

# Resettlement Framework

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## Republic of Indonesia: Community-Focused Investments to Address Deforestation and Forest Degradation Project

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## **CURRENCY EQUIVALENTS**

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Rp1.00 = \$0.000073

\$1.00 = Rp13,660

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
AP	–	affected person
BPN	–	Badan Pertanahan Nasional (National Land Agency)
DMS	–	detailed measurement survey
EA	–	executing agency
FMU	–	Kesatuan Pengelolaan Hutan (forest management unit)
GOI	–	Government of Indonesia
IA	–	implementing agency
IR	–	involuntary resettlement
LA	–	land acquisition
LARF	–	land acquisition and resettlement framework
LARP	–	land acquisition and resettlement plan
PISU	–	project implementation supporting unit
SES	–	socioeconomic survey
SPS	–	Safeguards Policy Statement

## DEFINITIONS OF TERMS

Affected Community/ Households/ Persons/ Entitled Party	Refers to any person or persons, customary or local community, private or public institution who are physically displaced (loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihood) as result of i) acquisition of land; ii) restriction on land use or on access to legally designated parks and protected areas. The affected community/households/person are those who control or possess an object land acquisition.
Census of affected persons	The census is a count of all displaced persons irrespective of their titled or non-titled land ownership status. Its purpose is to accurately document the number of displaced persons and to create an inventory of their losses finalized on the basis of a detailed measurement survey (DMS).
Compensation	Proper and equitable replacement provided in the form of cash or other agreed in kind at replacement cost to the affected person/ entitled party in the process of land acquisition / resettlement for the assets and livelihoods lost or affected by the project.
Corridor of Impact	Area, which is impacted by civil works in the implementation of any FIP subproject. It is important in two particular respects: (a) Legally as the area within which AHs will be entitled to compensation and other measures for any loss of land, structures or land use and occupation and of livelihoods and (b) Operationally as the agreed and demarcated area within which construction activities will take place.
Customary rights and its equivalents in indigenous peoples	A power that, based on the customary law, is held by particular indigenous peoples over certain areas in which the peoples live and benefit from the natural resources, including lands therein, for the life needs and life, that emerges from physical and mental relationship hereditarily and in a manner that reflects intact relationship between the indigenous peoples and the areas in question. (Joint Regulation Of Minister Of Home Affairs, Minister Of Forestry, Minister Of Public Works And Head Of National Land Agency On Procedure Of Resolution Of Land Tenurial Issues In Forest Areas (2014))
Cut-off date	The date prior to which the occupation or use of the project area make residents or users of the same eligible to be categorized as AP or entitled party to receive compensation and other assistances. The cut-off-date will coincide with the census of APs or entitled parties and the IOL that will be conducted by the National Agency implementing land acquisition.
Detailed Measurement Survey	With the use of approved detailed engineering drawings, this activity involves the finalization and/or validation of the results of the IOL, severity of impacts, and list of APs done during the

preparation of the land acquisition and resettlement plan (LARP). The updating will be carried out during land acquisition implementation phase undertaken by the land acquisition team led by land office.

Eminent domain/ Compulsory Land Acquisition	The right of the state using its sovereign power to acquire land for public purposes. National law establishes which public agencies have the prerogative to exercise eminent domain.
Entitled party	Party that controls or possesses land acquisition object.
Entitlement	Refers to a range of measures of compensation and other forms of assistance provided to displaced/ entitled persons in the respective eligibility category.
Forest	A single unit of ecosystem of landscape containing bio-natural resources dominated by trees in association with the environment, which cannot be separated one another. (Joint Regulation Of Minister Of Home Affairs, Minister Of Forestry, Minister Of Public Works And Head Of National Land Agency On Procedure Of Resolution Of Land Tenurial Issues In Forest Areas (2014).
Hak Ulayat	The authority of <i>masyarakat hukum adat</i> or customary community to collectively govern use of their territory, land and natural resources as the source for their livelihood.
Impact	Extent of social and economic impacts resulting from the implementation of an activity. In land acquisition/resettlement, the degree of impact will be determined by (a) scope of economic loss and physical displacement/relocation; and (b) vulnerability of the affected population/entitled party. Impact can be positive or negative.
Income restoration	This involves rehabilitating the sources of income and productive livelihoods of severely affected and vulnerable APs to enable income generation equal to or, if possible, better than earned by displaced persons before resettlement.
Inventory of Losses	This is the listing of assets as a preliminary record of affected or lost assets during the preparation of LARP where all fixed assets (i.e., land used for residence, commerce, agriculture; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; standing crops and trees with commercial value; etc.) and sources of income and livelihood inside the corridor of impact are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. The severity of impact on the affected assets and the severity of impact on the livelihood and productive capacity of the Affected Persons or entitled parties are likewise determined.

Land acquisition	Land Acquisition activity by way of giving compensation and other measures adequately and at replacement costs for damages/loss to the entitled parties / affected populations in order to reduce adverse social impacts due to the project. Land acquisition and resettlement are conducted involuntary for the benefit of the project.
Land Tenure, Ownership and Use Inventorying	Hereinafter referred to as IP4T: an activity of collecting data on land tenure, ownership and use for further processing using geographic information system to produce maps and information on land tenure by the applicant. (Joint Regulation Of Minister Of Home Affairs, Minister Of Forestry, Minister Of Public Works And Head Of National Land Agency On Procedure Of Resolution Of Land Tenurial Issues In Forest Areas (2014))
Masyarakat Hukum Adat	A group of people living in a certain geographic area for generations in the Republic of Indonesia bound to their ancestors, inherently maintaining close relations with the environment. Their cultural values define their economic and social systems and legal order.
Relocation	The physical displacement of an AP from his/her pre-project place of residence and/or business.
Replacement cost	Amount in cash or in kind needed to replace an asset in its existing condition, without deduction for transaction costs or depreciation, at prevailing market value, or its nearest equivalent, at the time of compensation payment.
Resettlement	It is the displacement of people, not of their own volition but involuntarily, from their homes, assets, sources of income and livelihood in the area impacted by the Project.
Land Acquisition and Resettlement Plan (LARP)	A time-bound action plan with budget, setting out the resettlement objectives and strategies, entitlements, activities and responsibilities, resettlement monitoring, and resettlement evaluation.
Severely affected persons	This refers to Affected/ displaced Persons who will i) lose 10% or more of their total productive assets, ii) have to relocate, and/or iii) lose 10% or more of their total income sources due to the project.

Vulnerable groups

These are distinct groups of people who might suffer more or face the risk of being further marginalized due to the project and specifically include households: i) headed by women, ii) headed by persons with disabilities, iii) falling under the regional poverty line, and iv) headed by elderly.

#### **NOTE**

In this report, "\$" refers to US dollars.

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## CONTENTS

	<b>Page</b>
I. INTRODUCTION	1
A. Project Description	1
B. Project Location	3
C. Anticipated Involuntary Resettlement	3
D. Rationale for the Land Acquisition and Resettlement Framework	6
II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS	6
A. Objectives and Scope of the Land Acquisition and Resettlement Framework	6
B. Legal Framework	6
C. Resettlement Policy Principles for the Project	15
D. Subproject Screening and Minimizing Involuntary Resettlement	16
E. Affected Persons and Eligibility	16
III. SOCIO-ECONOMIC INFORMATION	18
A. Identification of Potential Impacts	18
B. Prescribed Tools for Social Assessment	19
C. Unanticipated Impacts	20
IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE	21
A. Consultation and Participation	21
B. Disclosure	22
V. COMPENSATION AND INCOME RESTORATION	23
A. Compensation and Entitlements	23
B. Income Restoration and Special Measures for the Vulnerable	27
C. Negotiated Land Acquisition	27
D. Voluntary Land Donation	27
VI. GRIEVANCE REDRESS MECHANISMS	28
VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION	30
A. Institutional Arrangements	30
B. Capacity Building	33
VIII. BUDGET AND FINANCING	33
IX. MONITORING AND REPORTING	34
A. Monitoring Arrangements	34
B. Monitoring Indicators	34
C. Reporting and Disclosure	36
APPENDIX 1: SUBPROJECT LAR SCREENING CHECKLIST	37
APPENDIX 2: OUTLINE OF A LAND ACQUISITION AND RESETTLEMENT PLAN	38
APPENDIX 3: FIP CONSULTATION AND PARTICIPATION PLANS	41
APPENDIX 4: SAMPLE NEGOTIATED SETTLEMENT AGREEMENT	45
APPENDIX 5: SAMPLE VOLUNTARY DONATION / CONTRIBUTION FORM	46

## **LIST OF TABLES**

Table 1. IR impacts and mitigation measures by Outputs.....	5
Table 2. Gaps between Land Acquisition Law and Regulations with ADB SPS and Proposed Project Principles.....	12
Table 3. Entitlements Matrix.....	24
Table 4. Criteria and Guidance Notes on Voluntary Donation .....	28
Table 5. Allowable Resettlement Plan Cost items and Budget Categories .....	34
Table 6. Suggested Monitoring Indicators (Internal) .....	35

## **LIST OF FIGURES**

Figure 1. Location of Project Interventions in Kapuas Hulu District.....	4
Figure 2. Location of Project Interventions in Sintang District.....	4



## I. INTRODUCTION

### A. Project Description

1. As a pilot country of the Forest Investment Program (FIP)<sup>1</sup> under Climate Investment Funds, the Government of Indonesia (the government) prepared a forest investment plan with support from the Asian Development Bank (ADB), World Bank and International Finance Corporation (IFC). The “Community-Focused Investments to Address Deforestation and Forest Degradation” project is one of the projects of the forest investment plan to be administered by ADB. The project will support the government and customary communities in their efforts to sustainably manage forests and reduce greenhouse gas (GHG) emissions through enhancing institutional and technical capacity, and improving livelihood of rural communities to address drivers of deforestation and forest degradation. The project will support implementation of community-focused and gender-responsive pilots for reducing emissions from deforestation and forest degradation (REDD+) in five forest management units (FMUs) in Kapuas Hulu and Sintang districts of West Kalimantan province, one of the top five provinces contributing to GHG emissions with a mean deforestation rate of 132,500 ha per year.

2. The project will invest in community-focused activities (e.g. community-based land use planning, community-led forest monitoring and forest fire management, community-assisted forest regeneration and maintenance, community-based ecotourism) in selected districts and/or forest management units (FMUs) to address deforestation drivers such as illegal logging, forest conversion to agriculture, and uncontrolled fires. The project will strengthen the capacities of the local governments in West Kalimantan province, provide policy support to harmonize sub-national fiscal policies for REDD+ with national policies, and establish non-monetary incentives, safeguard systems and equitable and gender-responsive benefit sharing arrangement. By promoting sustainable forest management, the project will not only reduce greenhouse gas (GHG) emissions and enhance carbon stocks, but also provide livelihood co-benefits such as poverty reduction, improved quality of life for forest communities, protection of customary community tenure rights, and enhanced conservation of biodiversity and ecosystem services.

3. **Impact and Outcome:** The impact will be increased environmental and livelihood benefits. The outcome will be improved REDD+ implementation in project areas of West Kalimantan province.

#### 4. **Outputs:**

- a. Community-focused and gender-responsive REDD+ pilots implemented in Kapuas Hulu and Sintang districts. Key activities under this output are:
  - (i) Facilitate coordination and information dissemination on SFM and REDD+ between FMU offices and provincial agencies, with improved communication infrastructure.

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<sup>1</sup> Forest Investment Program (FIP) is one of the three sub-programs under Strategic Climate Fund of Climate Investment Funds (CIF). FIP sub-committee endorsed investment plan ([https://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/FIP\\_6\\_Indonesia\\_0.pdf](https://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/FIP_6_Indonesia_0.pdf)) in November 2012 for \$70 million (\$37.5 million grant and \$32.5 million soft loan). The ADB and the World Bank are the partner agencies for the grants while the IFC will provide soft loans. The World Bank project will support decentralized forest management by enabling institutional arrangements at national level and operationalizing FMUs. The IFC project will demonstrate replicable REDD+ business models for small and medium enterprises.

- (ii) Conduct workshops and study visits for FMU staff and local communities, including women, on REDD+ aspects such as safeguards, forest law enforcement, FPIC, conflict mediation and PES.
  - (iii) Formulate community-based forest management (CBFM) agreements with local communities, including women.
  - (iv) Train FMU staff and local communities, including women, in forest products utilization, value addition and enterprise development.
  - (v) Establish a REDD+ monitoring and safeguards information system, with geospatial databases.
  - (vi) Develop spatial and business plans for FMUs, through a participatory process, consistent with CBFM plans.
  - (vii) Support establishment of FMU “block XXI” and prepare its long-term business plan.
  - (viii) Establish a fund-flow mechanism at community level as a basis for results-based payments for verified performance in SFM and emission reduction.
  - (ix) Implement REDD+ pilots<sup>1</sup> with local communities, including women, to generate income and reduce emissions.
  - (x) Provide equipment and training for community-based forest fire management.
- b. Provincial REDD+ strategy in West Kalimantan effectively implemented. Key activities under this output include the following:
- (i) Facilitate coordination and information dissemination on forestry planning and policy between provincial agencies and national and district-level agencies, with improved communication infrastructure.
  - (ii) Conduct provincial workshops and training programs on REDD+ concepts, FMU business plan development and carbon accounting, including drafting of regulations.
  - (iii) Establish a provincial monitoring system and safeguards information system for REDD+.
  - (iv) Establish a grievance redress mechanism on tenure and REDD+ activities.
- c. Sub-national fiscal policies on REDD+ harmonized with national policies. Key activities are the following:
- (i) Analyze fiscal policies with regards to integration of natural capital considerations, in Indonesia and other countries with significant forest resources, and prepare a policy paper.
  - (ii) Facilitate coordination and information dissemination on forestry policy between national and sub-national agencies, with improved communication infrastructure.
  - (iii) Conduct policy dialogues to assess gaps and identify remedial measures on fiscal, monitoring and benefit sharing policies and West Kalimantan forest industry strategy, leading to policy harmonization.
  - (iv) Identify relevant funding sources for REDD+ implementation and conduct training to prepare proposals to extend the scope, area and/or time frame of the current project.

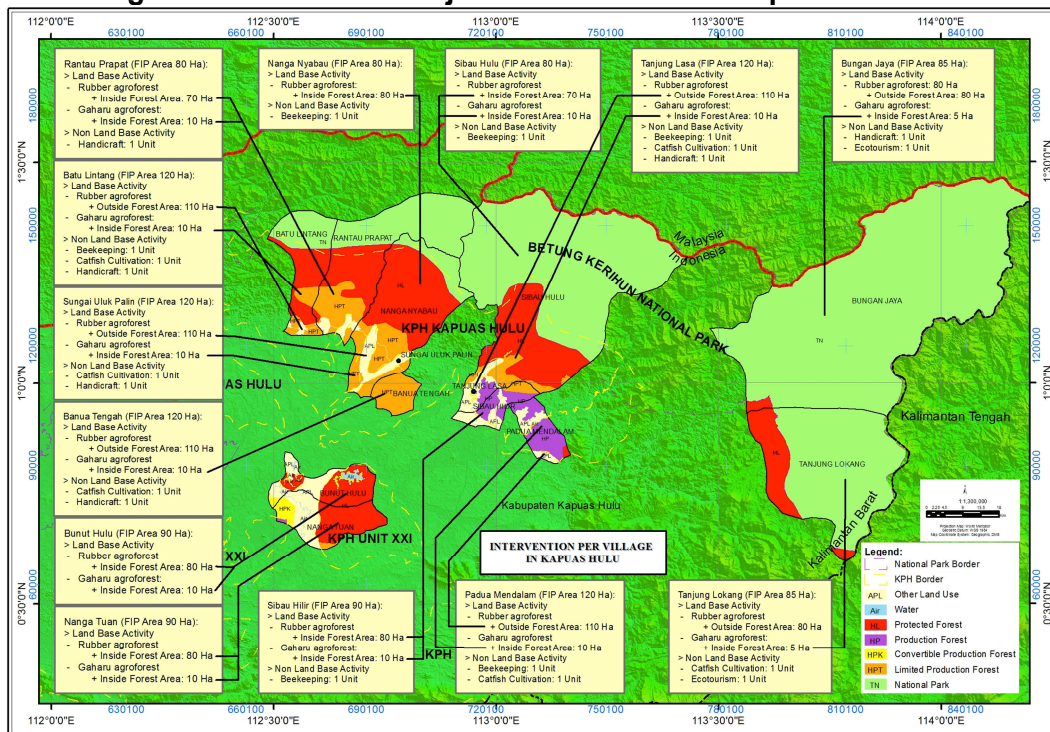
**B. Project Location**

5. The project will be implemented in 17 villages of five FMUs in Sintang and Kapuas Hulu districts of West Kalimantan province. Of these, six villages in Kapuas Hulu district (Bunut Hulu, Nanga Tuan, Nanga Nyabau, Rantau Prapat, Sibau Hulu, and Sibau Hilir); and four villages in Sintang district - Kayu Dujung, Senangan Kecil, Radin Jaya, and Tanjung Sari are proposed for land-based interventions. All these 10 villages are located in forest area (*Kawasan Hutan*), area which belongs to the State. In addition, there are seven villages located next to demonstration activities area to support the effectiveness of REDD+ related targets. These seven villages are in non-forest area, or legally known as Area Penggunaan Lain (APL). Figures 1 and 2 shows the current land use of the two districts with proposed FIP interventions.

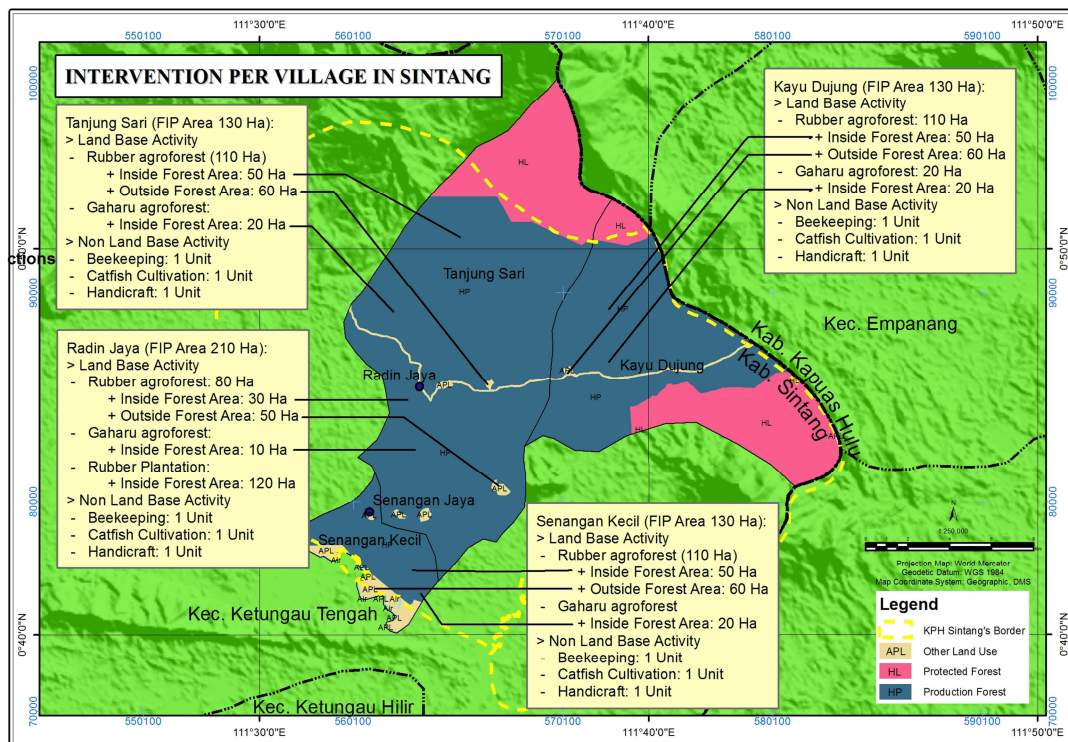
**C. Anticipated Involuntary Resettlement**

6. Based on field surveys during project preparation stage, it was determined that a few potential negative impacts may result from the implementation of activities under output 1 of the project. They include (i) potential economic displacement or restriction to access among households in utilizing the land due to the development of spatial and business plans for FMUs; and (ii) permanent and/or temporary losses of small areas of land due to rehabilitation of rural roads for commodity transportation and for construction works required for implementation of REDD+ pilots. The implementation of these activities will include the development of supporting facilities which may include: installation of micro-hydro for village electricity supply, solar panels, ecotourism facilities, and small-scale village infrastructure. Village road rehabilitation along around 2 km per village will be built on the existing road, so that the additional land acquisition per village is expected not more than 2,000 m<sup>2</sup> (0.2 hectares), while the micro hydropower might require around 500 m<sup>2</sup>. (see Table 1 below)

**Figure 1. Location of Project Interventions in Kapuas Hulu District**



**Figure 2. Location of Project Interventions in Sintang District**



7. Potential restriction of local communities and indigenous groups to access land and natural resources may occur as the regional governments will regulate and/or strengthen further/current use of land and forest resources to combat deforestation and land degradation.

Table 1. IR impacts and mitigation measures by outputs

Project output / Type of subprojects	Anticipated IR impacts	Mitigating measure
<p><b>Output 1.</b> Community-focused and gender-responsive REDD+ pilots in Kapuas Hulu and Sintang districts implemented.</p> <p>1.1 REDD+ pilots livelihood program implemented with local communities (including women) includes non-land based activities (including NTFPs) - beekeeping, fish culture, handicrafts, community based ecotourism, and land based activities including 1880 ha of: agroforestry systems (rubber-coffee and rubber-gaharu), and rubber plantation. The implementation of these activities will include training as required and the development of supporting facilities, which may include: micro-hydro and small-scaled village Infrastructure (including small roads rehabilitation (2km and 2m wide per village) and facilities for ecotourism).</p> <p>1.2. Development of spatial and business plans for FMUs, through a participatory process, consistent with CBFM plans</p>	<ul style="list-style-type: none"> <li>• Permanent and temporary losses of small areas of land due to rehabilitation/ construction works may be unavoidable., In addition loss of crops and trees may occur, although not expected to cause severe impacts since rehabilitation works will be carried out within existing right-of-way or, if any ,additional land will be expected to be minor. Loss of structure is not expected.</li> <li>• Economic displacement or restriction to access among households traditionally utilizing the area; affect access to land and forest resources;</li> <li>• Classification and zoning under spatial planning<sup>2</sup> may restrict access to areas and resources presently available to MHAs</li> </ul>	<ul style="list-style-type: none"> <li>• Secure broad community support/ FPIC. Village regulations and or customary regulations on the protection of customary and local community have to be crafted. Provide transformative perspective on social relations such as understanding the nature of collective work on shifting cultivation may be harnessed into cooperative movement.</li> <li>• Provide compensation for lost land and non-land asset loss through several options: <ul style="list-style-type: none"> <li>▪ Land replacement (arable land)</li> <li>▪ Cash compensation with the amount determined by the local government/village and participate in the livelihood program under output 1</li> </ul> </li> <li>• In case of voluntary donation, the APs will be provided with the participation of the land based livelihood program</li> <li>• FMU authorities need to be socially sensitive to community needs as well as culturally sensitive to traditions to generate meaningful and effective participation. Social preparation has to be considered and planned well with communities.</li> <li>• Providing alternative livelihood for household income design in close participation of communities</li> <li>• Meaningful consultation and broad community support will have to be observed and harness partnership with local NGOs.</li> </ul>
<p><b>Output 2.</b> Provincial REDD+ strategy in West Kalimantan effectively implemented</p> <p>2.1 Conduct provincial workshops and training programs on REDD+ concepts, FMU business plan development and carbon accounting, including drafting of regulations.</p>	<ul style="list-style-type: none"> <li>• Economic displacement or restriction to access among households traditionally utilizing the area; access to land and forest resources affected;</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry authorities need to be socially sensitive to community needs as well as culturally sensitive to traditions to generate meaningful and effective participation. Social preparation has to be considered and planned well with communities</li> <li>• Providing alternative livelihood for household income design in close participation of communities</li> <li>• Meaningful consultation and broad community support will have to be observed and harness partnership with local NGOs.</li> </ul>

<sup>2</sup> A system and process of planning spatial layout, spatial use and spatial use control. Joint Regulation of Minister of Home Affairs, Minister of Forestry, Minister of Public Works and Head of National Land Agency on Procedure of Resolution of Land Tenurial Issues in Forest Areas. 2014.

## **D. Rationale for Resettlement Framework**

8. The resettlement framework (RF) was prepared by the Directorate General of Social Forestry and Environmental Partnership (*Direktorat Bina Usaha Perhutanan Sosial dan Hutan Adat - BUPSHA*), MOEF as the executing agency (EA) of the project. The RF establishes basic principles and guidelines that should be adhered by the implementing agencies in the selection of subproject, screening and categorization of sub-projects, resettlement assessment, preparation and implementation of resettlement plan (RP) for the subprojects. Appendix 1 provides an outline of the preparation of RP.

9. FIP is set at category B levels for IR safeguards and any subproject with potential category A will be excluded in the project activities. Subprojects shall be selected based on a set of criteria established that include (i) located in and or nearby FMU area; (ii) poor communities who depend much on forest and forest land in making their living; (iii) expression of need or acceptance by community for the project. In anticipating negative impacts and taking appropriate mitigation measures the project needs community meaningful participation.

10. Despite the identification of participating villages for the project, details have not been prepared and finalized as this project is anchored on community-based forest management approaches requiring detailed plans from communities prior to project implementation. Should land acquisition and restriction to access be necessary, this Project will ensure that any negative impacts are avoided, properly managed and minimized and that a RP at district level will be prepared.

## **II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS**

### **A. Objectives and Scope of the Resettlement Framework**

11. The project resettlement policy harmonizes relevant Indonesian laws and procedures with those of the ADB Safeguards Policy Statement (SPS). The objectives of this RF are to:

- (i) Avoid involuntary resettlement wherever possible;
- (ii) Minimize involuntary resettlement by exploring project and design alternatives;
- (iii) Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to the pre-project levels; and
- (iv) Improve the standards of living of the displaced poor and other vulnerable groups.

### **B. Legal Framework**

#### **1. National Laws of the Government of Indonesia (GOI)**

12. The project will target the development of community investment for economic development and will involve upgrading simple village road, small irrigation, micro hydropower, and other community social infrastructure. These activities will require small plots of land and as the required lands are for the community-based development, the land will be acquired through negotiated land acquisition and in some cases the lands might be acquired through voluntary contribution. Potential impact on restrictions of access to land and natural resources due to activities of outputs 1 and 2 may occur.

13. **Act No. 2/2012 on Land Acquisition for the Development for the Public Interest and its implementing regulations.**<sup>3</sup> The main regulation applied for the project land acquisition is Act No 2/2012. The law stipulates that land acquisition should be undertaken by involving all concerned stakeholders and taking into account the interests of development and community. Land acquisition should be conducted by providing fair and adequate compensation to the entitled parties. The act recognizes that: (i) persons controlling and utilizing land are entitled to compensation; (ii) all losses — lost land and non-land assets, other structures that can be valued — should be evaluated by appraiser plot by plot; (iii) project location permit will be required that should refer to the spatial planning; (iv) land acquisition will be undertaken by National Land Agency. The implementing regulation of the Act No. 2/2012, the Presidential Regulation No. 40/2014 stipulates that land acquisition less than five hectares can be directly undertaken between agency needing the land and land rights holder by way of purchasing, exchange, or other means agreed by both parties.<sup>4</sup>

14. In the Act No. 2/2012, compensation for land acquisition objects covers “other appraisable loss” that means nonphysical loss equivalent to money value.<sup>5</sup> Therefore, losses in terms of restriction/limitation or restriction to access to natural resources such as marine-fishery resources that can impact on the economic activities of people are now categorized as losses by the Law and may be evaluated for compensation purposes.<sup>6</sup> The Land Law of 2012 specifically upholds the following: “(i) Acquisition of Land in the Public Interest shall be performed through planning involving all the guardians and stakeholders. *“Guardians” means, inter alia, customary leaders and clerics,*<sup>7</sup> and (ii) The giving of Compensation for Objects of the Acquired Land shall be directly made to the Entitled Party.<sup>8</sup> *Compensation for indigenous land shall be given in the form of substitute land, resettlements, or other forms as agreed upon by the relevant indigenous people. “Land tenure holders” means parties holding means of proof issued by the competent official documenting the existence of the relevant land tenure, for example, the holders of deed of sale and purchase of un retitled land, the holders of deed of sale and purchase of uncertified customary titles/rights, and the holders of dwelling permits.”*

15. **Joint Regulation of Ministry of Domestic Affairs, Ministry of Forestry, Ministry of Public Works, and Head of National Land Agency No. 79/ 2014, No. PB.3/Menhut---II/2014, No. 17/PRT/M/2014, No. 8/SKB/X/2014 on the Procedure for Settling the Land Control in Forestry Area.** This regulation was issued in order to resolve issues on people rights over forest areas, insofar as they still hold tenure over lands in forest areas and the rights are in compliance with the principles of the Unitary State of Indonesia, people rights need to be recognized and protected Article 1 (17) stipulates that recognition of right to lands is the granting of right to lands<sup>9</sup> which have no legal evidences of ownership but have been proven in fact that

<sup>3</sup> The regulations include Perpres No. 71/2012 on “Implementation of Land Acquisition for the Development of Public Interest”. The National Land Agency through Regulation No. 5/2012 issued the Implementation Guideline for Land Acquisition following Perpres No. 71/2012.

<sup>4</sup> Presidential Regulation No. 40/2014, Article 121.

<sup>5</sup> For example, loss due to loss of business or job, cost of change of location, cost of change of profession, and loss of value of the remaining property.

<sup>6</sup> The compensation for may be in any of the following forms (Article 36): (i) money; (ii) substitute land; (iii) resettlements ; (iv) shareholding ; or (v) other forms as agreed upon by both parties.

<sup>7</sup> See Law No. 2/2012, Art. 7: (3).

<sup>8</sup> Ibid, Art. 40: Those entitled shall be, inter alia: a. landholders; b. land concessionaires; c. waqf organizers, in the case of waqf land; d. ex-customary land owners; e. indigenous people; f. parties in possession of the state land in good faith; g. land tenure holders; and/or h. owners of buildings, plants or other objects related to land.

<sup>9</sup> Granting of land rights is governmental authorization that grants rights over State lands. Joint Regulation Of Minister Of Home Affairs, Minister Of Forestry, Minister Of Public Works And Head Of National Land Agency On Procedure Of Resolution Of Land Tenurial Issues In Forest Areas, 2014.

it has been physically controlled for 20 years as it is stated in the Article 61 of Agrarian Ministry/Head of National Land Agency Decree No. 3/1997. Article 9 of the Joint Regulation stipulates that recognition of rights<sup>10</sup> of customary communities is carried out in line with laws and regulations.<sup>11</sup>

16. **Forestry Acts (Act No. 5 of 1967 and Act No. 41 of 1999).** Act no. 41/1999 Law on Forestry regulates land acquisition in forests, requiring compensation land to be acquired for afforestation in a ratio of 2:1. A major ambiguity in Article 1 of the Forestry Law ruled that the word “state” should be scrapped in the provision: customary forests are state forests located in the areas of customary communities. Article 5 of the same law was revised to also show that state forest does not include customary forest. The ruling was made in favor of a petition filed by Indonesia’s national indigenous peoples’ alliance, AMAN (Aliansi Masyarakat Adat Nusantara)<sup>12</sup> in March 2012.

17. Other key laws and regulations that impinge on land acquisition and resettlement issues include:

- (i) Law 5 of 1960 on Basic Rules of Agrarian Principles (State Gazette of the Republic of Indonesia Year 1960 No. 104, Supplement of State Gazette of the Republic of Indonesia No. 2043); acknowledges customary rights of Indigenous Peoples (IPs).
- (ii) Act No. 39 of 1999 on Human Rights. Article 5, elucidation describes the vulnerable groups include the elderly, children, the poor, pregnant women and people with disabilities. Article 6 Para. 1: “In the framework of maintenance of human rights, the differences in and the needs of, adat law communities are observed and protected by the law of society and Government.” Article 6 Para. 2: “Cultural identity of *adat* law communities, including rights to *ulayat* land, is protected in line with the evolvement of time.” The Act further identifies vulnerable groups to include the elderly, children, the poor, pregnant women and people with disabilities. Articles 36 and 37 of Act 39 of 1999 concerning property rights and acquisition of property rights protect *adat* communities’ *ulayat* right. Thus, acquisition of *ulayat* land by government must be done through due process of law following the **free, prior and informed consent** of *adat* communities.
- (iii) Law 23 of 2014 on Local Governments. The law stipulates on the authority of the national government, provincial government, and district/city government on recognition of MHA, local wisdom or traditional knowledge and rights to local wisdom or traditional knowledge, rights of MHA to PPLH, and capacity building of MHA.

<sup>10</sup> A process of granting of rights whose ownership evidences are absent but have already been represented by the physical tenure for a period of twenty (20) years as provided under Article 61 of Regulation of State Minister of Agrarian Affairs/Head of National Land Agency No. 3/1997.

<sup>11</sup> This Joint Regulation is anchored on the following: (i) Constitutional Court Ruling No. 34/PUU-IX/2011 the State control of forests shall take into account and respect people land rights; (ii) Constitutional Court Ruling No. 45/PUU-IX/2011 Forest Area Designation shall immediately be finalized to generate legal and equitable forest areas; (iii) Constitutional Court Ruling No. 35/PUU-X/2012 customary forests are not State forests; (iv) Joint Memorandum of Understanding (Joint MOU) on Acceleration of Indonesian Forest Area Designation Process has been executed by 12 Ministries/State Agencies (11 March 2013).

<sup>12</sup> In 1999, a national congress of Indonesian indigenous peoples took place, attended by over 200 *adat* community representatives from 121 ethnic groups. The congress agreed to establish a national alliance of indigenous peoples, AMAN. By 2001, AMAN had 24 affiliated organizations in islands and provinces. It has several objectives, including the restoration to *adat* communities of sovereignty over their socioeconomic laws and cultural life, and control over their lands and natural resources and other livelihoods.



- (iv) Law No.11/2005 on the Ratification of the International Covenant on Economic, Social and Cultural Rights. This Act protects people rights of economy, social, and culture including right to live descent and protection of culture. As stated in Article 11 of the Convention, the state recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State will take appropriate steps to ensure the realization of this right, recognizing the essential importance of international cooperation based on free and prior informed consent.
- (v) Law 26 of 2007 on Spatial Planning (State Gazette of the Republic of Indonesia Year 2007 No. 68, Supplement of State Gazette of the Republic of Indonesia No. 4725); provides that development and land acquisition in the public interest should be carried out in accordance with regional spatial planning.
- (vi) Presidential Decree No. 34/2003 on National Policy on Land regulates authorities of national and local governments on land. It stipulates that the authorities of local government on land include; i) undertake land acquisition for development; ii) provide compensation and allowance (*santunan*) for land acquisition.
- (vii) The Law No. 11/2009 on Social Welfare and its implementing regulation Ministry of Social Welfare Decree No. 39/2012 on Delivery of Welfare. Vulnerable / severely affected people are identified as early as possible through the Social Impact Assessment of AMDAL as referred to in the Environmental Law no. 32/2009 on Environmental Protection and Management; Indonesia Government
- (viii) Government regulation (PP) No. 38/2011 with regard to river management. Ministry of Public Work no. 63/ 1993 with regard to riverbank. Regulate riverbank (*Bantaran*) use, river and *Sempadan* right of way and benefits derived from the rivers/streams. The integrity of the riparian function is a key consideration in any review for status quo.
- (ix) Law 6 of 2014 on Village (State Gazette of the Republic of Indonesia Year 2014 No. 7, Supplement of State Gazette of the Republic of Indonesia No. 5495).

## 2. ADB Safeguards Policy Statement of 2009

18. The objectives of the ADB social safeguards policy are to avoid involuntary resettlement whenever possible; to minimize involuntary resettlement by exploring project and design alternatives; and to enhance, or at least restore, the livelihoods of all displaced and vulnerable persons in real terms relative to pre-project levels, and to improve the standards of living of the displaced poor and other vulnerable groups.

19. The absence of legal title to land cannot be considered an obstacle to compensation and rehabilitation privileges per ADB policy. All persons affected by the project, especially the poor, landless, and semi-landless persons shall be included in the compensation, resettlement, and rehabilitation package. APs and/or AHs, whichever is deemed applicable, who are unable to demonstrate a legalizable or recognizable claim to the land being acquired will be eligible for compensation with respect to non-land assets only, and not the land itself. They will however be provided with other benefits and allowances as provided to other APs.

20. The following ADB SPS principles on involuntary resettlement are stipulated and will also apply to the project.

- (i) Carry out meaningful consultations with affected persons and relevant stakeholders. Inform all displaced persons of their entitlements and ensure their

participation in planning, implementation, and monitoring of resettlement programs. Pay particular attention to the needs of vulnerable groups and establish a grievance redress mechanism.

- (ii) Develop procedures in a transparent, consistent, and equitable manner, if land acquisition is through negotiated settlement in order to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (iii) Prepare a RP elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (iv) Disclose a draft RP including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final RP and its updates to affected persons and other stakeholders.
- (v) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the RP have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

21. The ADB policy on IPs has been integrated with IR under the new ADB SPS and will likewise govern this RF. IP safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of IPs or affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as their AD.

22. The ADB policy on gender and development adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring participation of women and that their needs are explicitly addressed in the decision-making process for development activities.

23. The ADB Public Communications Policy seeks to encourage the participation and understanding of people and other stakeholders affected by ADB-assisted activities. Information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, in order to facilitate dialogue with affected people and other stakeholders.

### **3. Comparison of Government Law and Regulations with ADB SPS and Proposed Project Principles**

24. While there will be issues on land acquisition and potential restriction on access to land and livelihood because of the village land use management, these are not foreseen to be major issue and will not trigger category A and relocation. This comparative analysis therefore limits its comparisons by not including relocation as an option.

25. The GOI enhanced its country system in order to address land acquisition issues for public interest development project purposes. The new Land Acquisition Law No. 2/2009 and its implementing rules and regulations approximate harmonization with the ADB SPS of 2009. The new law grants that persons with no legal title over the land they occupy or utilize are entitled to compensation<sup>13</sup> for improvements found thereon, including compensation for job and business

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<sup>13</sup> See Act No.2/2012 Elucidation of Article 40.

losses, moving cost,<sup>14</sup> etc. A land acquisition plan also needs to be prepared by the agency requiring land. People affected by land acquisition are consulted and their complaints heard and resolved in the most expeditious way during the planning and implementation of land acquisition.

26. Most of principles in Law No. 2/2012 have been in line with ADB SPS. However, there are still some gaps between the new Land Acquisition Law of Indonesia and ADB's SPS, but the gaps have been addressed by the provisions of other relevant laws, regulations, and guidance. Some gaps between ADB SPS 2009 and Indonesian government legislation are presented in Table 2.

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<sup>14</sup> Elucidation of Article 40 of Law No. 2/2012 with the the following provisions: For building rights or land use right, Compensation granted to the holder of building right or use rights on buildings, plants, or other objects related to land owned by him/her, while Compensation on land granted to the holder of the ownership or management rights.

**Table 2. Gaps between Government Land Acquisition Law and Regulations with ADB SPS and Proposed Project Principles**

Principles	Indonesian Regulations; Law No 2/2012 and Presidential Decree No. 71/2012	ADB Policy	Gaps	Project Policy
<p>Level of compensation and bases of calculation: Depreciation of affected structure value</p>	<p>Compensation will be provided based on valuation of independent appraiser for a parcel by parcel of land that include (i) land; (ii) over ground and underground spaces; (iii) building; (iv) plants; (v) objects related to land and/or; vi) other appraisable loss such loss of business, jobs, change of profession, and moving costs.</p> <p>For affected buildings, MAPPI applies <i>solatium</i> (emotional compensation) of 10% -30% of the total compensation for physical loss.</p>	<p>The rate of compensation will be calculated at full replacement cost that will be based on; (i) fair market value; (ii) transaction cost; (iii) interest accrued; (iv) transitional and restoration cost; and (v) other applicable payment. No deduction on taxes and administrative costs for affected lands, as well as depreciation in the value of the affected structure will be applied.</p>	<p>The law is silent on the issue of whether or not depreciation will be applied when calculating compensation for affected structures. Valuation standard set by Independent appraisers association (MAPPI) indicates that depreciation for physical condition of the affected building is applied in order to meet sense of justice.<sup>15</sup> For affected buildings, MAPPI applies <i>solatium</i> (emotional compensation) of 10% - 30% of the total compensation for physical loss.</p> <p>Tax incentive is provided to: (a) person who supports the project; (b) does not file a complaint related to project location determination and/or compensation.</p>	<p>Persons who own, control, use and utilize land acquisition object are entitled for compensation. Lack of formal legal title to land is not a bar to entitlement.</p> <p>The principle of full replacement cost will be applied. Capital gains tax and the costs of transferring ownership, including the cost of new land certificates, will not be deducted from the compensation of those who will lose lands.</p> <p>Non-structure is expected to be affected by the project. If any structure to be affected, compensation at full replacement cost for affected structures will be determined based on the replacement cost of a new building with adjustment with physical condition<sup>16</sup>. Depreciation deduction of the structures physical condition will be covered through the provision of emotional compensation (<i>solatium</i>). Dismantled materials become the property of the state.</p>

<sup>15</sup> Indonesia Valuation Standards 306 (SPI 306). Land Acquisition Assessment For Development for the Public Interest. Code of Ethics Indonesia Appraisers and Indonesia Standard, 2013, Jakarta, Gelora Karya Bharata, 2013.

<sup>16</sup> Compensation will be based on i) the market value; ii) transaction costs; iii) accrued interest; iv) transition costs and repairs; v) other applicable payments.

Principles	Indonesian Regulations; Law No 2/2012 and Presidential Decree No. 71/2012	ADB Policy	Gaps	Project Policy
Relocation assistance: Transitional allowance.	Resettlement is one of the compensation options that shall be given by the agency needing the lands via Land Acquisition Implementation Committee. The implementation of resettlement shall continue for maximum 1 (one) year since the establishment of compensation form by Land Acquisition Implementation Committee. Location of resettlement area shall be based on the deliberation with entitled parties. Moving cost is covered under the compensation elements.	If there is relocation, provide assistance for physically or economically displaced persons including i) secure tenure to land and housing with comparable access to employment and production opportunities; ii) assist to integrate and share benefits with hosts, iii) restore social amenity; iv) provide moving and transitional support e.g. land preparation, training, access to credit, civic infrastructure and community services if required.	Law No. 2/2012 and PD No, 71/2012 is silent about transition assistance for the physically relocating APs.  However, Act No. 9/2009 on Transmigration and Ministry of Transmigration Decree No. 17/1997 stipulates on transmigration services including food aid during transition period. The Indonesia appraiser standard provides <i>solatium</i> for the building/structure owners including physically relocated AHs.	Transition and moving allowance will be provided for relocating AHs and will be covered in <i>solatium</i> .
High Risk of Impoverishment	Entitled party means any party by whom objects of the acquired land are possessed or owned. Entitled party with high risk of impoverishment is not covered in the new Land Acquisition Law. However, it is covered under the Law No. 11/2009 on Social Welfare and its implementing regulation Ministry of Social Welfare Decree No. 39/2012	Particular attention must be given to the needs of poor APs and vulnerable AHs that face the risk of further marginalization and impoverishment.	Law No. 2/2012 and PD No.71/2012 is silent about paying special attention to poor APs and vulnerable AHs and severely AHs.	Livelihood / income rehabilitation program will be provided to severely affected and vulnerable populations. Programs for vulnerable groups refer to Law No. 11/2009 and its implementing regulations. In this Law, the regional government is responsible for addressing these issues. The programs that will be implemented are included in the social Action Plan for affected persons / households.

Principles	Indonesian Regulations; Law No 2/2012 and Presidential Decree No. 71/2012	ADB Policy	Gaps	Project Policy
	<p>To cover or identify vulnerable / severity impacted people by the project as early as possible it can be covered in Social Impact Assessment of AMDAL as referred in Environmental Law no. 32/2009; Government of Republic of Indonesia Regulation No. 27/2012 on Environmental Permit, Ministry of Environment Regulation No. 17/2012 on guidelines for Community Involvement In Analysis Process of Environmental Impact and Environmental Permits, Head of BAPEDAL Decree No. 299/1996 on Technical Guidelines for the Social Aspects Study in preparation of the Environmental Impact Assessment.</p>			<p>Severely affected Residents / households and other vulnerable groups will be identified at land acquisition / Resettlement Planning. Livelihood improvement assistance will be provided to them through: i) social programs implemented by local government; ii) development program for community under the project components. Dirjen Bina Pembangunan Daerah will facilitate the coordination of program implementation at the regional level.</p>
Monitoring of Project Implementation	<p>Monitoring and evaluation of the performance of Acquisition of Land in the Public Interest shall be made by the government. National Land Agency shall monitor and evaluate the occupation, ownership, use and utilization of land acquisition results for the development in public interests.</p>	<p>ADB requires monitoring of RP implementation by the executing agency for resettlement category B projects, and by an independent external organization for resettlement category A projects</p>	<p>The Law No. 2/2012 and PD No, 71/2012 is silent about monitoring on resettlement impact to the entitled parties and external monitoring by independent external party</p>	<p>FIP is classified, as category B therefore external monitoring of resettlement implementation is not required.</p>

### C. Resettlement Policy Principles for the Project

27. FIP shall uphold legal provisions under the 2012 act and its implementing regulations and all other GOI laws in harmony with ADB-SPS 2009 safeguard requirements applicable to involuntary resettlement and negotiated land acquisition. Based on the above legal framework and equivalence-gap analysis, the resettlement objectives and policy principles for the Project are as follows:

- (i) Screen subproject components during early stages to identify involuntary resettlement impacts and risks such as restriction of natural and livelihood resources. These impacts and risks must be minimal. Appropriate RP will be developed precisely and accurately as a result of a social assessment.
- (ii) Carry out meaningful consultations with APs particularly with IP or customary communities living in the project areas, and concerned NGO organizations. Inform all APs including IPs on potential restriction to access to natural (marine-fishery) resources both in forestry area and non-forestry area because of the project and ensure their participation in the project cycle, and effective mechanisms will be established for hearing and resolving grievances.
- (iii) Improve or at least restore the livelihood of the APs through (a) land-based resettlement strategies or cash compensation; (b) prompt replacement of assets with equal or higher value; (c) prompt compensation at full replacement cost for lost assets that cannot be restored; and (d) additional revenues and services through benefit sharing schemes where possible.
- (iv) APs especially IPs shall be involved in land acquisition and resettlement planning and RPs will cover all appropriate mitigation measures to improve, or at least restore, the livelihoods of all APs, especially vulnerable groups so that the living standard of APs do not become worse off compared to pre-project levels. RPs should elaborate on AP entitlements, strategy for income and livelihood restoration, including institutional arrangements, monitoring and evaluation, budgeting, and time-bound implementation schedule, and provide APs with appropriate assistance.
- (v) APs without title or any recognizable legal rights to land are eligible for resettlement assistance and compensation for non-land assets at replacement cost. Particular attention will be paid to women, women-headed households, the elderly and other vulnerable persons including indigenous communities.
- (vi) Disclose a draft RP and its updates before subproject appraisal to the APs and other stakeholders in an accessible place and a form and understandable language.
- (vii) Land acquisition and resettlement will be conceived of as part of the project and related costs will be included in and financed out of the project cost.
- (viii) A well-defined, culturally acceptable and gender sensitive grievance redress mechanism will be established in order to ensure that all APs' grievances and complaints on any aspect of land acquisition and compensation are addressed in a timely and satisfactory manner, and that all possible avenues are available to APs to air their grievances.
- (ix) Civil works and/or restrictions to use of land resources will not commence unless APs are fully compensated and all other entitlements provided.
- (x) Any voluntary 'donation' and negotiated settlement will follow procedure in a transparent, consistent, and equitable manner and be confirmed through written record.

- (xi) Monitor and assess resettlement outcomes, their impacts on the standards of living of APs, and also disclose the monitoring reports.
- (xii) Should unanticipated involuntary resettlement impacts be determined during project implementation, the PISU (FMU level) will ensure the conduct of a social impact assessment and update the RP or formulate a new RP covering all applicable requirements specified in this RF.

#### **D. Subproject Screening and Minimizing Involuntary Resettlement**

28. MOEF will screen subprojects for their potential land acquisition and resettlement impacts and will adopt measures to avoid or minimize the impacts. At preliminary design stage, MOEF shall indicate the type and extent of work. A screening form (see proposed form in Appendix 2) will be completed after site visits, and as relevant, in consultation with potential APs to understand local land and natural resource use and ownership arrangements. The screening process will indicate: (i) a brief description of the site and proposed works; (ii) whether the subproject will require land acquisition; (iii) land status and ownership arrangements; (iv) land/resource usage; and (v) characteristics of affected persons. If any resettlement impacts are identified, MOEF will undertake an assessment of social impacts (census of APs, inventory of losses, and socioeconomic survey) and prepare the LARP document.

29. The subprojects will avoid resettlement, land acquisition, and physical displacement or denial of access to resources currently under use by the beneficiaries without prior and informed consent. Small-scale infrastructure investments and village land management planning will only be undertaken on the basis of demand and agreement of the beneficiaries. Resettlement impacts will be minimized by observing the following: (i) improvement of small-scale infrastructure designs such as village road and small irrigation channel will be along existing rights of way or following existing alignments; (ii) ensure no subproject with the ADB's category A<sup>17</sup> resettlement criteria is financed under the project; and (iii) affected persons and local stakeholders will be actively engaged during consultation to ensure the subproject designs are minimized or no land acquisition as well as minimize restriction of access to resources and livelihood.

30. Intensive capacity building across the project cycle, and ensuring community participation in subproject prioritization, planning, selection, and implementation will be observed. Forestry zoning will primarily protect the existing resources and the rights of MHAs to access resources that are well within their indigenous knowledge systems and practices. The establishment of management regimes shall create jobs for local people.

#### **E. Affected Persons and Eligibility**

31. Affected persons or peoples are those who stand to lose, as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, and resources such as forests, range lands, fishing areas, or important cultural sites, commercial properties, tenancy, income-earning opportunities, social and cultural networks and activities. Such impacts may be permanent or temporary. Types of affected

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<sup>17</sup> Category A. A proposed project is classified as category A if it is likely to have significant involuntary resettlement impacts. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan are commensurate with the significance of the potential impacts and risks.



peoples identified within the project areas that are eligible for compensation, replacement land, a replacement house, or other resettlement assistance under this project are as follows:

- (i) Persons with formal legal rights to land and forest whether it is legal rights to housing, gardens and other forms of claims to resources that may be lost in its entirety or in part;
- (ii) Persons or peoples who may lose land and forest and access to these resource they occupy or utilize in its entirety or in part who have no formal legal rights to such land, forest or resources but have claims to such lands, forest or resources such as customary claims, that are recognized or recognizable under national laws; and
- (iii) Persons or peoples who may lose land, forest and resources they occupy or utilize in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land, forest or resources.

32. A cut-off date for eligibility to entitlements is established by the project. The cut-off date sets the time limits to determine eligibility of persons or peoples living and/or with assets or interests inside the project areas during the period to be counted as affected person or peoples. Should they be adversely affected, they will be entitled to compensation for their affected assets, including rehabilitation measures as needed, sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels. Those who encroach into the project area, or any of its subprojects, after the cut-off date will not be entitled to compensation or any other assistance. The cut-off date will be made known to affected peoples and other stakeholders.

33. The resettlement framework recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels and therefore, at greater risk of impoverishment when their land and other assets are affected. The extent of impact on customary communities and other disadvantaged groups, such as landless, poor, households headed by women, elderly, and disabled, who will receive special rehabilitation assistance will be determined during preparation of subproject feasibility study and RP preparation. The Project's strategies on vulnerable groups are:

- (i) Surveys of socio-economic conditions of affected peoples will identify the conditions, needs and preferences of poor households, women who head households (and other female affected peoples) and affected customary communities; monitoring of loss of assets will be assessed separately the impacts on vulnerable affected peoples.
- (ii) Ensure that the process of land acquisition does not disadvantage customary communities, women, households headed by women or elderly or disabled, and poor households, particularly the landless.
- (iii) Preparation of information materials will take into consideration the language and literacy skills of participants, as well as other gender and cultural sensitivities that would affect their participation.
- (iv) The project will give priority to vulnerable affected peoples for employment for construction, operation and maintenance of physical infrastructure, land and forest management and other project activities, where appropriate.

### III. SOCIO-ECONOMIC INFORMATION

34. This section provides guidance in the conduct of the social assessment under IR safeguards of the ADB SPS.

35. The social assessment (SA) under IR<sup>18</sup> is a process to identify the social impacts of a project due to involuntary resettlement thus incorporates (i) identification of past, present, and future potential social impacts, based on baseline data analysis; (ii) an inventory of displaced persons and their assets; (iii) an assessment of the displaced persons' income and livelihoods; and (iv) gender-disaggregated information pertaining to the economic and sociocultural conditions of the displaced persons.

36. The SA will proceed in tandem with the commencement of project's efforts at resolving customary rights and land tenurial issues within FIP forest areas as embodied in the Joint Regulation of MOHA, MOEF, MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014).

#### A. Identification of Potential Impacts

37. All potential impacts have to be identified. Past impacts refer to involuntary resettlement activities that may have been undertaken in the proposed project area in anticipation of a project hence may not have been in conformity with the ADB's involuntary resettlement safeguard requirements under the SPS. Present and future potential impacts refer to the likely impacts due to the project under consideration.

38. Identify and assess potential impacts on vulnerable groups and women. The SA identifies any individuals and groups who are likely to be differentially or disproportionately affected by a proposed project due to their vulnerable status. This requires disaggregated information to assess potential impacts and propose targeted measures to ensure that potential impacts to these individuals or groups are appropriately avoided, mitigated, and compensated.

39. Consider MHAs in the assessment of social impacts. Should MHAs be affected by a project, it is imperative to assess likely impacts to their identity, culture, and customary livelihoods, detailed information on their land-use, economic activities, and social organizations.

40. Include impacts on public resources. The SA also considers project impacts on public resources, including losses of community-owned facilities or cultural property, and loss of access to direct use of natural resources. None common property is expected to be impacted and the sub project that will affect to common property will be avoided.

41. Include impacts on livelihoods caused by activities other than land acquisition. Project-related impacts on livelihoods are not related to involuntary land acquisition but have to be determined. As such, it is necessary to link with the environmental assessment process to ensure that social impacts related to the environmental media are addressed appropriately and for the SA to recommend measures to avoid, minimize and mitigate such impacts across project stages.

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<sup>18</sup> ADB (2012) Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook – Draft Working Document. Chapter III, pages 8-17.

## B. Prescribed Tools for Social Assessment

### 1. Inventory of Affected Persons and Assets

42. Census. The census is a count of all affected persons irrespective of their titled or non-titled land ownership status. The project shall carry out a field survey to collect data and information of socio economic figures of direct impact areas. ***Direct impact areas shall include those affected by subprojects brought about by civil works and management zoning.*** The census shall include basic demographic and socioeconomic data, such as household size, age, gender (especially of the head of household), ethnicity, occupation, household income, and vulnerability. A complete and detailed enumeration of affected communities, households and or persons will be conducted to determine the following items:

- (i) Identification of landholdings and tenure of land, plants, and / or objects related to land;
- (ii) Evidence of occupancy and / or ownership of land as well as the identification of the impact on land, plants, other assets attached to land, and other assets;
- (iii) The location of the land, land area and land identification number, the status of the land and the document, the type of land use and utilization
- (iv) Identification of other economic loss, if any.

43. A follow-up census is required to update the affected persons list if project implementation is delayed by two or more years by which time the impacts may have changed compared to the initial census or if the project design changes significantly.

44. **Inventory of loss (IOL) or detailed measurement survey (DMS)**. The inventory (100% of APs) of all affected assets at subproject feasibility stage are determined specifically those located within the designated alignment or boundaries of the project facilities. ***This activity shall be focused on direct impact areas brought about solely by civil works for the subproject.*** It is conducted following the detailed design of a subproject.

45. APs are notified before the conduct of the IOL/DMS and requested to participate in the survey. The IOL/DMS will be carried out in the presence of heads/guardians or members of households and household head/guardians or members in duly endorsed and completed IOL/DMS forms. Endorsement of survey forms at the time of survey will preclude any complaints by APs on the inaccuracy of inventory details at a later stage. The survey method will be updated and fine-tuned at implementation.

46. The inventory for each subproject will be prepared and the initial output will be reviewed and discussed during the community assembly prior to the preparation of the LARP. The information to be obtained will include the following for each affected household:

- (i) Identification of the affected entitled parties, the number of family members, and the name;
- (ii) The location, area of all land owned and lost, tenure status, and functions;
- (iii) Number, and the lost / affected area and its function;
- (iv) The amount, category / type of affected crops and trees;
- (v) Other objects associated with the affected land;
- (vi) The number and category of loss of fixed assets;
- (vii) Restricted access to natural resources/livelihood, and
- (viii) Temporary losses of productive assets.

47. The data derived from this survey will constitute the basis for valuation of losses at replacement cost, calculating compensation amounts and determining compensation packages. The data will then be encoded and stored into the FIP database maintained by project management and accessible for external monitoring.

48. Replacement cost study. This is the valuation of assets at replacement cost according to local market prices and standards of valuation, without deductions for age-related depreciation, recovery of salvageable materials, or registration fees and other transaction costs.

## 2. Socioeconomic Survey

49. The socioeconomic survey (SES) will be conducted to establish a baseline of demographic and socioeconomic conditions of people affected by the subproject ***brought about by both civil works and management zoning***. The SES will be done in detail after selection of project sites, of which the project put forward a basic requirement that there shall be no other given right in the area to prevent contesting claims which might happen and impede the project progress.

50. The SES focuses on income-earning activities and other socioeconomic indicators and utilizes both secondary and primary data sources. It will be carried out through a household survey instrument. The SES obtains data on the likely impact of land acquisition on the local economy, economic institutions, land-use patterns, tenancy and sharecropping, occupation and employment patterns, income and economic interdependence between households, poverty levels, local social organization and authority structure, and women's economic activities and income.

51. While census covers 100% of the displaced persons, a socioeconomic survey may be carried out on a sample basis, i.e., 20%-30% of all APs statistically acceptable in the subproject area selected randomly. Apart from these quantitative tools, relevant qualitative tools include focus group discussions, interviews with key informants, and participatory assessment, carried out through the consultation process.

52. The SES data shall include information on the demographic characteristics of AP household members, ownership of land and other assets, household living conditions, sources and levels of household income, and state of dependency of households and or person(s) to forest and forestlands and their capacity in making their living for project consideration of alternative economic activities. ***The SES shall likewise include information on the control over land in FMU by persons, households or communities which have been residing within the area for more than 20 years to whom the GOI regulation on the granting of rights might be applicable.***<sup>19</sup> Data will be disaggregated and analyzed by gender, ethnic and income group. It also includes the socioeconomic conditions of specific AP groups. Results of the SES will be entered into the FIP database and project management will ensure that aggregate information is accessible for monitoring.

## C. Unanticipated Impacts

53. Should involuntary resettlement impacts that were unanticipated while preparing the RP emerge during project implementation, MOEF shall ensure the conduct of a SA and update or

<sup>19</sup> Joint Regulation of Domestic Affairs, Ministry of Forestry, Ministry of Public Works, and Head of National Land Agency No. 79/ 2014, No. PB.3/Menhut---II/2014, No. 17/PRT/M/2014, No. 8/SKB/X/2014.

formulate a new RP depending on the extent of the impact changes. Unanticipated impacts will be documented and mitigated based on the principles provided in this RF. MOEF shall submit these documents to ADB for disclosure on ADB's website and convey relevant information in them to the affected persons/community.

#### IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE

##### A. Consultation and Participation

54. Meaningful consultations will be carried out with the entitled parties/APs including vulnerable groups to ensure participation from planning up to implementation. Meaningful consultation is a process that: (i) begins early in the project preparation stage and will be carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information in an understandable form and language and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues. Particular attention will be provided to the needs of vulnerable group and ensure their participation.

55. To ensure meaningful consultation with and participation of local and customary communities, the project will determine (i) appropriate mechanisms and structures for carrying out consultation and building participation; (ii) identification of stakeholders and their potential roles; (iii) specific activities that will enable customary communities to engage in the project; (iv) establish procedures for redress of grievances of affected people.

56. Consultations for RF have been conducted since the second consultation communities in November 2014 and continued in following consultations with relevant stakeholders at central, provincial, district, and community level including relevant agencies at national level, provincial governments, local governments, FMUs in Sintang and Putu Sibau districts, village offices, and customary leaders and members. In addition, consultation meetings were also held with the non-government organizations (NGOs) concerning forestry protection and safeguards at central and district levels. Consultation meetings across project stages have been and will be documented to include, but not limited to:

- (i) An orientation on the project, subproject designs, schedules of implementation, and identification/introduction of PISU focal/contact persons;
- (ii) Probable benefits, adverse impacts, and mitigating measures to be taken;
- (iii) Entitlements/compensation packages;
- (iv) Grievance process; and
- (v) Subsequent schedule of meetings.

57. A detailed consultation process for the project has been prepared and presented in Appendix 3.

58. ***Masyarakat hukum adat (Customary communities)***. The SPS 2009 acknowledges that customary communities may be particularly vulnerable when a project has any one of the following four types of activities: (i) commercial development of their cultural resources and knowledge; (ii) physical displacement from their traditional or customary lands; (iii) economic displacement from their traditional occupations; and (iv) commercial development of natural

resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define their identity and community.

59. Free, prior, and informed consent (in terms of broad community support) at each stage of the project will be conducted to identify customary communities' perspectives, issues and concerns. Consultation is a mode of social preparation that entails the process of informing and generating awareness and understanding of the concerned community about the project in a manner that will enable them to effectively participate and make informed and guided decisions. The process and outcomes of such engagement should be documented and submitted to ADB.

60. **Women and vulnerable sector.** The project gender action plan (GAP) ensures the engagement with local women's groups in key project activities. In case of under-representation or where needed, separate meetings with marginalized households, including women, shall be organized to discuss subproject proposals prior to any community assembly. Beyond the GAP, participation of women and the vulnerable/marginalized sectors will be ensured across the RP stages. Vulnerable sector will include r households headed by women, elderly household heads, landless, poor households, and MHAs.

## **B. Disclosure**

61. A summary brochure or project information booklet (PIB) containing relevant information such as the entitlement matrix, grievance procedures, and timing of payments will be produced and distributed to APs at each subproject site involving physical and non-physical losses. The full RP will be made available in English, Bahasa Indonesia, and where necessary, the prevailing language of MHAs.

62. Information dissemination to all members of the customary communities will be conducted specifically targeting appropriate message routes in accordance with prevailing customs and traditions. The following shall be observed:

- (i) Notices of meetings shall be written in Bahasa and posted in conspicuous places or announced in the area where the meeting shall be conducted at least two (2) weeks before the scheduled meeting;
- (ii) In the case of customary communities/MHAs, the commonly used language will be used and as authorized by community leaders, delivered and posted in conspicuous places or announced in the area where the meeting shall be conducted at least two (2) weeks before the scheduled meeting;
- (iii) The minutes of meetings or proceedings shall be written in English or Bahasa Indonesia or in the language of the customary community and shall be validated with those who attend the meeting or assembly before the finalization and distribution of the same.

63. Disclosure of the following documents is required:

- (i) A draft RP and/or RF endorsed by MOEF before project appraisal;
- (ii) The final RP endorsed by MOEF after the census of affected persons has been completed;
- (iii) A new RP or an updated RP, and a corrective action plan prepared during project implementation, if any; and
- (iv) The resettlement monitoring reports.

64. Materials will be produced in popularized form for all APs across implementation levels. The ADB SPS, ADB Public Communication Policy as well as GOI issuances will serve as guide. The documents listed above will be uploaded in the Project management information system as well as the ADB website.

## **V. COMPENSATION AND INCOME RESTORATION**

65. There are two options to be implemented to acquire land for the small-scale infrastructure development, namely: (i) negotiated land acquisition; or (ii) voluntary contribution. These options are based on the local practices applied for land acquisition for the project development. Involuntary resettlement with eminent domain that refer to land acquisition law and regulations is applied for the development in the public interest such as developments of provincial or district road, government office construction, and water treatment plan. While for community-based projects such as village road, community sanitation, solar system, the land acquisition will be undertaken through negotiated land acquisition or voluntary donation.

### **A. Compensation and Entitlements**

66. In case negotiated land acquisition will be implemented, the Implementing Agency will coordinate with the FMU and relevant local government to disburse or pay compensation/entitlements to APs in accordance with the entitlement matrix (Table 3) as described in preceding sections. Local level government staff will assist in identifying entitled persons and delivering the compensation amounts. There should be no restricted access of affected persons to forest area managed by FMU due to the project; however there will likely be restricted access of APs to the land or forest resources for daily livelihood due to the village land use management program. Local communities and IP groups will retain their rights to use forestlands in non-forest area and its products through rules and regulations regarding FMU and forest area.

67. MHAs will retain their rights to utilize non-timber forest products. The PISU in collaboration with the FMU will be available to advise the APs and other potential beneficiaries on possible opportunities for small-scale community development opportunities, including trainings provided under the project.

68. Compensation for customary rights to lands and other rights that might exist in the project area will be done following the inventory of those rights as regulated in Article 6 to 10 of Joint Regulation of Domestic Affairs, Ministry of Forestry, Ministry of Public Works, and Head of National Land Agency No. 79/ 2014, No. PB.3/Menhut--II/2014, No. 17/PRT/M/2014, No. 8/SKB/X/2014. Inventory will be prepared by the Team IP4T.<sup>20</sup> The result of inventory shall be reported to the regional office of national land agency which then will report the result of analysis to Directorate General of Planology of MOEF. Planology will then deliver the order of delineation of land that will be used for non-forestry purposes development.

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<sup>20</sup> Tim Inventarisasi Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah or Inventarization of Control, Ownership, and Usage of Land.

Table 3: Entitlements Matrix

No	Impact/Loss Category	Entitled Person	Project entitlement	Basis / Legal Implementation <sup>21</sup>	Agency/Entity by Role
<b>A. LAND LOSS</b>					
1	Loss of land, including agricultural and residential land in non- forest areas ( <i>area penggunaan lain</i> )	Those who have formal legal rights (certificate) or those whose claim over the land is recognized as a full title including persons occupying the state land in good faith.	<ul style="list-style-type: none"> <li>• Compensation at replacement cost and reflective of fair market value with some options; <ul style="list-style-type: none"> <li>- Cash compensation with amount determined by the local government or community and participation in the livelihood program</li> <li>- Land replacement with at least similar attributes to the acquired land in term of value, productivity and location.</li> </ul> </li> <li>• Financial assistance for the renewal of the land ownership documents (certificate and land documents recognized as full title) for the residual area of the entitled persons' land.</li> <li>• If the remaining affected land can't be functioned for the specific use and utilization, the entitled party can ask for compensation for their entire land at replacement cost.</li> </ul>	<ul style="list-style-type: none"> <li>• Law No 2/2012, Article 36</li> <li>• Presidential Regulation No 71/2012, Article: 65, 77;</li> <li>• Joint Regulation of MOHA, MOEF, MOPW And Head of BPN On Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014)</li> <li>• Indonesia Valuation Standards 306 (SPI 306)</li> </ul>	<ul style="list-style-type: none"> <li>• Land requiring agencies allocate and deliver land compensation</li> <li>• Independent Appraisal (if necessary or in case of land acquisition using Law No. 2/2012): conducts a valuation of the assets.</li> <li>• Government: provide tax incentives (BPHTB) to institutions requiring land</li> </ul>
2	Loss of <i>ulayat</i> land or customary land	Customary communities ( <i>masyarakat hukum adat</i> )	<ul style="list-style-type: none"> <li>• Land replacement, or other form agreed by the customary communities/leader.</li> <li>• Participate in the livelihood program under the project.</li> </ul>	<ul style="list-style-type: none"> <li>• Elucidation of Law No.2 / 2012 Article. 40</li> <li>• Joint Regulation of MOHA, MOEF, MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Land replacement with similar value or higher (in terms of value, productivity and location will be provided in approval of the village office or customary leader</li> </ul>
3	Loss of land in forest area managed by FMU	Those who have formal legal land rights (certificate) or those	<ul style="list-style-type: none"> <li>• Replacement of arable land, based on local practices and refers to UU no. 2/2012; Perpres no. 71/2012</li> </ul>	<ul style="list-style-type: none"> <li>• Elucidation of Law No.2 / 2012 Article. 40</li> <li>• Joint Regulation of MOHA, MOEF,</li> </ul>	

<sup>21</sup> Joint Regulation of MOHA, MOEF, MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues in Forest Areas (2014) is included as referencing other laws and determining baseline for losses.



No	Impact/Loss Category	Entitled Person	Project entitlement	Basis / Legal Implementation <sup>21</sup>	Agency/Entity by Role
		whose claim over the land is recognized as a full title including customary communities and persons occupying the state land in good faith.	and BPN Regulation no. 5/2012 <ul style="list-style-type: none"> <li>Participate in the livelihood/income restoration program, especially land based livelihood program and clarification of land tenure in the forest area</li> </ul>	MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014)	
4	Any land/space whose use is restricted by the project Restricted access to livelihood/natural resources	Owners, titled, legally recognized title including customary communities	<ul style="list-style-type: none"> <li>Provided with livelihood/income restoration program either in the form of land-based program or non-land based program or both.</li> </ul>	<ul style="list-style-type: none"> <li>Law No.2 / 2012 Article. 33 and its elucidation.</li> </ul>	
<b>B. Loss of Structure:</b>					
1	Primary/secondary structure	Owners of the affected structure, regardless of tenure	<ul style="list-style-type: none"> <li>Compensation at full replacement cost that reflect prevailing market prices of materials and cost of labor for dismantling, transferring and rebuilding<sup>22</sup></li> <li>For partially affected structures, the cost of repairing the residual unaffected portion of the structure in addition to the compensation at replacement cost for the affected portion of the same<sup>23</sup></li> </ul>	<p>Law No. 2 / 2012 Article 33 Elucidation of Law No. 2/2012 Article 35, 40</p> <p>Presidential Regulation No. 71/2012 Article 65</p> <p>BPN Head Regulation No. 5/2012 Article 23, 24 Government Regulation No. 38/2007 Indonesia Valuation Standards 306</p>	
<b>C. Loss of Crops and Trees:</b>					
1	Loss of Crops and Trees:	Owners, regardless of land tenure status (with certificate or recognizable rights, informal dwellers, occupants).	<ul style="list-style-type: none"> <li>Annual crops: cash compensation will be paid based on prevailing market rates.</li> <li>Perennial crops: compensation at replacement cost taking into account their productivity and age.</li> <li>Timbers/trees: compensation at current market rate based on age, type of trees and diameter of trunk at breast height.</li> </ul>	<ul style="list-style-type: none"> <li>Law No. 2 /2012 Chapter 33</li> <li>Presidential Regulation No. 71/2012 Article 65</li> <li>BPN Head Regulation No. 5/2012 Article 23, 24</li> <li>Presidential Regulation No. 38/2007</li> <li>Indonesia Valuation Standards 306 (SPI 306) / 2013</li> <li>Joint Regulation of MOHA, MOEF, MOPW and BPN on Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014)</li> </ul>	

<sup>22</sup> Elucidation Article 33 UU No 2/2012.

<sup>23</sup> Article 33 Law No. 2 Tahun 2012 and Indonesia Valuation Standards (SPI 306) 2013.

No	Impact/Loss Category	Entitled Person	Project entitlement	Basis / Legal Implementation <sup>21</sup>	Agency/Entity by Role
<b>D. Temporary Impact During Construction</b>					
4	Temporary impact during construction	For those who have formal legal rights (certificate) or those whose claim on land is recognized as a full right	<ul style="list-style-type: none"> <li>For lease payments of the affected land by the contractor based on the applicable rental fees and agreements with landowners.</li> <li>For productive land, the cost of the rental will not be less than the net income that will be generated from productive affected land</li> <li>Compensation for non-land assets acquired (trees / plants, buildings) will be provided at replacement cost</li> <li>Land will be restored to pre-project conditions or even better.</li> </ul>	<ul style="list-style-type: none"> <li>Contract documents / agreements with civil works contractors</li> </ul>	<ul style="list-style-type: none"> <li>Contractors</li> </ul>
		Those who do not have legal rights and entitlements that can be recognized as full ownership	<ul style="list-style-type: none"> <li>There is no land rental costs during the period of impact</li> <li>Land will be restored as it was before the project, or even better.</li> </ul>	<ul style="list-style-type: none"> <li>As above</li> </ul>	<ul style="list-style-type: none"> <li>As above</li> </ul>
<b>E. Other Appraisable Loss</b>					
1	Transaction Cost	The entitled party who lost land and non-land assets	Allowance to cover administration cost, renewal of land ownership (ownership name transfer) for residual land, land clearing	<ul style="list-style-type: none"> <li>Presidential Regulation No. 71/2012 Article 112</li> <li>Indonesia Standard of Valuation (SPI) 306, 2013</li> </ul>	<ul style="list-style-type: none"> <li>Land requiring agencies allocate and deliver land compensation</li> <li>Independent Appraisal: (if necessary or in case of land acquisition using Law No. 2/2012) conducts a valuation of the assets.</li> </ul>
2	Loss of the resource base (high risk of impoverishment)	Entitled Party who will lose of 10% or more of total assets or earning revenue sources;  Entitled Party, poor and vulnerable, regardless of the severity of the impact	Participate in livelihood restoration program (LRP)	<ul style="list-style-type: none"> <li>Law No. 2 of 2012, article 33</li> <li>Elucidation of Law No. 2 of 2012, Article 2b</li> <li>Joint Regulation of MOHA, MOEF, MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues In Forest Areas (2014)</li> </ul>	Local Government: Social Program
			Given the opportunity to get a job related with the project	<ul style="list-style-type: none"> <li>Law No. 11 Year 2009 on Social Welfare</li> <li>Government Regulation No. 38 of 2007</li> </ul>	

## **B. Income Restoration and Special Measures for the Vulnerable**

69. The socioeconomic survey elicits information about vulnerability factors. Vulnerable APs could receive additional assistance tailored to their specific needs and income restoration initiatives may be linked with existing programs of government, both local and national.

70. Specific to FIP, income restoration will be addressed through providing income-generating activities, of which there might be added value processing for income generating activities. Trainings that will be provided for affected vulnerable groups are:

- (i) Participatory forest management,
- (ii) Forest fire management,
- (iii) Forest products utilization, including non-timber forest product development,
- (iv) Value adding, and
- (v) Enterprise development

## **C. Negotiated Land Acquisition**

71. The ADB-SPS on involuntary resettlement does not apply to negotiated settlements even if among the stakeholders, unless expropriation would result upon the failure of negotiations. Negotiated land acquisition may be applied as the lands to be acquired are mostly small plot. Thus, consultation processes, policies, and laws that are applicable to such transactions, third-party validation, mechanisms for calculating the replacement costs of land and other assets affected, and record-keeping requirements will be in line with this RF. The transaction process must openly address the risk of asymmetry of information availability and bargaining power of both parties. A Negotiated Land Acquisition Form (Appendix 4) must be attached to the RP.

## **D. Voluntary Land Donation**

72. Community willingness to participate to FIP activities is primordial. It is envisaged that small-scale infrastructure subprojects will positively impact on the incomes and livelihoods of local people, following prior and consensual agreement of the local people and considering that the scale of impact is minor. Voluntary land donation for the subproject may therefore be applied if:

- (i) Impacts are marginal (based on percentage of loss and minimum size of remaining assets);
- (ii) Impacts do not result in displacement of households or cause loss of household's incomes and livelihood;
- (iii) Households making voluntary donations are direct beneficiaries of the project;
- (iv) Donated land is free from any dispute on ownership or any other encumbrances;
- (v) Consultations with affected households is conducted in a free and transparent manner;
- (vi) Land transactions are supported by transfer documents; and
- (vii) Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained

73. A Voluntary Land Donation Form (Appendix 5) must be attached to the RP. Criteria and guidance notes on voluntary donation are outlined in the table below.

**Table 4: Criteria and Guidance Notes on Voluntary Donation**

Criteria	Guidance Notes
The impacts are marginal (based on percentage of loss and minimum size of remaining assets);	<ul style="list-style-type: none"> <li>- The land donated does not exceed 5% of the total land owned by the affected household.</li> <li>- The land donated does not result in uncompensated permanent non-land assets</li> <li>- Land donation will only be accepted if the total land owned by the household is not less than 300 m<sup>2</sup></li> </ul>
Impacts do not result in displacement of households or cause loss of household's incomes and livelihood;	<ul style="list-style-type: none"> <li>- The land is not used for productive purposes</li> <li>- Only secondary structures are affected; there is no physical relocation of household due to the project and land donation.</li> <li>- The affected household does not fall under the category of poor or vulnerable.</li> </ul>
The households making voluntary donations are direct beneficiaries of the project;	<ul style="list-style-type: none"> <li>- Both positive and negative impacts of the project on the affected household are considered.</li> <li>- The affected household can identify the project's direct benefits to them.</li> </ul>
Land donated is free from any dispute on ownership or any other encumbrances;	<ul style="list-style-type: none"> <li>- The affected household has recognized legal tenure.</li> <li>- The land is not being occupied and/or used by any other party.</li> <li>- The land is not in dispute for its ownership.</li> </ul>
Consultations with the affected households is conducted in a free and transparent manner;	<ul style="list-style-type: none"> <li>- The affected household should be informed that they have the right to receive compensation for their land and the equivalent amount of compensation for the land they wish to donate.</li> <li>- The affected household receives clear and adequate information on the project, and participates in the project planning.</li> <li>- Provisions on voluntary donation are integrated into the decision making process at community level.</li> </ul>
Land transactions are supported by transfer of titles; and	<ul style="list-style-type: none"> <li>- Official land ownership document is updated.</li> </ul>
Proper documentation of consultation meetings, voluntary donation grievances and actions taken to address such grievances is maintained.	<ul style="list-style-type: none"> <li>- Certificate of voluntary donation with signature of the asset owner (AH making the donation) and witnesses is properly documented.</li> <li>- Consultation meetings, grievances if any and actions taken to address such grievances are properly recorded.</li> </ul>

## VI. GRIEVANCE REDRESS MECHANISM

74. A GRM is a systematic process to receive, evaluate, and address the project-related grievances of affected persons (AP) and/or groups. The MOEF, in cooperation with PISU, will set up GRM at the national level in consultation with relevant stakeholders within six months of grant effectiveness and post it publicly on the project website with outreach for all project areas. In addition, as part of the output 2, the project will establish a GRM at provincial level focusing on tenure and REDD+ issues within six months of grant effectiveness. An information disclosure mechanism in Bahasa will also be in place at district level to ensure that the local communities in Kapuas Hulu and Sintang districts are aware of GRM and their potential involvement and responsibilities in the project activities. The MOEF will ensure a culturally- and gender-sensitive GRM to receive and address, in coordination with provincial authorities, project related concerns and to resolve AP related disputes that may arise during project implementation. It is anticipated that all grievances related to benefits and other assistance will be resolved at the PISU level.

75. At the village level affected APs through their facilitator or representative may bring the complaints to the village leaders and/or customary leaders. The village/customary leaders will settle the complaint within two to seven days. If this has not been settled, they may bring it to the officers in project's field office or sub-project site office. Specifically:

- (i) The AP narrates discontent to the community leader (*Tumenggung* for MHAs of the Dayak and *Penghulu* for the MHAs of Melayu). Conveying the grievance to *Tumenggung* or *Penghulu* is commonly done when the case could not be settled by lower adat authority (*kepala adat dusun*) at hamlet (*dusun*) level.
- (ii) The *Tumenggung* or *Penghulu* prepares an official report for documentation purposes and attempts to address and resolve the grievance at the community level within seven to ten days.
- (iii) If the AP is satisfied, there is no need to elevate the issue. If the grievance cannot be addressed at the village level, the *Tumenggung* or *Penghulu* submits the complaint to PISU. The PISU will resolve the complaint within 30 working days since the complaint is received.

76. The community development specialists and safeguards specialists will assist APs in registering their complaints with PISU, field office or sub-project site office, and preparing their specific grievance. The PISU Project Coordinator will consider the complaint and within 15 working days will convey a decision to the APs. These staff, along with local government district officials, will assist the Project Coordinator in reviewing and addressing the complaint. Project's district officer will record/file keeping the complaint. The safeguards staff will facilitate communication between the affected APs and the PISU.

77. In the event that complaints arise, avenues for grievance redress are provided as guided by GOI laws and procedures in harmony with ADB principles on grievance redress. There are two types of complaints that have to be specific in modalities of redress: (i) on compensation rates, and (ii) other resettlement concerns.

78. For customary communities, grievance mechanism shall follow their internal mechanism (if any) or any mechanism provided by local government based on community request. Communities could raise their grievances to MOEF following the new launched MOEF Decree No. 24/Menhut-II/2015 in January 2015, on the Establishment of Team for Addressing Environmental and Forestry related Grievances. Should there be any environment and forestry related grievances resulting from development, the community in project area would be able to raise their complaints to the Team.

79. **Compensation rate.** An aggrieved AP may bring the grievance/complaint directly to PISU or land agency through the *Tumenggung* or *Penghulu* who will submit it to the PISU either in writing or relay it verbally. PISU together with the land agency and the *Tumenggung* or *Penghulu* will attempt to seek consensus to achieve an acceptable settlement with the aggrieved AP. If the aggrieved AP does not accept the offered compensation, the land agency will deposit the compensation money with the district court. The aggrieved AP may lodge the complaint with the court within 14 days after deliberation for the establishment of compensation. The court shall decide the case not later than 30 days after submission of the grievance/objection and if the aggrieved AP is still not satisfied with the court decision, the aggrieved AP may bring the case to the Supreme Court for final decision. The PISU shall be responsible for recording and keeping file of all project-related complaints.

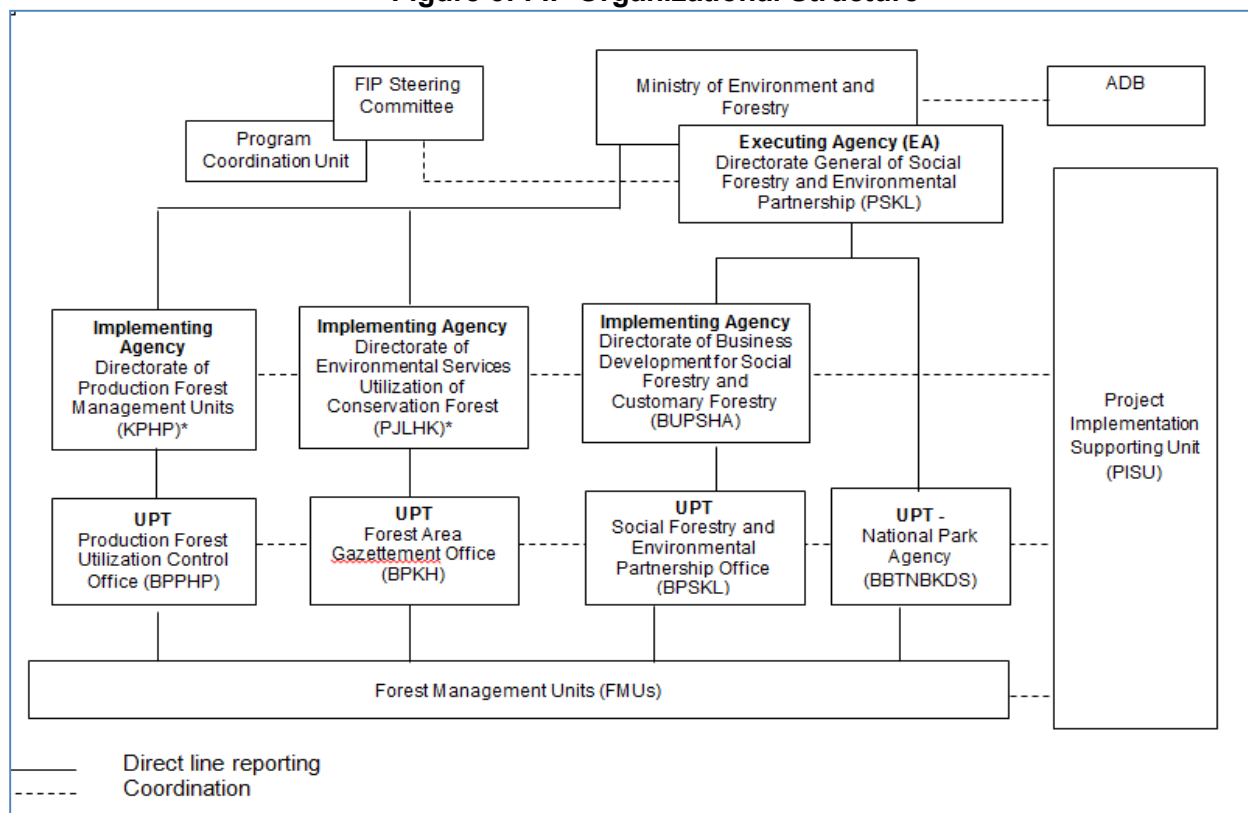
80. **Other resettlement.** In case of complaints related to project construction and other resettlement matters like restriction to access, the aggrieved party may bring the complaint through the *Tumenggung* or *Penghulu*, either to the contractor or to the PISU. If the aggrieved AP is not satisfied with the decision or handling of the complaint, he/she may bring the grievance, either in writing or verbally to the regent of the district (*Bupati*) accompanied by an explanation on the causes and reasons for the objection within a period of 14 days from the issuance of the decision of the PISU or contractor/concerned entity. The *Bupati* will decide on the complaint within a period of 30 days by requesting for opinions/wishes from (i) the aggrieved AP; (ii) PISU; and (iii) other concerned entities (i.e., contractor, Land Agency). The *Bupati's* decision will be delivered to the aggrieved AP, the PISU, and other entity. If after 30 days, no decision to the complaint is made or if the aggrieved AH is not satisfied with the decision taken by the *Bupati*, it may bring the complaint/case to the governor. The governor will decide on the complaint within a period of 30 days. The opinions/wishes of (i) the aggrieved AP, (i) the PISU, and (iii) other concerned entity may be required for the decision. The governor's decision on the complaint will be delivered to the aggrieved AP, the PISU, and other concerned entity. If after another 30 days, no decision to the complaint is made or if the aggrieved AP is not satisfied with the decision taken by *Bupati* and/or the governor, it may bring the complaint/case to the court for adjudication.

## VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

### A. Institutional Arrangements

81. The organizational structure for the project is provided below.

**Figure 3: FIP Organizational Structure**



## 1. National Level

82. The Directorate General of Social Forestry and Environmental Partnership (*Direktorat Bina Usaha Perhutanan Sosial dan Hutan adat - BUPSHA*), MOEF is the executing agency (EA). The EA shall be responsible for overall coordination of the project activities as per requirements of the “planned grant” modality and ensure proper fund flow arrangements in cooperation with the Ministry of Finance and ADB. The EA will consult with the project steering committee and comply with the FIP requirements, including, annual monitoring and reporting of the project’s contribution to the FIP Results Framework.

83. The implementing agencies (IAs) will be:

- i. the Directorate of Business Development for Social Forestry and Customary Forest (*Direktorat Bina Usaha Perhutanan Sosial dan Hutan Adat, BUPSHA*) to implement REDD+ activities through partnerships with local communities in FMUs outside national parks,
- ii. the Directorate of Environmental Services Utilization and Conservation Forest (*Direktorat Pemanfaatan Jasa Lingkungan Hutan Konservasi, PJLHK*) to implement REDD+ activities in national parks, and
- iii. the Directorate of Production Forest Management Unit (*Direktorat Kesatuan Pengelolaan Hutan Produksi, KPHP*) to implement REDD+ activities other than those related to social forestry in production forests of FMUs.

84. The IAs will be accountable for implementation of project activities and provision of the technical advice through UPTs (unit pelaksana teknis or technical implementation units) to the PISU. The respective UPTs at provincial levels will assist IAs in effective project monitoring. The provincial and district forest agencies and FMUs will collaborate with the UPTs. The project will be supported by the PISU that will be responsible for the day-to-day implementation of the project at national, provincial and FMU levels, including the overseeing of the project safeguards, monitoring and reporting.

## 2. District Level

85. **Forest management unit (FMU).** The FMU will coordinate site level implementation. Implementation of activities will be assisted by the supporting unit consisting of village facilitators’ team and other specialists who shall work with communities.<sup>24</sup> The FMU will handle daily activities of the project in the forest area at site level and oversee adherence to this RF in RP preparation and implementation. With the support of the social safeguard specialist consultant and qualified expert as necessary or village facilitators, it will undertake the surveys, consultations, land acquisition processes, and delivery of entitlements. For RP preparation and implementation in non-forest area, FMU will coordinate with relevant agencies, particularly at provincial level which under UU 23/2014 is the regional authority over forest area.

<sup>24</sup> Implementation of any forest management scheme from MOEF i.e. HD, HTR and HKm will follow the regulations of each scheme: Forestry Ministry Decree No. P.37/Menhut-II/2007 on Hutan Kemasyarakatan; Decree No. P.14/Menhut-II/2010 and No. P.49/Menhut-II/2008 on Hutan Desa; and Decree No. P.3/Menhut-II/2012 on Hutan Tanaman Rakyat. Implementation of activities of non-forestry purposes such as microhydro and water supply will follow MOEF regulations on the usage of forest area for non-forestry development and Joint regulation of Ministry of Domestic Affairs, Ministry of Forestry, Ministry of Public Works, and Head of National Land Agency No. 99/2014, No. PB.3/Menhut---II/2014, No. 17/PRT/M/2014, No. 8/SKB/X/2014 on the Procedure for Settling the Land Control in Forestry Area.

86. The FMU will ensure that entitlements and measures in the RP are consistent with this RF and that suitable budgetary provisions are made for timely implementation of the RP. FMU will coordinate with relevant government agencies with regard to income/livelihood restoration and formal land acquisition process.

87. For activities involving customary land and other local communities within forestlands, the FMU operationalizes the Joint Regulation of MOHA, MOEF, MOPW and Head of BPN on Procedure of Resolution of Land Tenurial Issues in Forest Areas (2014). As such, the project will work closely with local district and provincial governments in terms of capacity building for IPs and in using traditional knowledge of IPs community including empowering IPs institutions. FMUs will work with the provincial government, as it is this office through investigations made by the IP4T Team that shall resolve issues of customary rights and land tenure in forests located in more than one district/municipal territories.

88. The FMU has the following specific responsibilities:

- (i) Collaboration with provincial and/or district land officer to carry out their work in compliance with the Project and ADB requirements;
- (ii) Provision of qualified personnel/entities to conduct the surveys (both census and socioeconomic sampling surveys) and village profiling;
- (iii) Collaborate with provincial and/or district land officer for RP preparation for non-forest area, any land negotiations, leases for use of land, and income/livelihood restoration programs;
- (iv) Ensure all requirements are carried out concerning consultation and disclosure, and grievance redress;
- (v) Endorsement of the draft RP prior to concurrence of IA for ADB approval;
- (vi) Ensure all land acquisition and compensation activities are completed in a timely manner;
- (vii) Monitor RP implementation; and
- (viii) Coordinate with contractors regarding civil works

89. The FMUs will not issue notice to proceed for any civil works contract or will not allow any project construction activities until compensation payment has been fully disbursed to APs and rehabilitation measures are in place as per project entitlements in the agreed RP. In case of voluntary land donation, the civil works will commence when the statement of contribution has been made by the party opted to the contribution. The EA shall further ensure that adequate funds are allocated and disbursed on time to pay land and service payments and allowances for provincial (and/or district) subprojects that are included in the project. Safeguards consultant(s) will support the FMU in conducting consultations with local communities, APs and other stakeholders. They will be responsible for collaborating with FMU in organizing and carrying out these consultations.

90. **Provincial and district government.** In case land to be acquired is located in the forest area and completion of land tenure will be required, the provincial or district government (*Gubernur/Bupati*) shall establish the IP4T Team<sup>25</sup> to resolve issues of customary rights and

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<sup>25</sup> The Team carrying out P4T data-collecting activities. Joint Regulation of Minister of Home Affairs, Minister of Forestry, Minister of Public Works and Head of National Land Agency on Procedure of Resolution of Land Tenurial Issues in Forest Areas, 2014.



land tenure in forests located in the district/municipal territories. The IP4T Team is made up of the following:

- (i) Head of National Land Agency Provincial/District Office as Chief and member;
- (ii) Staff of relevant provincial/district office that handles forestry affairs as secretary and member;
- (iii) Staff of Forest Area Assignment Agency as member;
- (iv) Staff of relevant provincial/district office/agency that handle spatial layout affairs as member;
- (v) Relevant district/municipal land office as member;
- (vi) Local sub-district head or other officials appointed as member; and
- (vii) Local village/non-autonomous village head or other equal positions as member.

91. The IP4T Team shall have the following tasks:

- (i) Oversee IP4T application registration;
- (ii) Verify application;
- (iii) Collect field data;
- (iv) Analyze legal and physical data of land plots located in Forest Areas;
- (v) Prepare and submit analysis and results; and
- (vi) Submit the analysis to the Head of National Land Agency Regional Office or Head of District/Municipal Land Office.

92. Specific data to be produced by the IP4T Team are:

- (i) Maps;
- (ii) Land Plot Physical Tenurial Statement Letter (SP2FBT) made by the applicant, supported by reliable information from at least two witnesses from the local community who shall be of neither vertical nor horizontal kin relationship with the applicant up to the second degree, clarifying that the applicant is the actual landowner, authorized by village/non-autonomous village head or any other equivalent official;
- (iii) Ensure the content of the SP2FBT shall consist of:
  - Applicant identity;
  - Land location, boundaries and area;
  - Land use types; and
  - Year of obtaining the rights

## **B. Capacity Building**

93. FIP implementation will designate safeguards staff at the FMU level to be backed up by resettlement consultants to carry out this RF. Capacity building will be necessary to orient project management on operationalization of the RF and RP as well as prevailing GOI policies impinging on involuntary resettlement, to include concerns on indigenous peoples and gender. Similarly, all structures across management levels will be capacitated.

## **VIII. BUDGET AND FINANCING**

94. Land acquisition, compensation, and livelihood/income restoration costs for the project will be minimal. When they are there, they will be financed by MOEF using counterpart funds and in some cases may require local government and community contribution. The actual

budget for such activities under each subproject will be prepared and incorporated in each RP after detailed discussions with community members on impacts, and following detailed survey and investigation. The government will release sufficient budget for implementation of compensation and rehabilitation activities in an appropriate and timely manner. Table 5 provides the allowable budget line items.

**Table 5: Allowable Resettlement Plan Cost items and Budget Categories**

<b>CATEGORY</b>	<b>COST ITEM</b>
Resettlement preparation and compensation	Cost of census and survey of affected people and inventory of assets
	Replacement Cost Study by independent property appraiser
	Cost of IEC and consultation
	Compensation for assets lost (land, structures, etc.)
Income restoration plans	Cost of land replacement
	Cost of preparation of replacement farmland
	Cost estimates for income restoration plans (e.g., training, livelihood/small business, community enterprise)
Administrative costs	Cost of incremental services (extension, health, education)
	Environmental enhancement packages (agricultural or fisheries, etc.)
	Operation staff (managerial, technical), and support staff
	Training on REDD+ and other project benefits, gender, MHAs, and monitoring (capacity building)
	Technical assistance
	Evaluation by independent agency

## **IX. MONITORING AND REPORTING**

### **A. Monitoring Arrangements**

95. The MOEF, with assistance from PISU consultants, will monitor all activities associated with land acquisition, payment of compensation to APs and other aspects. The scope of monitoring includes but not limited to:

- (i) Payment of compensation to all APs in various categories, according to the compensation policy described in the LARP.
- (ii) Delivery of income restoration and social support entitlements.
- (iii) Public information dissemination and consultation procedures.
- (iv) Adherence to grievance procedures and outstanding issues requiring management's attention.
- (v) Priority of APs regarding the options offered.
- (vi) The benefits provided from the project.

96. The implementing agencies will periodically collect information from the different affected committees. Monthly reports will be submitted to MOEF as the EA for RP activities. The EA in turn will include updates in its regular progress reports to ADB.

### **B. Monitoring Indicators**

97. Monitoring indicators address the specific contents of the RF/RP activities and entitlements matrix. Potential monitoring indicators, from which specific indicators can be developed and refined, are set out in Table 6.

**Table 6: Suggested Monitoring Indicators (Internal)**

Monitoring Aspects	Potential Indicators
<b>Delivery of Entitlements</b>	<ul style="list-style-type: none"> <li>• Entitlements disbursed, compared with number and category of losses set out in the entitlement matrix.</li> <li>• Disbursements against timelines.</li> <li>• Identification of the displaced persons losing land temporarily, e.g. through soil disposal, borrow pits, contractors' camps, have been included.</li> <li>• Timely disbursements of the agreed transport costs, income substitution support, and any resettlement allowances, according to schedule.</li> <li>• Provision of replacement land plots.</li> <li>• Quality of new plots and issue of land titles.</li> <li>• Restoration of social infrastructure and services.</li> <li>• Progress on income and livelihood restoration activities being implemented as set out in the income restoration plan, for example, utilizing replacement land, commencement of production, the number of the displaced persons trained in employment with jobs, microcredit disbursed, number of income-generating activities assisted.</li> <li>• Affected businesses receiving entitlements, including transfer and payments for net losses resulting from lost business.</li> </ul>
<b>Consultation and Grievances</b>	<ul style="list-style-type: none"> <li>• Consultations organized as scheduled including meetings, groups, and community activities.</li> <li>• Knowledge of entitlements by the displaced persons.</li> <li>• Use of the grievance redress mechanism by the displaced persons.</li> <li>• Information on the resolution of the grievances.</li> <li>• Information on the implementation of the social preparation phase.</li> <li>• Implementation of special measures for Indigenous Peoples.</li> </ul>
<b>Communications and Participation</b>	<ul style="list-style-type: none"> <li>• Number of general meetings (for both men and women).</li> <li>• Percentage of women out of total participants.</li> <li>• Number of meetings exclusively with women.</li> <li>• Number of meetings exclusively with vulnerable groups.</li> <li>• Number of meetings at new sites.</li> <li>• Number of meetings between hosts and the displaced persons.</li> <li>• Level of participation in meetings (of women, men, and vulnerable groups).</li> <li>• Level of information communicated—adequate or inadequate.</li> <li>• Information disclosure.</li> <li>• Translation of information disclosure in the local languages.</li> </ul>
<b>Budget and Time Frame</b>	<ul style="list-style-type: none"> <li>• Land acquisition and resettlement staff appointed and mobilized on schedule for the field and office work.</li> <li>• Capacity building and training activities completed on schedule.</li> <li>• Achieving resettlement implementation activities against the agreed implementation plan.</li> <li>• Funds allocation for resettlement-to-resettlement agencies on time.</li> <li>• Receipt of scheduled funds by resettlement offices.</li> <li>• Funds disbursement according to the LARP.</li> <li>• Social preparation phase as per schedule.</li> <li>• Land acquisition and occupation in time for implementation.</li> </ul>
<b>Livelihood and Income Restoration</b>	<ul style="list-style-type: none"> <li>• Number of displaced persons under the rehabilitation programs (women, men, and vulnerable groups).</li> <li>• Number of displaced persons who received vocational training (women, men, and vulnerable groups).</li> <li>• Types of training and number of participants in each program.</li> <li>• Number and percentage of displaced persons covered under livelihood</li> </ul>

Monitoring Aspects	Potential Indicators
	<p>programs (women, men, and vulnerable groups).</p> <ul style="list-style-type: none"> <li>• Number of displaced persons who have restored their income and livelihood patterns (women, men, and vulnerable groups).</li> <li>• Number of new employment activities.</li> <li>• Extent of participation in rehabilitation programs.</li> <li>• Extent of participation in vocational training programs.</li> <li>• Degree of satisfaction with support received for livelihood programs.</li> <li>• Percentage of successful enterprises breaking even (women, men, and vulnerable groups).</li> <li>• Percentage of displaced persons who improved their income (women, men, and vulnerable groups)</li> <li>• Percentage of displaced persons who improved their standard of living (women, men, and vulnerable groups)</li> <li>• Number of displaced persons with replacement agriculture land (women, men, and vulnerable groups)</li> <li>• Quantity of land owned/contracted by displaced persons (women, men and vulnerable groups)</li> <li>• Number of households with agricultural equipment</li> <li>• Number of households with livestock</li> </ul>
<b>Benefit Monitoring</b>	<ul style="list-style-type: none"> <li>• Noticeable changes in patterns of occupation, production, and resource use compared to the pre-project situation.</li> <li>• Noticeable changes in income and expenditure patterns compared to the pre-project situation.</li> <li>• Changes in cost of living compared to the pre-project situation.</li> <li>• Changes in key social and cultural parameters relating to living standards.</li> <li>• Changes occurred for vulnerable groups.</li> <li>• Benefiting from the project by the displaced persons.</li> </ul>

### C. Reporting and Disclosure

98. MOEF is required to prepare semiannual monitoring reports for submission to ADB that will include the progress in compensation payment as well as other activities stipulated in the RP. Monitoring reports shall include the following topics:

- (i) The number of APs by category of impact per component, and the status of compensation payment and assistance/income restoration for each category.
- (ii) The amount of funds allocated for operations or for compensation and the amount of funds disbursed for each.
- (iii) The eventual outcome of complaints and grievances and any outstanding issues requiring action from management.
- (iv) Implementation problems.
- (v) Revised actual RP implementation schedule.

99. Monitoring reports are subject to review by ADB and posted on the ADB and project websites, if applicable. MOEF through its implementing units shall disclose results of monitoring to the affected communities/persons specifically the status of the RP, information on benefits sharing, and corrective action plans, if any.

## APPENDIX 1: SUBPROJECT LAR SCREENING CHECKLIST

INVOLUNTARY RESETTLEMENT (LAR) SCREENING CHECKLIST	
Province:	District:
Village:	
Subproject:	
Brief Description of Site and Proposed Works (provide as much detail as possible):	

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilized within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
<b>Involuntary restrictions on land use or on access to legally designated parks and protected areas</b>				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
<b>Information on Vulnerable Persons:</b>				
Are any of the APs poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Are any APs from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes				

<b>1. Document/Plan Requirements</b>			
Based on the foregoing identification of impacts and the subproject will:			
Create land acquisition/ resettlement impacts (if YES ticked in answer to any question in Section 1), and a Land Acquisition and Resettlement Plan (completed as per the requirements of the RF) is required.			
Create no resettlement impact, no Land Acquisition and Resettlement Plan is required. This screening checklist and a due diligence report will be prepared as the document for the subproject.			
<b>The foregoing has been reviewed and agreed with by:</b>			
Name & Signature: (Team Leader)		Date:	
Name & Signature: (Safeguards Specialist)		Date:	

## **APPENDIX 2: OUTLINE OF A RESETTLEMENT PLAN**

1. This outline is part of the Safeguard Requirements 2 of the SPS. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

### **A. Executive Summary**

2. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

### **B. Project Description**

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

### **C. Scope of Land Acquisition and Resettlement**

4. This section: (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities; (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project; (iii) summarizes the key effects in terms of assets acquired and displaced persons; and (iv) provides details of any common property resources that will be acquired.

### **D. Socioeconomic Information and Profile**

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including: (i) define, identify, and enumerate the people and communities to be affected; (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account; (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

### **E. Information Disclosure, Consultation, and Participation**

6. This section: (i) identifies project stakeholders, especially primary stakeholders; (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle; (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan; (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the

method of dissemination) and the process for consultation with affected persons during project implementation.

#### **F. Grievance Redress Mechanisms**

7. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

#### **G. Legal Framework**

8. This section: (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed; (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons; (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

#### **H. Entitlements, Assistance and Benefits**

9. This section: (i) defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix); (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and (iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

#### **I. Income Restoration and Rehabilitation**

10. This section: (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources; (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets); (iii) outlines measures to provide social safety net through social insurance and/or project special funds; (iv) describes special measures to support vulnerable groups; (v) explains gender considerations; and (vi) describes training programs.

#### **J. Resettlement Budget and Financing Plan**

11. This section: (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation; (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items); (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs; and (iv) includes information about the source of funding for the resettlement plan budget.

#### **K. Institutional Arrangements**

12. This section: (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan; (ii) includes institutional capacity building

program, including technical assistance, if required; (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and (iv) describes how women's groups will be involved in resettlement planning and management.

**L. Implementation Schedule**

13. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

**M. Monitoring and Reporting**

14. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.



### APPENDIX 3: FIP CONSULTATION AND PARTICIPATION PLANS

Output1: Community focused and gender responsive REDD+ pilots in Kapuas Hulu and Sintang districts implemented.							
Stakeholders	Objectives of their intervention	Approach	Participation Method		Time Line		Cost Estimate
			Method	Responsible	Start	End	
Central Government Institutions	Ministry of Environment and Forestry, to plan and implement project activities.	Partnership, depth: high.	Development of project design and guidelines, delivering project activities and inputs, oversight of project implementation, monitoring and evaluation.	Directorate General of Social Forestry and Environmental Partnership	2015	2019	70.000
Executing/Implementing Government Institutions	FMU, District Forestry and Plantation Service, to plan and implement project activities in their areas.	Partnership, depth: high.	Site selection, identification of target groups, coordination meetings, training on participatory planning, delivering project activities and inputs, internal monitoring and evaluation.	FMU	2015	2019	50.000
International and national NGOs	WWF, KOBUS to take part in the project components.	Partnership, depth: high.	Site selection, identification of target groups, coordination meeting, delivering project activities and inputs, internal monitoring and evaluation.	WWF, as anchor NGO	2015	2019	60.000
Research Institutions and Media	CIFOR, UNTAN, to monitor and evaluate program implementation	Partnership, depth: low	External participatory monitoring and evaluation of the project	CIFOR/UNTAN	2015	2019	60.000
Community Organizations	Head of Village, selected community organizations	Partnership, depth: high	Participatory village mapping, development of sedentary sustainable agroforestry for food (paddy, vegetables) and high yield commodities (rubber, cacao); better processing, design and marketing of NTFP (honey, fish, crafts), involvement of men and women in the project processes and get benefit from it equitably.	Head of village and community representatives.	2015	2019	60.000
Private Sectors	Association of Palm Oil, to be informed on the project.	Information generation Depth: low.	Information sharing.	Association of Palm oil	2015	2019	50.000

<b>Output 2: Provincial REDD+ strategy in West Kalimantan is effectively implemented</b>							
Stakeholders	Objectives of intervention	Approach	Participation Method		Time Line		Cost Estimate
			Method	Responsible	Start	End	
Central Government Institutions	Ministry of Environment and Forestry, coordinating and supervising project activities.	Partnership, depth: high	SRAP Review Workshop, Development of Sectoral Action Plan, Coordination Meetings, REDD+ Sectoral Monitoring and Evaluation	Directorate General of Social Forestry and Environmental Partnership	2015	2019	70.000
Executing/Implementing Government Institutions	FMU, BPKH, TN DS, TN BK, Provincial and district Dinas Kehutanan dan Perkebunan, Dinas Pertanian, Dinas Perikanan, Dinas Pariwisata	Partnership, depth: high.	Development of district action plan, implementation of action plans, Regular district coordination meetings, monitoring and evaluation.	Head of Dinas Kehutanan dan Perkebunan	2015	2019	60.000
International and national NGOs	All provincial and district based NGOs, to get more inputs for best strategies formulation and implementation.	Consultation, depth: high.	FGD, participatory monitoring of land use, forest cover and biodiversity.	WWF as anchor NGO	2015	2019	50.000
Research institutions and media	All provincial and district based research and media, to share information, research findings for strategy design and news for dissemination.	Consultation, depth: high.	Exchange of research finding, facts on land use, forest cover and biodiversity for monitoring and evaluation of the project.	CIFOR/UNTAN	2015	2019	60.000
Community Organization	Head of village, Religious and Customary leaders, community groups.	Consultation, depth: high.	Training on participatory land use, forest cover and biodiversity monitoring,	Head of village and community representatives	2015	2019	70.000
Private Sector	Palm Oil Association	Information generation, depth: low.	Information generation and sharing.	Palm Oil Association	2015	2019	30.000

Output 3: Sub-national Policies on carbon stock improvement harmonized with national policies.							
Stakeholders	Objectives of intervention	Approach	Participation Method		Time Line		Cost Estimate
			Method	Responsible	Start	End	
Central Government Institutions	Ministry of Environment and Forestry (Directorate General of Social Forestry and Environmental Partnership), Ministry of Agraria and Spatial Planning to provide policy guidance.	Partnership, depth: high.	Review of the Long-term Forestry Development Plan, development of National Community Forest Expansion Plan.	Directorate General of Social Forestry and Environmental Partnership	2015	2019	60.000
Executing/ Implementing Government Institutions	FMU, BPKH, Dinas Kehutanan dan Perkebunan, TN DS, TN BK, BPDAS, Provincial and district Dinas Kehutanan dan Perkebunan, Dinas Pertanian, Dinas Perikanan, actively contribute to formulate action plans.	Partnership, Depth: high.	Review of the Long-term Forestry Development Plan, adoption of community based forest management plan in the FMU and District Long-term Action Plan.	FMU and Dinas Kehutanan dan Perkebunan	2015	2019	50.000
International and National NGOs	All provincial and district based NGOs, to get more inputs for the action plans development.	Consultation, depth: high.	Need assessment for community-based forest management; Planning workshop on community based forest management.	WWF, as anchor NGO	2015	2019	60.000
Research Institution and Media	All provincial and district based research institutions to provide inputs for action plan and media for coverage.	Partnership, depth: high	Participatory Action Research on community-based forest management, inputs for FMU and District Long-term Action Plan.	CIFOR/ UNTAN	2015	2019	50.000
Community Organizations	Head of village, Religious and Customary Leaders, Community Organization; to capture social and tenurial problems	Partnership, depth: high.	Village participatory need assessment for community-based forest management, participatory planning on community forest development.	Head of village and community representatives	2015	2019	40.000
Private Sector	Palm oil association, to share information.	Information generation and sharing, depth: low.	Information sharing on community-based forest management.		2015	2019	30.000

Stakeholders	Objectives of their intervention	Approach	Participation Method		Time Line		Cost Estimate
			Method	Responsible	Start	End	
Central Government Institutions	Ministry of Environment and Forestry (Directorate General of Social Forestry and Environmental Partnership), Ministry of Finance, Ministry of Agraria and Spatial Planning to provide policy guidance.	Partnership, depth: high.	Identification of sub national (provincial and district) policies (Perda/ Regional Regulation and decrees), carbon stocks policy review, policies related to carbon stocks.	Directorate General of Social Forestry and Environmental Partnership	2016	2018	USD 33,000
Executing/Implementing Government Institutions	FMU, BPKH, Dinas Kehutanan dan Perkebunan, TN DS, TN BK, Provincial and district Dinas Kehutanan dan Perkebunan, Dinas Pertanian, Dinas Perikanan and DPRD, actively contribute to formulate policies.	Partnership, depth: high.	Identification of local policies on carbon stocks, policies (Perda and Decree) review, prioritization program for revision and policy development, new and revision policies development.	FMU, Dinas Kehutanan dan Perkebunan			
International and National NGOs	All provincial and district base NGOs, to get more inputs for the action plans development	Consultation, depth: high.	Public consultation workshop on new, revised policies on carbon stocks.	WWF, as anchor NGO			
Research Institutions and Media	All provincial and district based research institutions to provide inputs and media coverage.	Consultation, depth: high.					
Community Organizations	Head of village, Religious and Customary Leaders, Community Organization; to capture social and tenurial problems	Consultation, depth: high		Head of village and Community Representatives			
Private Sector	Palm oil association, to share information.	Consultation, depth: high.					

**APPENDIX 4: SAMPLE NEGOTIATED SETTLEMENT AGREEMENT**

The following agreement has been made on.....day of ..... between Mr./Ms. , aged....., resident of ..... zone, district ..... (the owner) and ..... (the recipient/subproject proponent).

1. That the land with certificate no.....is a part of ....., is surrounded from eastern side by....., western side by....., northern side by ....., and southern side by..... .
2. That the owner holds the transferable rights of land .....(area in sqm), with plot No..... at the above location (include a copy of the certified map, if available) .
3. That the Owner testifies that the land/structure is free of squatters or encroachers and not subject to any other claims.
  - a. That the owner(s) agree to sell above assets for the negotiated price in accordance with the attached schedule.
  - b. That the project owners agree to pay the agreed price for the land and other assets within two weeks from the date of getting approval for the project from the Government of ...../ PISU.
  - c. In case of any delay in payment within the stipulated time, this agreement will become null and void and the recipient will no longer have any claim over the land and assets.
4. That the recipient shall construct and develop the .....and take all possible precautions to avoid damage to adjacent land/structure/other assets.
5. That the provisions of this agreement will come into force from the date of signing of this deed.

.....  
Name and Signature of the Owner

.....  
Signature of subproject proponent/representative

Witnesses:

- 1.....
  - 2.....
- (Signature, name and address)

**APPENDIX 5: SAMPLE VOLUNTARY DONATION / CONTRIBUTION FORM**

<b><u>Voluntary Land Donation Consent Form</u></b>					
<b><u>CERTIFICATE OF LAND/ASSET TRANSFER for VOLUNTARY DONATION</u></b>					
<i>Surat Pernyataan Penyerahan Hak Milik untuk Sumbangan Sukarela</i>					
<i>I, the undersigned here</i>					
<i>Saya, yang bertanda tangan di bawah ini</i>					
<u>Name</u>	Name	:			
<u>Age</u>	Umur	:			
<u>Nationality</u>	Kebangsaan	:			
<u>Occupation</u>	Kepemilikan	:			
<u>Occupation</u>	Kepemilikan	:			
<u>Residence Located in</u>	Bertempat tinggal di	:			
<u>Village</u>	Desa	:			
<u>Sub District</u>	Kecamatan	:			
<u>District</u>	Kabupaten	:			
<u>Province</u>	Propinsi	:			
<b><u>Certify that I have been previously informed by local authority of my right to entitle compensation</u></b>					
<i>Menyatakan bahwa saya telah mengetahui tentang kompensasi terhadap penyerahan hak milik saya</i>					
<b><u>for any loss of property (land and trees/crops) that might be caused by the construction of</u></b>					
<i>atas kepemilikan Rumah, Tanah dan Pohon yang mungkin diperlukan untuk pembangunan</i>					
<b><u>small-scale village infrastructures (name of development activity) for Forest Managenet Program</u></b>					
<i>infrastruktur komunitas berskala kecil (nama kegiatan) untuk Program Pengelolaan Hutan</i>					
<b><u>in Village:</u></b> _____, <b><u>Sub district</u></b> _____, <b><u>District:</u></b> _____					
<i>di desa</i> _____, <i>Kecamatan</i> _____ <i>Kabupaten</i> _____					
<b><u>I confirm that I voluntarily donate the land of ..... square meters located in</u></b>					
<i>Saya menyatakan dengan suka rela menerima kehilangan atas tanah seluas ..... m<sup>2</sup> terletak di</i>					
<b><u>Village:</u></b> _____ <b><u>Sub district</u></b> _____, <b><u>District:</u></b> _____					
<i>di desa</i> _____, <i>Kecamatan</i> _____ <i>Kabupaten</i> _____					
<b><u>I also confirm that do not request any compensation and would request to consider this</u></b>					
<i>Saya juga menyatakan bahwa Saya tidak meminta kompensasi dan meminta untuk dipertimbangkan</i>					
<b><u>as my contribution and participation to the Project.</u></b>					
<i>sebagai sumbangan dan partisipasi saya terhadap proyek.</i>					
<b><u>Type and loss value of the donated asset is as follows</u></b>					
<i>Jenis dan Nilai kerugian atas aset yang disumbangkan adalah sebagai berikut:</i>					
<u>Type of Loss</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Rate</u>	<u>Total</u>	<u>Comment</u>
Jenis Kerugian	Banyaknya	Satuan	Nilai Satuan	Total Nilai	Catatan
Land/ Lahan		M <sup>2</sup>			

<i>Trees</i>	<i>Batang</i>
<b><i>Total</i></b>	

*Therefore, I prepare and sign this certificate for the proof of my decision.*

*Demikian, saya membuat dan menandatangani pernyataan sebagai bukti atas keputusan saya*

*....., ..... 20.....*

*The owner of the land*  
*Pemilik Tanah*

( \_\_\_\_\_ )

*Witnesses:*  
*Saksi-Saksi:*

- 1. \_\_\_\_\_ :
- 2. \_\_\_\_\_ :
- 3. \_\_\_\_\_ :
- 4. \_\_\_\_\_ :

*Certified by:*

*The Chief of the Village*  
*Kepala Desa:* \_\_\_\_\_

*The Chief of Sub District*  
*Kepala Kantor Kecamatan* \_\_\_\_\_

( \_\_\_\_\_ )

( \_\_\_\_\_ )