

Lessons from implementing tenure reforms in major forested countries

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Outline

- Some framing questions
- Two country cases
 - China
 - Brazil
- Lessons and topics for discussion





How to understand forest tenure reforms





What is a “forest tenure reform”?

- A change in the set of rights and responsibilities to use, manage or control forest or forest land
- For which right holder: (our specific interest) Communities, indigenous people, smallholders

Legal arenas of reform

Conservation

- Extractive reserves, sustainable development reserves (Br)
- Communal reserves (Peru)

Customary focus (rights recognition)

- Indigenous lands, quilombola lands (Br)
- Uncontacted peoples territorial reserves (Peru)

Regulatory use and exploitation of land and NR

- Collectively owned forests (Ch)
- Community forests (Cameroon)
- Community concessions (DRC, Guatemala)

Agrarian reform

- Native communities, peasant lands (Peru)
- Ejidos, agrarian lands (Mexico)

Decentralization

- Annual forestry fee mechanism (Cameroon)

Sources: Almeida (2015), Barry et al. (2010), RRI (2012), Pacheco and Benatti (2015), Xu et al. (2010)



Perspectives on tenure

Key questions	Neoclassical Economics school	Common property school	Political ecology
Why is it important to clarify and secure property rights?	Land becomes collateral, clear and secure tenure increases value of land assets and promotes long term investment	Clarifying the bundles of rights (use, mgmt, control, ownership) lowers transaction costs for collective decisions, which in turn influences behavior (long-term investment, rule enforcement)	Land regularization reduces conflict, but the process may threaten more vulnerable groups and benefit the powerful who have a bargaining advantage
How do clear and secure tenure rights affect land and forest use decisions?	Land use optimization and risk management Development of financial markets, including for env services: market decides	Stabilizing borders improves conditions for collective governance, can resist market pressures (sales, conversion): collective decides	It is difficult to achieve secure tenure since rights are contested over time Land competition will continue in a context of multiple interests and asymmetric power relations State role is key: protect elites or forest communities?



Country cases

China

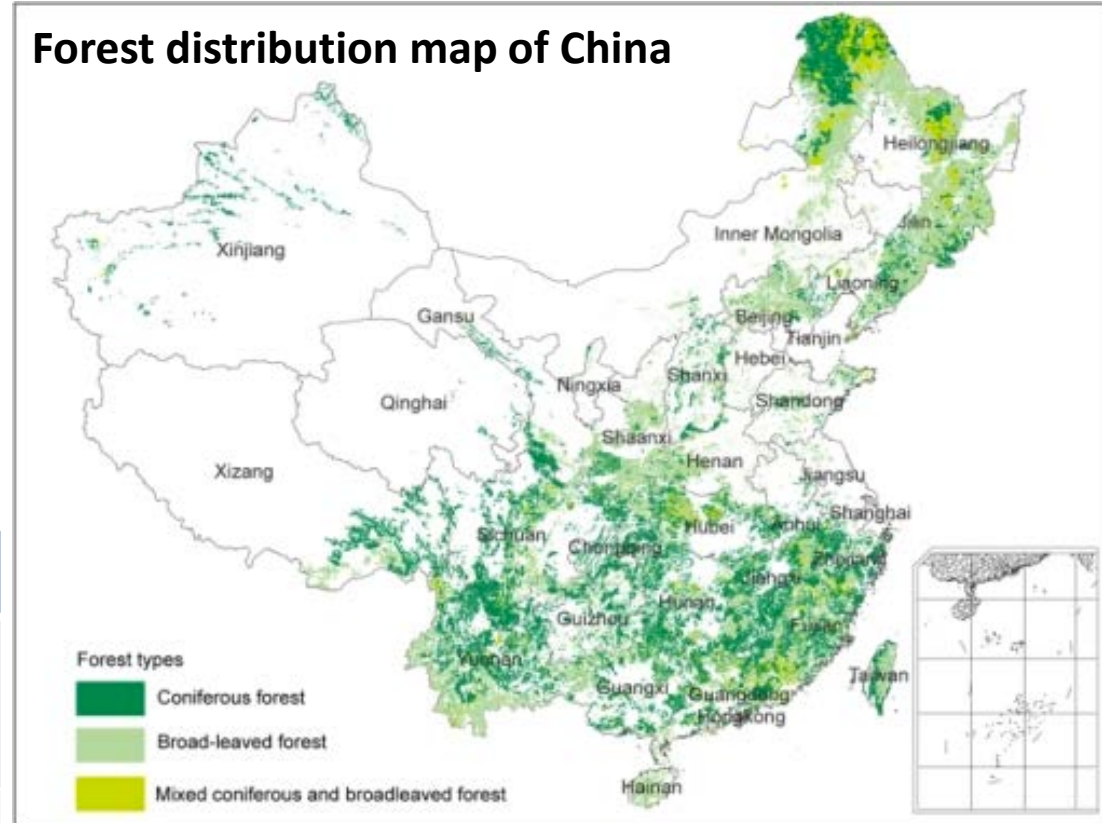
- Fifth largest forest area in the world
- Largest timber importer and processor in the world
- Largest area of afforestation/forest restoration in history

Evolution of China's Forest Cover

Year	Population (million)	Percentage	Area (Million Ha)
1840	413	17%	
1940	541	11%	109
1970	830	13%	121
1998	1,247	18%	158
2008	1,328	21%	197*

Source: He et al., 2011 in Robins and Harrell, 2014

Forest distribution map of China



Source: Shi et al 2011

based on sixth forest inventory (1999–2003)

Forest Tenure: Dual System

- State owned forest land
- Collectively owned forest land

RRI (2013): China collective ownership with household property rights to forest lands 119.52 Million Ha



Forest land reform process in China

Year	The nature of the reform (focus on collective forests)
1950s	<i>Collectivization of forest lands</i> <ul style="list-style-type: none"> Overexploitation, forest fires, deforestation and degradation increased (Hyde et al., 2013)
1980s	<i>Decollectivization of forest lands (land ownership remains collective)</i> <ul style="list-style-type: none"> Beginning of decentralized forest management (First Forest Law 1984) New tenure arrangements (Contract Responsibility System): by 1986 69% of collective forest Strict restrictions for timber products harvesting
1990s	<i>Transition to afforestation and regeneration</i> <ul style="list-style-type: none"> Major investments (over \$42 billion up to 2013) in reforestation and afforestation Cutting quotas still restrict benefits
2000s-	<i>“Bring forest sector up to date with the agricultural sector”</i> <ul style="list-style-type: none"> Transfer land use rights and forest ownership to households; Increase domestic timber production; enhance role of forests in ecological rehabilitation. New mechanisms to reassess and reallocate forest use rights: individual households; collection of households (partnerships); third party outside contractors Clarify/ certify rights, allow 70 year contracts Collective forest tenure reform Law (2008): certificates for 144 M Ha, 82 million HH

Common problems in formalization

- "In 2006, the last year when data was publicly available, the government reported that there were 80,000 mass protests, the majority of which were over the illicit selling, or taking, of collective land" (Xu et al 2010)
- "In more developed regions where urbanization and industrialization contributed to raising land values, grabbing land from peasants became pervasive. Revenue-hungry city governments have every incentive to expropriate more agricultural land for urban expansion and commercial leases and make a profit." (So 2009)
- "Villagers with lower socio-economic status are vulnerable to being exploited during the rapid shift in policy and market dynamics" (access to information)
- "The ability to transfer property rights creates a situation where villagers in an unfavourable trading position could lose their property rights to firms and businesses" (Song and Cannon 2011)



China: challenges to tenure security

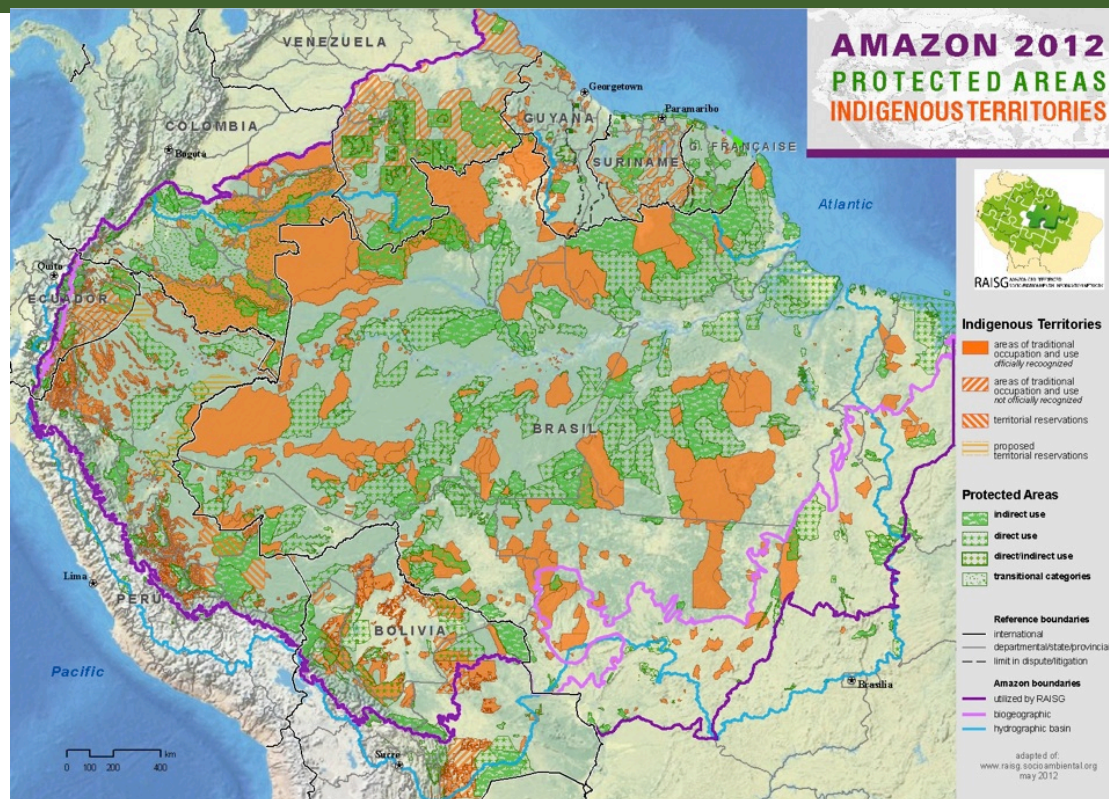
Goal is to increase tenure security for HH for market engagement through clear rights allocation.

Households and rights registration: Who gets the right? Will formalization lead to tenure security? (FAO 2013 finds in most cases security did increase)

- Issues of HH: What about women?
- Issues of multiple rights holders: Once rights are allocated to a third party, what rights does the HH have?
- Issues of power: Who has the information, contracts may benefit the better connected; registering land may benefit powerful groups

Brazil

- Largest tropical forest in the world, second largest forest area (520 million has)
- Largest annual net loss of forest in the world 1990-2010
- Brazil Legal Amazon:
 - 47% in indigenous lands or protected areas
 - 60% of total Amazon
 - 70% decline in average annual deforestation rate from 2005 to 2013



Source: RAISG 2012

Forest tenure: public and private

RRI (2013 – millions of has):

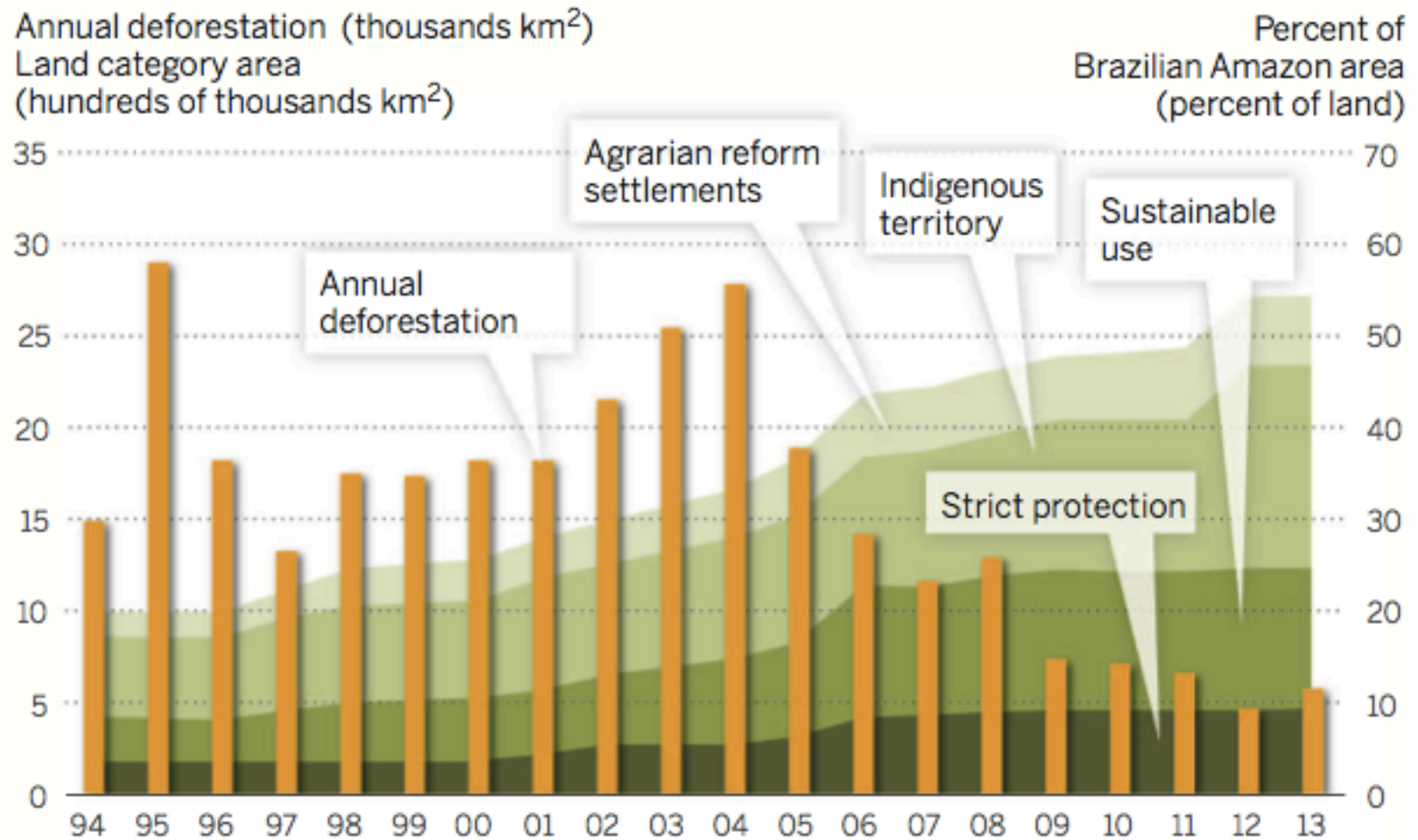
- State land administered by state 150.13
- State land designated for communities 35.61
- Owned by IPs and communities 110.81
- Owned by individuals and firms 99.89



Community tenure regimes

Tenure Regime	Year of Regime's creation	Legislation confers rights to	Owner	Tenure Area 2002 (Million hectares)	Tenure Area 2013 (Million hectares)
Reserva Extrativista (RESEX)(Extractive Reserve)	2000	Traditional populations represented by a legal association registered with ICMBio	State designated to community	11,86	14,31
Reservas de Desenvolvimento Sustentável (Sustainable Development Reserves)	2000				10,98
Projeto de Assentamento Agro-Extrativista (PAE)(Agro-Extractivist Settlement Project	1996	Community of traditional population families that occupy the forestry area; in common property regime			7,43
Projetos de Assentamento Florestal (Forest Settlement Projects (Unique to the nothern region)	2003	Communities engaged in sustainable family forestry with a common property regime			0,23
Projeto de Desenvolvimento Sustentável (Sustainable Development Projects)	1999	Populations subsisting on extractive activities, farming, low-impact env activities in a common property regime			2,66
Florestas Nacionais (FLONA)(National Forests)	2000	Traditional populations living in a FLONA at the time of its creation	state	n.d	n.d
Territórios Quilombolas (Quilombola Communities)	1988	Quilombo communities represented by associations constituted legally	community	0,77	1,00
Terras Indígenas (Indigenous Lands)	1988	Indigenous or aborigines people, represented by their own forms		74,50	109,81
				87.13	146.42

Deforestation rate



Forest reform in the Brazilian Amazon

Year	The nature of the reform (focus on collective forests)
Pre-1930 1930-1960	<i>Forests are primarily indigenous</i> <i>Colonization encouraged</i>
1964-1985	<i>Military government</i> <ul style="list-style-type: none">• Further colonization, ranching, logging, mining• Violence against indigenous and traditional peoples• Highly skewed land distribution• Forest conversion and degradation
1985	<i>Return to democratic government (new Constitution)</i> <ul style="list-style-type: none">• Efforts to redress inequity, Constitution recognizes indigenous rights• Multiple land titling programs (previous slide, 1988-2003)
2004-present	<i>PPCDAm begins (Action for deforestation prevention and control)</i> <ul style="list-style-type: none">• DETER (monitoring system); sanctions• Secure tenure (Terra Legal): legalize but with strict forest cover compliance• End perverse subsidies, soy moratorium• Provide incentives (Amazon Fund)
	<i>Reforms challenged</i> <ul style="list-style-type: none">• Infrastructure investment program: risks to informed consent, degazetting of PA• Ruralista lobby: amnesty on prior clearing, weakening of IBAMA• Slowdown in titling

Brazil: challenges to tenure security

Goal to redress great inequity and violence, and very high deforestation rates

Important measures to address this with substantial success, including land rights clarification and formalization

These multifaceted reforms face multifaceted opposition:

- to indigenous lands and protected areas, from development proponents who want access to land, minerals and other resources (including land for hydropower devt)
- to regulations aimed at lowering deforestation rates, by development proponents who want fewer rules and restrictions



Lessons from reform

Summary of the cases

	China	Brazil
Forest change	Deforested -> reforestation, afforestation	High deforestation rate -> low deforestation rate
Land tenure change	Collective -> decollectivization	Collective -> formalize Individual -> formalize
Main policies/ goals	<ul style="list-style-type: none"> -Conservation (Forest degradation, desertification) -Rights (household) -Regulation (ensure forest cover, increase domestic timber production) 	<ul style="list-style-type: none"> -Conservation (protected areas) -Rights (indigenous, extractivist, quilombolo) -Regulation (to ensure forest cover)

Common lessons

(1) Type and goal of reform. What is reform? Each reform is many reforms. The goal of the reform is not usually recognizing rights alone.

(2) Formalization for whom? In many experiences throughout the world, there is a history of formalization as expropriation.

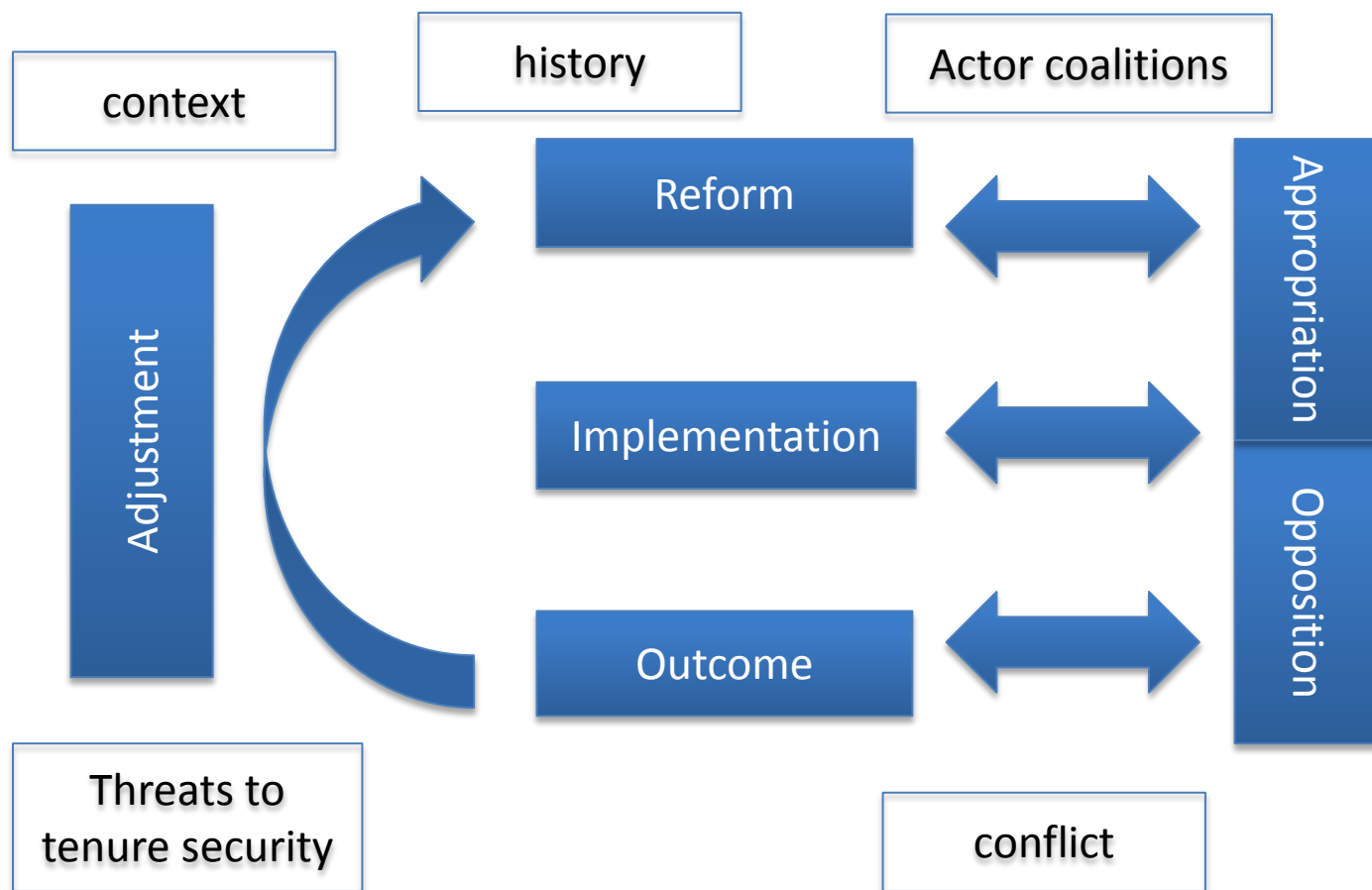
(3) Tenure security is not guaranteed by certifying, registering or titling; this is just one factor that may increase security.

(4) Resistance, threats, change are the norm and threaten long term security.

(5) What happens on the ground depends substantially on implementation, including the role of state or local governments, and social mobilization, whether for or against reforms.



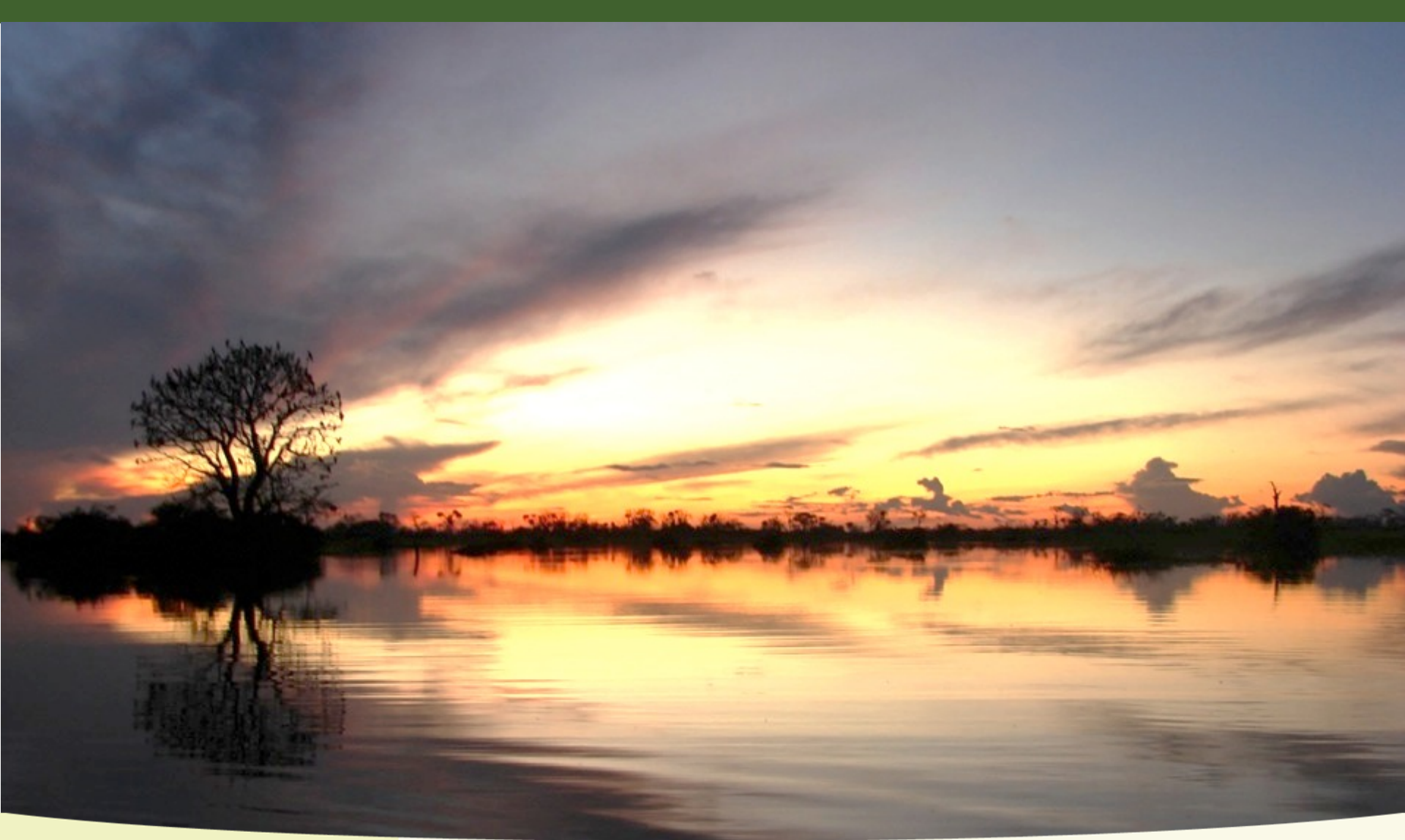
How to move forward with reform



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