IDPs in a rural-urban environment in Ituri district. This pilot will consolidate an approach to facilitate the return of displaced people to towns. This pilot can be implemented in support of return and reintegration projects. A joint project proposal with UNHCR can be considered.	Concept note: external Implementation: UN-Habitat program 2011-2012
Research to inform policy and law development	Drafting a concept note and ToR for research on customary land tenure systems This study seeks to understand the rules and institutions of customary land tenure in relation to existing and emerging patterns of land use, which may include mapping land use and community, clan, chieftainship and township boundaries for these communities. Changes in land use and allocation in recent years will be examined. The study will also investigate community governance of land allocation and use, including roles within traditional governance hierarchies and how community institutions interact with civil institutions of local government. This research may result in the piloting of such methodologies shall be used to inform any future land legislation and related regulations related to the process of identifying and securing community land rights and uses.	Concept note: external Research: 2012 onwards
	Drafting a concept note and ToR for research into women's access to land, based	Concept note: a first draft exists

	on research in different customary settings; to include an assessment of current levels of women's access to land within the formal land tenure regime. This research will help ensure that gender issues receive adequate attention in the subsequent policy and law reform work.	Research: 2012 onwards
Improving land governance by better applying the Land Code	Draft a concept note and ToR for inventory, assessment and audit of concessions. This work will develop tools to support the MoA, MAF, provincial governments in their task to administer concessions. This may evolve later in a new concession land rights policy.	Concept note: external Assessment: possibly from 2012 onwards
Support the reform of the CFI	Draft, negotiate and agree on a proposal to reform the Ituri Land Commission.	UN-Habitat: policy advisor
Returnee and reintegration information framework	Conceptualise returnee profiling including questionnaire; test profiling Conceptualise return area surveys; test approach	Conceptualising and testing: UN-Habitat with support from UNHCR, 2011 Implementation: New UN-Habitat UNHCR partnership

ANNEX 1

ITINERARY MISSION (To be completed by UN-Habitat Goma and Ituri)

Date	Heure	Lieu	Activités	Personnes ou institutions en contacter	Observation
Nord Kivu					
22 janvier 2012	17h30	Goma	Briefing et harmonisation de l'agenda	Paul, Oumar, Christol	
23 janvier 2012	9h00-11h00		Entretiens séparés avec les autorités provinciales	MiniPro des affaires foncières Coordinateur de STAREC, Chef de Mission de STAREC,	
	11h30- 13h00		Entretiens séparés avec les Chefs des agences de NU	HCR, FAO, PNUD	
	13h00-13h45		Entretien avec l'administration foncière de Masisi- Walikale et de Goma	CTI et CDC	
	15h30-16h30		Monusco et partenaires des ONG internationales	Chef de bureau de la Monusco, Monusco CAS, NRC	
24 janvier 2012	7h30--------		Voyage pour Kihonga		
	9h00------	Luhonga	Entretien avec le comité de Luhonga		Les avertir en avance (Honoré)
	11h15- 13h15		Voyage pour Kitshanga		
	13h15-14h15	Kitshanga	Briefing avec l'équipe de médiation de Kitshanga	Médiateurs fonciers +Animateurs fonciers	
	14h15-14h30		Briefing avec le HCR Kitshanga		
	14h30-15h30		Entretien avec directoire du Comité de sage+ membre des CLPC	Chefs coutumiers et communautés	
	15h30-16h30		Entretien avec les associations féminines de Kitshanga		
25 janvier 2012	8h00-9h00		Entretien crème intellectuelle de Kitshanga	Jeunes de Kitshanga	

	10h30 -13h00		1. Entretien avec certains bénéficiaires du Programme 2. Descente à Kahe et entretien les membres du comité des camps de déplacés et des rapatriés		Conjointement avec la délégation de PBF
	13h30-------	Voyage de Kitshanga à Goma			

26 janvier 2012	7h30-		Voyage de Goma à Kiwanja		
	9h30-	Kabindi	Entretien bénéficiaires	Retournés	
	11h30-12h00	Rutshuru	Civilité à l'administrateur de Territoire +entretien		
	12h30- 13h15	Kiwanja	Briefing avec l'équipe de médiation de Kiwanja	Médiateurs fonciers +Animateurs fonciers	
	13h15-13h45		Entretien avec l'administration foncière de Rutshuru		
	14h00	Kanyamisago	Entretien avec les bénéficiaires du programme		Retournés
	15h00		retour à Goma		
ITURI					
27 janvier 2012	Voyage pour Bunia				
Voir José et Axel merci d'insérer l'agenda et me le renvoyer ce samedi					
1er février 2012	Retour à Goma				
2 février 2012	8h30-10h30	Goma	Entretien avec les membres de la coordination foncière		
3 février 2012	11h00-13h00	Goma	Séance de restitution		

ANNEX 2 : LOGICAL FRAMEWORK

Expected Outputs	Indicators	Source	Data Collection & Analysis Methods	Responsibility	Baseline	Risks and assumption
1. Local communities have access to peaceful mechanisms for preventing or mitigating land disputes	# of USG-assisted reconciliation activities conducted and completed with the participation of two or more conflicting parties	Monthly Report Mediation questionnaires	Mediation Questionnaire Claims from contending parties Data analysis for measuring impact on reconciliation and establishing typology of beneficiary	Programme Coordinator Field Coordinator Mediator Focal Point	FY10: Lack of sound mechanisms to address land dispute	The security situation worsened
	# of people participating in USG-assisted reconciliation activities conducted and completed with the participation of two or more conflicting parties	Land Mediators register		Field Coordinator Land mediator Focal Point		
	# of people reached through completed USG supported	Data Base		Field coordinator		Ethnic and tribal divisions undermine mediation activities

	community-based reconciliation projects					
	# of land dispute registered and settled	Mediation agreements Monitoring reports	Data base	Field coordinator Data base manager		
2.Factors contributing to land conflicts and violence related to the natural resource sector are monitored and mechanisms for deterrence are set up though raising awareness, training program and education on land issues;	# of community-based reconciliation projects completed with USG assistance.	Mid-term and final report	Field Visit and assessment for need on reconciliation and land dispute mitigation	Programme Coordinator Field coordinator	FY10: Local institutions dealing with land issues have been affected by decades of war	Lack of legitimacy towards local authorities. Need to set forth an inclusive process
	# Peace-building structures established or strengthened with USG assistance that engage conflict-affected citizens in peace and/or reconciliation processes	Land Mediation Centers Registered Trainers report and register		Programme Coordinator Field Coordinator		Lack of adhesion from local community which requires raising awareness and information campaign
	# Number of sensitization campaign conducted	Report	Focus Group Impact assessment on how community conception is evolving toward a better understanding of	Land Trainers		Inaccessibility of areas of conflict

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			land issues and reconciliation			
	#of people assisted with advice on land and property matters	Consultation register	Data analysis Opinion Assessment	Land Mediators Land Trainers		Not enough publicity on the relevance of the center.
	# of brochure on land and property given to community	Diffusion list	Focus Group	Land trainers		Language barriers. Translation into local language is required
3.Keys actors at the community level are endowed with strong training on alternative dispute resolution mechanisms so as to better manage land dispute and to reinstate credibility and social cohesion esprit toward community members;	# of USG-supported facilitated events geared towards strengthening understanding conflict affected groups. # of grass-roots or civil society activities supporting high-level, official peace or reconciliation process negotiations supported by USG assistance.	Attendance sheet TDR for each event	Recommendations and resolutions deriving from. Outcome analysis on involvement and efficiency of key actors in acquiring tools for tackling land dispute	Programme Coordinator	FY10: Lack of capacity of keys actors to deal with land disputes	
	# of keys actors trained on ADR and land dispute mitigation	Training report Events report and attendance sheet	Focus groups Trainers data collection activities	Programme coordinator Training specialists Field		Lack of political will to support any capacity building initiative Reluctance of local communities towards any form of land securing process. Informing community on the advantages for securing and rights.

				Coordinator		
4.Land tenure security is promoted among community members through land administration capacity strengthening;	# of community members with registered rights on land # of plot of lands given to landless	Data bases Register on land rights	Data collect jointly with the land administration Land allocation list Analysis of the impact of land security pilot project on human security improvement.	Programme Coordinator Field Coordinator	FY10: Land tenure insecurity is a common trend in rural area where customary laws are in practice.	
	# of land administration staff trained	Training report	Visit to land administration office	Provincial Ministry of Land Affairs-North Kivu		
	# of title delivered by the land administration	Land administration Register		Provincial Minister of Land Affairs-North Kivu Land Register Manager		

5.An inclusive framework is set forth both at the national and provincial levels in order to promote a comprehensive dialogue related to various land issue with the aim of improving the land legal framework which is a major cause of the irrational land management and the lack of tenure security in post-conflict area	#of high level or officials involved in land conflict prevention and mitigation at national and provincial levels	Internationa l Expert monthly report Meetings minutes	Information gathering by international expert Workshop attendance	National Ministry of Land Affairs Land Expert for the Ministry of Land Affairs	FY10: both institutional and legal framework related to land are out of date	Lack of Political will to engage into a land reform
	# of land workshops held both at the national and provincial levels	Workshops Reports		Programme Coordinator Land Expert for the Ministry of Land Affairs		
	# of Land Coordination Groups set up	Land Coordinatio n Group TDR Minutes meeting		National Land Expert Field coordinator		
	# of Ministries involved in the process of Land coordination Groups	Expert Reports	Guidelines for the Land Coordination Group	Land Expert for the Ministry of Land Affairs		
	# of meeting held with the Land Coordination Group	Mission Report	Minutes and outcomes of the meeting	Land Expert for the Ministry of Land Affairs		

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ANNEX 3: TERMS OF REFERENCE

Program Evaluation

SOW

Terms of reference

International Consultant Land Housing and property Expert

LAND CONFLICT PREVENTION ET MITIGATION PROGRAM IN EASTERN DR CONGO

International Land, Housing and Property Program Evaluation

Position: SSA Consultant

Duty station: Goma, DRC with travel within country

Starting Date: ASAP

Duration: 21 Days

Context

Since 2009, UN HABITAT in partnership with UNHCR have been conducting a land conflict prevention and mitigation program for IDP's and Refugees in two provinces (North Kivu and Ituri District). The main goal of the program is to systematically address land conflict through mediation in return area, so as to promote sustainable environment for both return and reintegration of IDP's and Refugees. The program is part of the International Stability and Security Support Strategy (ISSS) led by the United Nations Mission for the Stabilization of Congo (MoNUSCO) and the Congolese program for reconstruction and stabilization of war affected zones (STAREC). Also UNHABITAT is collaborating with UN Agencies intervening in the stabilization framework (Stabilization Unit, MoNUSCO Civil Affairs, UNHCR, UNDP)

The overall program of UNHABITAT in DRC is framed into 3 majors components following the evolution of the post-conflict context: i) addressing land disputes; ii) support to the land administration; iii) support the reform of the land legal framework.

The strategy of the program consists in deploying mobile teams (paralegal) at the community level in order to promote peaceful solution on land disputes involving both community members and displaced persons. In total ten land mediators have been trained and deployed in North Kivu and Ituri. The functions of the mediators are to map, document and mediate land dispute, building capacity for community leader on land conflict resolution, raising awareness on land dispute peaceful

mitigation as well as to monitoring land disputes at the community level. In order to develop a sustainable approach, Land Community Mediation centres have been set up as places to host community members dealing with land disputes or in needs of relevant information related to land. The land mediation centres are linked to the land administration, to develop an integrated approach in resolving land disputes which require sometimes technical intervention. Since 2011, UN-HABITAT has been supporting the land commission of Ituri created in 2008 in order strengthened and expands mechanisms for systematically addressing land disputes in the district.

CANADA, USAID and the United Nations Peace Building Funds support the program. A land donor coordination mechanism is foreseen.

After two years of implementation the Housing Land and Property (HLP) program should be evaluated to move towards a better implementation. UN-HABITAT is hiring an international consultant to conduct an evaluation of the HLP program.

Goal of the evaluation

1. Analyzing various indicators and their compliance with the objectives of the overall program;
2. Analyzing the impact of the program on the return, reintegration and tenure security process (weakness, strength, gaps)
3. Identify gaps and make recommendation for the improvement of program implementation as well as program development;
4. Provide recommendations for how a process for clarifying and securing land rights could be operationalized in the post-conflict DRC context in one or two pilots sites;
5. Provide recommendations on how to better address women's issues and constraints related to land access;
6. Identifying other opportunities in the land sector for the program consolidation and expansion with regards to HLP needs.

Expected Outcomes

1. The weakness and the strength of the Land disputes program are well circumvents and concrete recommendations for improvement are made.
2. Windows of opportunity for the program expansion are identified;
3. Monitoring and evaluation plan is developed.

Methodology

The evaluation activities will involve field visit in North Kivu and Ituri. This will be an opportunity to interact with UN-HABITAT teams in the field, local partners and beneficiaries. Kitchanga in North Kivu and Fataki in Ituri, may be recommended for this purpose. In Ituri a particular attention will be given to the Land Commission, which is the mandated body to deal with land disputes in the whole district. Also actors in Goma such as Provincial Ministry of Land Affairs and other ministry related to land, land administration should be involved.

A database on land disputes has been set up and an analysis of this information will be useful so as to circumvent mains trends related to land disputes. Activities report will be available to the consultant.

Profile of the consultant

Advanced university degree (Masters Degree or equivalent) in law, political sciences, international relations, social sciences or other discipline, preferably with specialisation in housing, urban planning, engineering, environmental management or other field relevant to the respective programme. A relevant combination of university degree, professional training and experience may be considered in lieu of the advanced degree.

At least 7 years of progressively responsible experience acquired at national and international levels in the field of project monitoring and evaluation, including in a crisis or post-conflict environment and in the development and implementation of capacity building programmes. Experience with United Nations Peacekeeping mission is an asset. Experience working in Africa in crisis context is an asset.

Language: Fluency in oral and written French and English is required.

- **Planning& Organizing:** Develops clear goals that are consistent with agreed strategies; identifies priority activities and assignments; adjusts priorities as required; allocates appropriate amount of time and resources for completing work; foresees risks and allows for contingencies when planning; monitors and adjusts plans and actions as necessary; uses time efficiently.

- **Accountability:** Takes ownership of all responsibilities and honours commitments; delivers outputs for which one has responsibility within prescribed time, cost and quality standards; operates in compliance with organizational regulations and rules; supports subordinates, provides oversight and takes responsibility for delegated assignments; takes personal responsibility for his/her own shortcomings and those of the work unit, where applicable.

- **Client Orientation:** Considers all those to whom services are provided to be "clients" and seeks to see things from clients' point of view; establishes and maintains productive partnerships with clients by gaining their trust and respect; identifies clients' needs and matches them to appropriate solutions; monitors ongoing developments inside and outside the clients' environment to keep informed and anticipate problems; keeps clients informed of progress or setbacks in projects; meets timeline for delivery of products or services to client
- **Leadership:** Serves as a role model that other people want to follow: empowers others to translate vision into results; is proactive in developing strategies to accomplish objectives; establishes and maintains relationships with a broad range of people to understand needs and gain support; anticipates and resolves conflicts by pursuing mutually agreeable solutions; drives for change and improvements. Provides leadership and takes responsibility for incorporating gender perspectives and ensuring the equal participation of women and men in all areas of work; demonstrates knowledge of strategies and commitment to the goal of gender balance in staffing.

Delivery:

The final product should be a 25 pages report analysing the UN-HABITAT program in DRC including an executive summary, strong recommendation and strategies for future program development.

After completion of the mission, a debriefing session will be held with UNHABITAT field team, the government counterpart (Ministry of Land Affairs) and partners in Goma in order to share the majors finding of the mission.

Implementation modalities

The overall evaluation will be contained into 21 working days organized as follow: 7 days for inception and reporting and 14 days for fieldwork (Ituri, Goma, Kitchanga). The consultant must submit a work plan and methodology for the evaluation, which will be the basis of the planning. He will work closely with the team in Goma UNHABITAT offices (CTA, Program Regional Coordinator, Data Base Manager).

Logistically, the Goma office will facilitate the mobility within the provinces. For the interprovincial travels, UNHABITAT will facilitate access to MONUSCO and WFP flights.

Expected date

The evaluation is intended to start on 1st of September depending. All candidature must be submitted before end of end of July.

Applicants are requested to submit a United Nations Personal History (P11) form as well as a CV and a cover letter via email to:

Oumar Sylla

Head of Office-Goma

UNHABITAT: oumar.sylla@unhabitat.org; osylla25@hotmail.com

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