

Indigenous Peoples Planning 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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ABBREVIATIONS

ADB	–	Asian Development Bank
AMAN	–	Aliansi Masyarakat Adat Nusantara (Indigenous Peoples' Alliance of the Archipelago)
EA	–	executing agency
FIP	–	Forest Investment Program
FMU	–	Kesatuan Pengelolaan Hutan (forest management unit)
FPIC	–	free, prior, and informed consent
GHG	–	greenhouse gas
IA	–	implementing agency
ILO	–	International Labor Organization
IP	–	indigenous peoples
IPDP	–	indigenous peoples development plan
IPPF	–	Indigenous peoples planning framework
IP4T	–	Inventarisasi Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah (Inventory of Control, Ownership, and Utilization of Land)
NGO	–	non-governmental organization
PISU	–	project implementation supporting unit
REDD+	–	reducing emissions from deforestation and forest degradation, conservation, sustainable forest management and forest carbon stock improvement (+ refers to the last three phrases)
SFM	–	sustainable forest management
SIA	–	social impact assessment
SPS	–	Safeguard Policy Statement
UN	–	The United Nations

DEFINITION OF TERMS

Adat land	Lands that belong to masyarakat hukum adat based on their customary law and tradition inherited from their ancestors
Affected Residents / Population / Entitled Persons	Refers to any person or persons, customary community, private or public institution who are physically displaced (relocation, 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 a result of i) acquisition of land; ii) restriction on land use or on access to legally designated parks and protected areas. The affected populations are parties who control or possess an object land acquisition.
Census of affected persons	<p>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.</p> <p>A census describes the persons who are displaced, their livelihoods and income sources, and what they are likely to lose because of the project.</p>
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 or resettlement for the assets and livelihoods lost or affected by the project.
Entitled party	Party that controls or possesses land acquisition object
Free and Prior Informed Consent	Refers to the consensus of all members of an IP community to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.
Indigenous Knowledge Systems and Practices	Refer to systems, institutions, mechanisms, and technologies comprising a unique body of knowledge evolved through time that embody patterns of relationships between and among peoples and between peoples, their lands and resource environment, including such spheres of relationships which may include social, political, cultural, economic, religious spheres, and which are the direct outcome of the indigenous peoples, responses to certain needs consisting of adaptive mechanisms which have allowed indigenous peoples to survive and thrive within their given socio-cultural and biophysical conditions.
Land Acquisition object	Land, space above ground and below ground, buildings, plants, objects related to land, or any other objects that can be assessed
Masyarakat hukum adat (or IPs)	Customary or indigenous community is a distinct community that is characterized by; i) the existence of group of people who has a collective attachment to a certain customary legal order as a whole community of an alliance with a particular customary law, who recognizes and implements the tradition in their daily life; ii) the existence of certain

customary lands, which are the environment of the customary community and the area where they take their daily needs; and iii) the existence of common law regarding the maintenance of order, dominance, and applicable customary land use adhered by the members of the community. PP No. 71/2012, Article 22.

Protected Area	Refers to identified portions of land and water set aside by reasons of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.
Ulayat	A bundle of rights that belong to <i>masyarakat hukum adat</i> based on their <i>adat</i> law especially rights to lands and to govern the <i>adat</i> territory

NOTE

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

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I. INTRODUCTION

A. Project Description

1. As a pilot country of the Forest Investment Program (FIP)¹ 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). At the request of the government, ADB proposed to administer the “Community-Focused Investments to Address Deforestation and Forest Degradation” project. 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. The project will also contribute to effective implementation of provincial REDD+ strategy and harmonization of sub-national fiscal policies on REDD+ with national policies.

2. The project will aim at bringing multiple benefits to forest-dependent communities, including customary law communities (masyarakat hukum adat – MHA) in the project area by strengthening institutions to adopt community-based forest management (CBFM) approach. The project will contribute to the objectives of the master plan for the acceleration and expansion of Indonesia’s economic development 2011–2025, national action plan to reduce GHG emissions, national REDD+ strategy² and West Kalimantan’s provincial action plan to reduce emissions. The project will take into consideration economic, social, cultural and environmental aspects of community governance system as a social capital. It provides strong links with ADB technical assistance³ on sustainable forest management and with projects of other development partners.

3. The expected impact will be increased environmental and livelihood benefits. The outcome will be improved REDD+ implementation in project areas of West Kalimantan province. The project will have three outputs: (i) community-focused and gender-responsive REDD+ pilots in Kapuas Hulu and Sintang districts implemented; (ii) provincial REDD+ strategy in West Kalimantan effectively implemented; and (iii) sub-national fiscal policies on REDD+ harmonized with national policies.

4. The outputs will be achieved through implementation of activities, which are based on local communities’ needs and good practices in terms of enhancing economic development and sustainable forest management. Most of planned activities are those that have been practiced by communities which have received support from development partners such GIZ-FORCLIME, Australia, USA, Norway, non-governmental organizations and government’s own initiatives.

¹ 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) 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.

² Indonesia REDD+ Task Force. 2012. REDD+ National Strategy, Jakarta, Indonesia.

³ ADB, 2013. Technical Assistance to Indonesia for Sustainable Forest and Biodiversity Management in Borneo. Manila (TA 8331).

Rubber agroforestry, provision of alternative livelihoods, improvement of honey collection and fishing practices, forest fire management, are some of the proposed activities that resulted from communities' initiatives. In addition, there are a number of activities to support community governance systems, improvement of capacity for forest products utilization, value addition and enterprise development. To enhance the effectiveness of these activities, there will be a number of activities for FMU staff and related district and provincial officials.⁴

5. The project will follow CBFM as its main approach. Communities will play the main role in addressing sustainable forest management both in production and conservation forests, in which the activities planned for community empowerment, such as Hutan Tanaman Rakyat (HTR) or community plantation, will be implemented. The project will collaborate with the FIP Dedicated Grant Mechanism for Indigenous People and Local Communities.

B. Project Location

6. 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 (Table 1). Figures 1 and 2 provide the indicative locations of proposed 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).

7. Nearly all communities in the project area are customary law communities or *masyarakat hukum adat* (MHA). Communities in project sites are mostly Dayak. *Tumenggung* is the highest authority in the community governing system with responsibility for conflict resolution, authorization of opening of a forest area for agriculture, and coordination of lower adat structures such as *kepala adat dusun* (adat chieftance of hamlets). Melayu adat structure is headed by a *Penghulu*, who holds a religious position as well as other community governing system.

⁴ Detailed activities are in design and monitoring framework (DMF) in Appendix 1.

Table 1. Selected Sites and Households For Land-Based Interventions

Site	Total FIP Restoration area (ha)	Estimated number of households	Rubber agroforestry (rubber+coffee) (ha)	Gaharu agroforestry (gaharu+coffee) (ha)	Rubber plantation (HTR) (ha)
Sintang					
1 Radin Jaya	150	150	80	10	60
2 Tanjung Sari	120	120	110	10	0
3 Kayu Dujung	120	120	110	10	0
4 Senangan Kecil	120	120	110	10	0
Subtotal for Sintang	510	510	410	40	60
Kapuas Hulu					
1 Rantau Prapat	120	120	110	10	0
2 Nanga Nyabau	120	120	110	10	0
3 Sibau Hulu	120	120	110	10	0
4 Sibau Hilir	120	120	110	10	0
5 Bunut Hulu	120	120	110	10	0
6 Nanga Tuan	120	120	120	0	0
Subtotal for Kapuas Hulu	720	720	670	50	0
TOTAL	1,230	1,230	1,080	90	60

Figure 1. Location of Project Interventions in Kapuas Hulu District

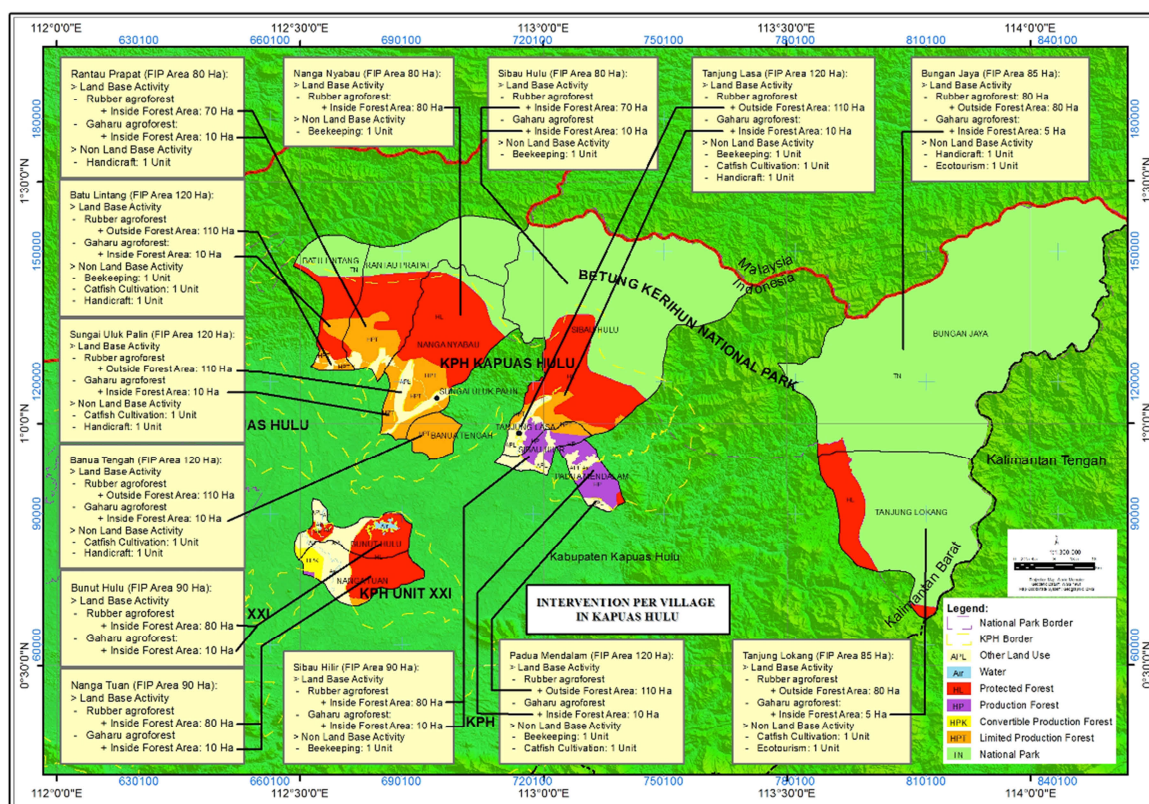
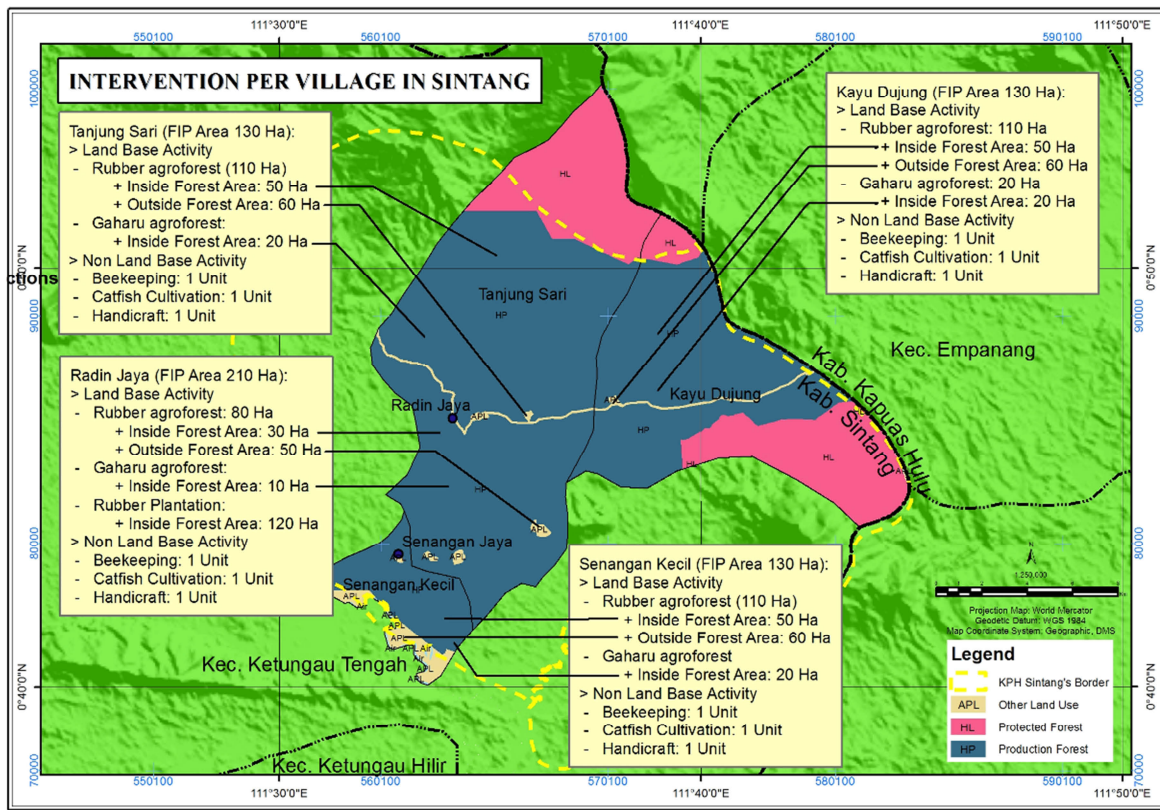


Figure 2. Location of Project Interventions in Sintang District



C. Rationale for an Indigenous Peoples Planning Framework

8. The 2009 ADB Safeguards Policy Statement (SPS) that covers indigenous peoples (IP) is 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. Based on the socio-demographic and anthropological characteristics of the project site beneficiaries in West Kalimantan, an indigenous peoples planning framework (IPPF) was prepared to provide guidance in the preparation and implementation of indigenous peoples development plans (IPDP) based on the results of social impact assessment (SIA) and to be updated (when necessary) in each FMU. IPPF is also prepared to safeguard MHA rights in accordance with the Indonesian national and provincial laws or regulations and the ADB's SPS.

9. Data from the Central Statistics Agency/*Badan Pusat Statistik* shows that Indonesian population in 2015 is 255.46 million.⁵ The government recognizes 365 ethnic and sub-ethnic groups, of which there are many *komunitas adat terpencil* (KAT) or geographically isolated customary communities.⁶ The number of KAT is approximately 1.1 million. Many more people, however, consider themselves, or are considered by others, to be customary communities. The national indigenous peoples' organization, Aliansi Masyarakat Adat Nusantara (AMAN), uses the term *masyarakat adat* to refer to customary communities. A conservative estimate of the number of customary communities by AMAN amounts to between 30 and 40 million people.⁷ In

⁵ http://www.bps.go.id/tab_sub/view.php?kat=1&label=1&daftar=1&id_subyek=12¬ab=12; see also: Proyeksi Penduduk Indonesia 2010 –2035, Badan Pusat Statistik 2013.

⁶ IWGIA, 'Indigenous World', 2013.

⁷ IWGIA, 'Indigenous World 2011', page 271.

its press release on the inauguration of its 14th AMAN congress, AMAN noted that the population of customary communities in Indonesia is 70 million.⁸ There is not yet official data of the number of customary communities in West Kalimantan. The concept of ancestral domain is acknowledged and the Indonesian Indigenous Peoples' Alliance of the Archipelago, together with the Network for Participatory Mapping (JKPP), has officially handed over 265 maps of ancestral domains registered in the Ancestral Domain Registration Agency (BRWA), covering 2,402,222 hectares, to the Indonesia's Geospatial Information Agency (BIG).

10. Within the project districts (Sintang and Kapusa Hulu), several IPs are recognized as Customary Law Community or “*Masyarakat Hukum Adat*” in terms of isolated and/or vulnerable peoples.⁹ These IPs or *masyarakat hukum adat* (MHA) are recognized by domestic law and their presence is noted in the project areas. The project includes customary communities to be beneficiaries of the project along with other forest communities. Two out of three outputs are anticipated to have directly or indirectly positive impacts on IP communities. While overall IP concerns on cultural integrity are built into the project design. Potential negative impacts, such as temporary restricted access to forest areas, may also arise and will be mitigated accordingly as the project is implemented through a participatory CBFM approach.

11. The project gives high importance to the needs and preferences of MHAs who have been experiencing: (i) social exclusion in decision making related to forest resources and (ii) poverty due to the lack of access to basic infrastructure facilities and livelihood opportunities. The project aims to ensure a sustained increase in household income of MHAs. These opportunities are expected to prevent further exploitation of the forest areas. The project will provide opportunities and positive results to MHAs and the strategy in achieving this objective is described in this IPPF and detailed information will be presented in the IPDP. Potential social impacts of the project to the MHA way of life, culture and traditions are appropriately addressed during sub-projects (activities) preparation and implementation, to ensure culturally appropriate socio- economic benefits.

12. The IPPF takes into account the uniqueness of prevailing conditions in West Kalimantan. Due considerations are made in the preparation of this framework document as follows: (i) significant number of the population in the project are MHAs, who generally have higher poverty rates as compared with the nationally dominant groups, and (ii) impacts are expected to be positive as MHAs' concerns and priorities have been incorporated in the overall project design and negative impacts will be mitigated accordingly; (iii) vulnerability of MHAs will be assessed and programs will cater to the needs of more vulnerable MHAs. Despite the identification of participating villages and FMUs, details of specific impacts have not been prepared and finalized. The project is rooted in CBFM approach, which will require detailed priorities, activities and plans from communities for effective project implementation. Additional details will be provided during implementation and IPDP will be prepared after the project approval.

II. OBJECTIVES AND POLICY FRAMEWORK

A. Objectives and Principles

13. The main objective of this IPPF is to help ensure that subprojects are designed and implemented in a way that fosters full respect for MHA identity, dignity, human rights, livelihood

⁸ <http://www.aman.or.id/2013/03/17/>.

⁹ As mentioned in WB data on Indigenous People Map and *KAT-Kelompok Adat Terpencil* (Remote Customary Community Groups).

systems, and cultural uniqueness as defined by the MHAs themselves to enable them to: (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of the project, and (iii) can participate actively in the project.¹⁰ This IPPF safeguards the rights of IPs to participate and equitably receive culturally appropriate benefits from the project. An IPDP will be prepared if a subproject triggers IP safeguards. The project will strengthen capacity of MHAs for preventing deforestation and forest degradation, and tenure clarity through conflict management. Customary communities will participate in REDD+ pilots focusing on livelihood and will have capacity to develop value added non-timber forest products processes. They will also manage and showcase their culture through ecotourism which in turn can raise their income and connect them to markets. Activities on food production may prevent the community from opening up more forest areas for shifting cultivation. Communities are able to participate in sustainable food production management. Provision of electricity for communities will be further used to support domestic activities.

B. Legal Framework

1. National Laws

14. The National Medium Term Development Plan 2015-2019 addresses poverty as one of its development mission. Mission 5 of the medium term development plan is to realize equal distribution of just development through enhancing local development; lessening social gap; tackling poverty and unemployment; providing access to social services; and erasing discrimination and gender inequality. For tackling poverty, government has identified three categories of households with the lowest income to be targeted: underutilized and part time worker including peasant households, micro business and unpaid worker, and the poor without asset and job. The strategy to tackle poverty covers four areas: social protection program, access to basic services, empowerment of the poor, and inclusive development program. It also address right-based approach¹¹ in tackling poverty by providing programs related to fulfillment of basic rights and needs. The objective of the project is in line with the national strategy to tackle poverty through emphasizing the customary rights to lands, ensuring that there will be as minimum as possible involuntary resettlement due to implementation of the project.

15. The definition of IPs in Indonesia's legal system can be found in some laws. The existence of *adat* communities is recognized in the constitution, namely in Article 18 and its explanatory memorandum. It states that in regulating a self-governing region and *adat* communities, government needs to respect the ancestral rights of those territories. After amendments, recognition of the existence of *adat* communities was provided in Article 18 B Para. 2 (concerning "*adat* law community" and regional government) and Article 28 I Para. 3 ("*traditional* community" and Human Rights).

16. Act No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (or Basic Agrarian Law, BAL), Article 2 Para. 4, Article 3, and 5 provide general principles that accommodate recognition of *adat* communities, *ulayat* land rights, and *adat* laws. In later developments BAL recognition of *adat* law is straightforwardly tied to "national interest".

¹⁰ ADB Safeguards Policy Statement 2009, Annex 3.

¹¹ A rights-based approach (RBA) to development is a framework that integrates the norms, principles, standards and goals of the international human rights system into the plans and processes of development. It is characterised by methods and activities that link the human rights system and its inherent notion of power and struggle with development. RBA is able to recognise poverty as injustice and include marginalisation, discrimination, and exploitation as central causes of poverty. See, for example, Jakob Kirkemann Boesen & Tomas Martin, The Danish Institute for Human Rights, 2007, page 9.

17. Law 41/1999 on forestry does not provide a definition of *masyarakat hukum adat*, also widely known as *adat* community (*masyarakat adat*). However, the elucidation of Article 67 (2) of Law 41/1999 lists five conditions, on the basis of which the government will recognize customary community: (i) in the people's daily life, it still is a communal society (*paguyuban*); (ii) the community has *adat* institutions and *adat* leaders; (iii) the community has clear boundaries; (iv) the community has well-functioning customary law institutions, particularly an *adat* judicial system; and (v) the community still collects forest products for its subsistence.

18. Government Regulation in lieu of Law No. 41/1999 on forestry addresses in its Article 83A that all licences or agreements on mining in forest area that exist before enactment of Law No. 41/1999 will remain active until the termination of those licences or agreements.

19. Forestry Ministry Decree No. P.16/Menhut-II/2014 on The Guideline for Leasing Forest Area for non-forestry purposes stipulates that that forest area can be used for non-forestry purposes, among others, development of religious buildings, graveyards, electric generators, public roads, and development of renewable energy. Article 30 (e) states that right holder of land leasing in forest area has the obligation to empower communities in the area.

20. At international level, the term 'indigenous peoples' was used by the UN agencies such as International Labor Organization (ILO). The UN has developed a modern understanding of the term 'indigenous peoples' based on: (i) self identification as indigenous peoples at the individual level and accepted by the community as their member; (ii) historical continuity with pre-colonial and/or pre-settler societies; (iii) strong link to territories and surrounding natural resources; (iv) distinct social, economic or political systems; (v) distinct language, culture and beliefs; (vi) form non dominant groups of society; and (vii) resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities. ILO definition of indigenous peoples is stated in ILO Convention 169: Peoples who are regarded as indigenous are peoples that on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

21. AMAN, an indigenous peoples organization of Indonesia defines IP as follows. Indigenous communities are a group of people who have lived on their ancestral land for generations, have sovereignty over the land and natural wealth in their customary bounded territory, where *adat* (customary) law and institutions arrange the social life of the community, and carry out the social-political and economic lives of the community.

22. The most recent Indonesia's policy on customary communities was the Constitutional Court Decision No. 35/2012, which was officially enacted on 16 May 2013 regarding the status of *adat* forest. The Constitution of the Republic of Indonesia Article 18 B and 28 I recognize customary communities' existence and traditional rights, though it includes conditions for the recognition: 'as far as they still exist, conform with social development, in line with the principles of the Republic of Indonesia, and administered by law'. The conditions have been used in various laws mentioning the recognition of customary communities or '*masyarakat hukum adat*'. Other laws that impinge on the plight of indigenous peoples are as follows:

- (i) **Regulation No. 5 of 1999** by the Minister of State, Agrarian Head of National Land provides guidance for resolution of problems within ulayat lands of adat law communities.

- (ii) **Act No. 39 of 1999 on Human Rights.** 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.”
- (iii) The government national legislation **Presidential Decree No. 111/1999** sets the criteria of identifying customary communities as follows: (i) in form of small, closed and homogenous community; (ii) social infrastructure supported by kinship; (iii) in general geographically remote and relatively difficult to reach; (iv) in general living off a subsistence economy; (v) its equipment and technology is simple; (vi) dependency on local environment and natural resources are relatively high; and (viii) limited access to social, economic, and political services.
- (iv) **Act No. 25.** By 2000, Act No. 25 concerning the National Development Program (*Program Pembangunan Nasional; PROPENAS*), stresses that the legal system for management of natural resources must have the perspectives of sustainability, respect for human rights, democracy, gender equality, and good governance. It asserts the importance of active participation of communities in making use of, access to, and controlling the use of, natural resources in the framework of protecting public rights and rights of *adat* communities (AppendixChapter X).
- (v) **Act No. 23/2014 concerning Local Government** – establishes division of authority between Central, Provincial and District Government regarding *ulayat* land and recognition of customary law communities or MHA. According to division of authority between central and local government, legal decree on cross-district-border *ulayat* land that is under the authority of provincial government; District government has the authority of issuing legal decree on to *ulayat* land in the district. Recognition of MHA, and their local wisdom and environmental related rights is under central government authority for cross-provincial border MHA; under provincial government for cross-district border MHA; and under district government for MHA in the district. Central, provincial and district governments are all in charge of enhancing capacity of MHA under their authority.
- (vi) Indonesia is a signatory to the **2008 UN Declaration on the Rights of Indigenous Peoples**. The UN General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples during its 61st session on 13 September 2007. While it is not a legally binding instrument under international law, according to a UN press release, it does “represent the dynamic development of international legal norms and it reflects the commitment of the UN's member states to move in certain directions”. The UN describes it as setting “an important standard for the treatment of indigenous peoples that will undoubtedly be a significant tool towards eliminating human rights violations against the planet's 370 million indigenous people and assisting them in combating discrimination and marginalization”.

- (vii) **Environmental Protection and Management (Law No. 32 of 2009).** Article 1 Traditional Community¹² shall be a group of communities living traditionally in a specific geographic area because of binding in origin of ancestor, strong relations with the environment as well as system of values determining economic, political, social and legal structures. Article 63 (2n) tasks local governments to stipulate policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respects to environmental protection and management, and (3k) implement policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respect to environmental protection and management in the regency/municipal level.
- (viii) There is a bill on the recognition and protection of indigenous peoples (Rancangan Undang-Undang Pengakuan dan Perlindungan Hak Masyarakat Adat, RUU PPHMA) which has been proposed for legislation process by AMAN and its network. The bill stipulates a wide range of rights that the State should recognize and protect including right to: development, culture and spirituality, practice their adat judiciary system, and environment.

23. MOEF, through the 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) specifically under Article 9 acknowledge that “*Indigenous peoples shall be recognized according to the applicable laws and regulations.*” This regulation was issued in order to resolve issues on peoples’ 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. It stipulates in Article 1 (17) that recognition of right to lands is the granting of right to lands which have no legal evidences of ownership but have been proven in fact that 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 of customary communities is carried out in line with laws and regulations. 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; and
- (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).

2. ADB Safeguards Policy Statement of 2009

24. ADB’s SPS consists of three operational policies on the environment, indigenous peoples, and involuntary resettlement. The safeguard policies require that: (i) impacts are

¹² There is no formal explanation on whether ‘*masyarakat hukum adat*’ is the same as ‘*masyarakat tradisional*’ (to put the original words in Bahasa Indonesia). But both have ‘*hak tradisional*’ or traditional rights as stated by Article 18 B and 28 I of the Constitution and its elucidation.

identified and assessed early in the project cycle; (ii) plans to avoid, minimize, mitigate, or compensate for the potential adverse impacts are developed and implemented; and (iii) affected people are informed and consulted during project preparation and implementation. Specific for indigenous people planning, the requirements include: (i) consultation and participation; (ii) social impact assessment; (iii) indigenous peoples planning; (iv) information disclosure; (v) grievance redress mechanism (GRM); (vi) monitoring and reporting; and (vii) unanticipated impacts.

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

26. 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 Between Government Regulations and ADB SPS

27. In general, the main principles of the government policies related to customary communities and consultation and social assessment has been reflected under ADB SPS 2009. It is also noted that the term MHA finds its equivalence in usage with that of the ADB SPS 2009. As such, this document throughout refers to IPs as MHA.

28. A comparison between ADB SPS 2009 and the government regulations is presented in Table 2 along with gap filling measures that have become integral to the project design.

Table 2. Comparison Between the Government Regulations and ADB SPS 2009

ADB Requirements	GOI Laws and regulations	ADB SPS 2009	Gaps identified	Gap Filling/ Project Policy
Consultation and Participation	<p>Law No. 41/1999 on Forestry Article 70 (1) Communities shall participate in forestry development (2) Government has the obligation to endorse community participation through various forestry activities</p> <p>Law No. 5/1990 on Biological Resources and Ecosystem Conservation Article 37 (1) Peoples participation in natural biological resources and its ecosystem management endorsed by Government through various activities</p> <p>Law No. 26/2007 on Spatial Planning Article 65 1. Spatial planning arrangement is carried out by Government with community participation 2. Community participation includes: participation in planning, utilization control of spatial utilization</p> <p>Law No. 32/2009 on Environment Management Article 65 (2) Every people have right to environmental education, access to information and participation</p> <p>Government Regulation No. 27/2012 on Environmental Licence Article 9 (2.b) Peoples participation is endorsed through public consultation.</p>	<p>Undertake meaningful consultations with affected customary communities and concerned customary communities organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected customary communities in a culturally appropriate manner. To enhance customary communities' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development.</p>	<p>GOI upholds socialization in any developmental undertaking. However, participation and meaningful consultation are two different concepts and understanding. Participation does not mean that there is meaningful consultation while meaningful consultation requires full and effective participation.</p> <p>Free, prior and informed consent is not operational.</p>	<p>The EA/IA will undertake meaningful consultation with affected MHA communities to ensure their informed participation.</p> <p>The EA/IA will ascertain free and prior informed consent by way of broad community support to project activities that result to: (i) commercial development of the cultural resources and knowledge of customary law communities (MHA); (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihood or the cultural, ceremonial, or spiritual uses that define the identity of MHA.</p>

ADB Requirements	GOI Laws and regulations	ADB SPS 2009	Gaps identified	Gap Filling/ Project Policy
Social Impact Assessment	<p>Government Regulation No. 27/2012 on Environmental License Article 29 (4)</p> <p>Recommendation as referred to Article 29 (3) was made based on considerations of (a) careful estimation of magnitude and important characteristic of social, economy, culture, spatial planning, and health condition of the communities at pre-construction, construction, implementation, and post-implementation of activities; (b) evaluation of overall hypothetical impacts as a holistic and inter-related impacts to know positive and negative impacts; and (c) project developer capacity to take mitigation actions to address negative impacts</p>	<p>Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on customary communities. Give full consideration to options the affected customary communities prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected customary communities that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on customary communities.</p>	<p>Under the Joint Regulation, SIA is through the IP4T that conducts an inventory of assets that will be affected but impacts on MHAs are not assessed</p> <p>Special attention for customary communities needs to be done under consideration that they are socially, economically and legally vulnerable and hence shall be protected.</p>	<p>When screening confirms likely impacts on MHAs, the EA/IA will recruit qualified and experienced experts to carry out social impact assessment (SIA).</p> <p>SIA should be carried out in a culturally appropriate and gender sensitive manner.</p>
IP Planning	<p>(3) Acquisition of Land in the Public Interest shall be performed through planning with involving all the guardians and stakeholders.</p> <p><i>Elucidation of Article 7 (3):</i> <i>“Guardians” means, inter alia, customary leaders and clerics.</i> <i>“Stakeholders” means any person or party having interest in the objects of the disposed land, such as the Entitled Parties, the government, and the community.</i></p>	<p>Prepare an IP development plan (IPDP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected customary communities. The IPDP includes a framework for continued consultation with</p>	<p>IP planning is largely documented merely as part of the consultation process with no framework and elements of action planning.</p>	<p>If the screening and SIA indicate that the proposed project will have impacts, positive and/or negative, on MHAs, the EA/IA will prepare an IPDP in the context of the SIA and through meaningful consultation with the affected MHA communities. The IPDP will have key elements that ensure MHAs receive culturally appropriate benefits; identifies measures</p>

ADB Requirements	GOI Laws and regulations	ADB SPS 2009	Gaps identified	Gap Filling/ Project Policy
	Forestry Ministry Decree No. P.16/Menhut-II/2014 on The Guideline for Leasing Forest Area for non-forestry purposes stipulates that that forest area can be used for non-forestry purposes, among else, development of religious buildings, graveyard, electric generators, public roads, and development of renewable energy. It addresses in Article 30 (e) that right holder of land leasing in forest area has the obligation to provide community empowerment for communities in the area.	the affected customary communities during project implementation; specifies measures to ensure that customary communities receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.		to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
Information Disclosure	Law No. 26/2007 on Spatial Planning Article 13 (2.b) states that there shall be socialization of laws and regulations in the development of spatial planning	Disclose a draft IPDP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected customary communities and other stakeholders. The final IPDP and its updates will also be disclosed to the affected customary communities and other stakeholders.	While there is strong statement on the need to conduct socialization, GOI laws are silent on disclosure – its mechanisms and items requiring disclosure.	The EA/IA will submit to ADB the following documents to disclose on ADB's website (a) a draft IPDP and/or an IPPF, endorsed by the EA, before appraisal; (b) a final IPDP upon completion; (c) a new or updated IPDP and a corrective action plan prepared during implementation, if any; and (d) monitoring reports. Project documents will also be disclosed to affected MHA communities and other stakeholders and when applicable, using the prevailing local language.

ADB Requirements	GOI Laws and regulations	ADB SPS 2009	Gaps identified	Gap Filling/ Project Policy
				The provision of Regulation just puts on socialization as a legal obligation but no detailed explanation on how it shall be carried out.
Grievance Redress Mechanism	Law No. 26/2007 on Spatial Planning Article 55 (5) provides that community may raise their complaints to Local Government.	Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the customary communities' concerns.	GRM is not explicit on cultural sensitivity.	The EA/IA will establish a culturally acceptable and gender sensitive mechanism to receive and facilitate resolution of the affected MHA communities' concerns, complaints, and grievances.
Monitoring and Reporting	Government Regulation Number 8 Year 2008 on Phases of Procedures for Formulating, Controlling and Evaluating the Implementation of Regional Development Plan (Statute Book of the Republic of Indonesia Year 2008 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 4R17).	Monitor implementation of the IPDP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPDP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPDP monitoring. Disclose monitoring reports.	Monitoring and reporting not specific to projects like FIP with inclusion of communities.	The EA/IA will monitor and measure the progress of implementation of the IPDP; EA/IA to ensure community involvement in monitoring

4. Project Policies

29. The project, under the guidance of the MOEF, shall uphold legal provisions of the government in harmony with ADB-SPS 2009 safeguard requirements applicable to MHAs. Based on the equivalence-gap matrix, the following principles will be upheld:

- (i) Screen early on to determine if MHAs are present in project areas and determine the likelihood of impacts on MHAs per project activities and per FMU.
- (ii) Undertake culturally appropriate and gender-sensitive SIA to assess potential project impacts on MHAs.
- (iii) Conduct meaningful consultations with affected MHAs to solicit their participation across the project cycle to (i) avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; (ii) develop project benefits for affected MHAs in a culturally appropriate manner; (iii) provide culturally appropriate and gender inclusive capacity development; and (iv) establish a culturally appropriate and gender inclusive GRM.
- (iv) Ensure consent of affected MHAs to the following project activities: (i) commercial development of the cultural resources and knowledge of IPs; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of IPs. Consent shall refer to a collective expression by the MHA, through individuals and/or their recognized representatives, of broad community support for project activities.
- (v) The issues of access restriction and physical displacement from protected areas and natural resources will be avoided as much as possible by participatory zoning and mapping exercises. Local IPs will participate in the zoning and mapping activities in order to fully benefit from the subprojects.
- (vi) In full consultation with local IP communities, the zoning and mapping exercises will define the areas with customary rights of the local IP and reflect the issues in the IPDP with particular actions to protect or compensate IP communities.
- (vii) Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that MHAs participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.
- (viii) Prepare an IPDP based on SIA to include a framework for continued consultation with the MHAs during project implementation; specifies measures to ensure that they receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate GRM, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
- (ix) Disclose the draft IPDP, including documentation of the consultation process and

the results of the SIA in a timely manner, in an accessible place and in a form and language understandable to affected MHAs. The final IPDP and its updates will also be disclosed to the MHA communities. Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that MHAs have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.

- (x) Monitor implementation of the IPDP using qualified and experienced experts; adopt a participatory monitoring approach and assess whether IPDP objectives and desired outcomes have been achieved taking into account the baseline conditions and the results of IPDP monitoring.
- (xi) Disclose monitoring reports. The objective of the above project policies is to design and implement projects in a way that fosters full respect for MHAs' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the MHAs themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) should participate actively in projects that affect them.

30. The FIP approach therefore is anchored on improving development outcomes for MHAs through their informed participation and decision-making. Culturally sensitive social participation modalities are central to the FIP operations, building on peoples' knowledge and capacities in the process of transferring technology and extending access to opportunities. REDD+ safeguards principles will be equally applied and harmonized accordingly.

C. Subproject Screening Criteria

31. The following criteria are used for selection of villages to be included in the project:

- (i) The selected villages shall not be inside a forest concession, nor under intervention by another donor, to avoid conflict of interest with other parties. Rather, it must be located in and or nearby a FMU area, including area with customary lands but free of conflicts between MHA communities;
- (ii) The selected villages shall be assessed as eligible by the MOEF, ADB, and FMUs in Kapuas Hulu and Sintang;
- (iii) The selected villages, particularly in Kapuas Hulu, shall have strategic position in protecting at least one of the two national parks, namely Betung Kerihun and Danau Sentarum;
- (iv) The selected villages shall contain degraded forest lands and bare lands;
- (v) The selected villages have poor communities who depend much on forest and forest land in making their living; and
- (vi) The village community shall have high interest and strong commitment to implement the FIP activities.

III. IDENTIFICATION OF MASYARAKAT HUKUM ADAT (MHA)

A. Screening for MHAs

32. The ADB SPS provides a checklist as to who can be covered under the policy largely rooted on vulnerability and marginality. Appendix 2 provides a sample screening checklist for MHA. Under the government regulations, IPs are well recognized. Per SPS 2009, the term IPs is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

B. MHAs in FIP Areas

33. MHAs and local communities in Indonesia are mostly those who live within or adjacent to forest lands on which they depend almost entirely for their subsistence and survival. They are considered to be the poorest and most vulnerable to the impacts of climate change as well as to the unfortunate consequences of climate change mitigation and adaptation incident. Vulnerability of MHAs communities has been the ultimate consideration of the project. This issue will be addressed through special measures that would be explained thoroughly in the preparation of IPDP document following ADB's policy on indigenous peoples which in Indonesian context has been addressed using the term MHA and government regulations.

34. The primary beneficiaries of the project would be forest dependent communities, including women and indigenous peoples, which make up 63% of West Kalimantan population, where large part of their village areas located in the state forest. Many of them are poor with average daily income \$1.71 or around Rp21,500. Poverty line of Kapuas Hulu in 2013 was Rp304,138 per capita per month and the number of people categorized as poor was 26,400 or 11.11 % of total population of the district. For Sintang district poverty line in 2013 was Rp358,693 per capita per month. It is evident that in project areas, both the poverty line and those living below the poverty line are much higher compared to the provincial values. Project villages are found within state forests and confusion still abound as regards tenure viz definition of what is MHA and adat lands. Based on the social survey conducted in late 2014, distinct factors that define poverty outside of the debate on security of tenure at the project village level are: (i) limited access to capital, (ii) limited access to market, (iii) limited access to technology, and (iv) poor knowledge and skill, particularly in added value economic activities.

35. Under the Constitutional Court Decree (*Keputusan Mahkamah Konstitusi*) No 35/PUU-X/2012, *adat* communities have slowly gained more recognition and their inclusion could help combat deforestation in Indonesia by way of securing their customary territorial rights for *adat* communities. The actual recognition of these rights will be a difficult and long process that takes time to implement. Any project with a desired outcome to contribute to sustainable development of forest communities and avoid deforestation and degradation should consider how to contribute to supporting FMLC as an auxiliary objective. In the project sites of the selected

villages, the project will focus on Dayak and Melayu communities. These two predominant MHAs in the project area have customary claims over lands and forest and customary institutions responsible for operating their internal governing system.

36. Most Dayaks live in villages and hamlets throughout the two FMUs while the Melayu mostly are concentrated along the river and around Danau Sentarum. The villages in FMU Sintang, i.e. Swadaya, Wana Bhakti, Tanjung Sari, Panding Jaya, Tirta Karya, and Wirayuda,¹³ are mostly populated by Dayak. In Kapuas Hulu 71% of the population of 55 villages in the FMU is composed of Dayak Taman (28.5%); Dayak Iban (23.3%); Dayak Kantu (11.4%) and Melayu 7.8% while the rest are from smaller ethnic groups.¹⁴ Of the Dayak and Melayu communities of the villages in the project area, there are villagers who are still practicing shifting cultivation. Some have been familiar with diversified agricultural system such as agroforestry, and some have been involved in the more advanced economic activities such as dealing with market mechanism and having relationship with industry. However, in general they have low education level, and lack access to technology and capital. Vulnerabilities of those communities will be assessed further especially in relation their potential participation in the agroforestry and any opportunities provided by the project.

37. Dayak sub-groups in Kapuas Hulu and Sintang are: the Dayak Kantuk, Dayak Iban, Dayak Taman, Dayak Kayan, Dayak Suhaid, Dayak Punan, Dayak Tamambaloh, Dayak Tamambaloh Apalin, Dayak Suruk, Dayak Punan Bukat, Dayak Punan Hovongan (particularly found in Tanjung Lokang and Bungan Jaya villages) and Dayak Punan Koreho. Kantuk is the dominant sub-group in the villages in FMU Sintang, while in Kapuas Hulu Iban and Punan are the dominant sub-groups. The term 'dominant' refers to language they speak and official position in the villages (head of villages and its assistants). There is no data on what sub-group is the most vulnerable or the better one in terms of socio economic conditions. For West Kalimantan, the latest census on population composition by ethnic groups that can be referred to was in 2000 with the following: Melayu (33.75%), Dayaks (33.75%), Chinese (10.01%), Javanese (9.41%), Madurese (5.51%), Bugisee (3.29%), Sundanese (1.21%), Malay Banjarese (0.66%), Batak (0.56%) and others (1.85%).

38. **The Dayak.** Each group of Dayak speaks their own language such as Kantuk, Iban, Punan, and have their own customary institutions. Dayak culture has close attachment to the symbol of hornbill (*burung enggang*) as a manifestation of good spirit. The symbol is usually expressed in their engraving and craft and also in their traditional architecture. Dayak usually put a symbol of hornbill at the roof top of the house.

39. *Adat* institution of the Dayak varies among one sub-group to another. Iban, for example, has *temenggung* or *tumenggung* as the highest rank of adat authority responsible for the whole sub-group in certain area which commonly consists of a number of villages. Second rank under *temenggung* is *pateh* or *patih*. There are two *pateh*: one responsible for a specific village while the other rather has 'mobile' role for coordinating the whole villages. The 'mobile' *pateh* is 'right-hand' assistance of *temenggung*. Under *pateh*, there is an authority responsible for the governance of long-house, usually known as *tuai rumah*. *Temenggung* has a comprehensive authority covers the whole aspect of community governance system. Comparing this authority with state system, a *temenggung* holds executive, legislative and judicative authority. Punan and Kantuk sub-groups have *tumenggung* as the highest adat authority followed by *kepala adat*

¹³ Rencana Pengelolaan Jangka Panjang KPHP-Model Sintang.

¹⁴ Rencana Pengelolaan Hutan Jangka Panjang KPH Model Kapuas Hulu.

wilayah and *kepala adat dusun*. *Kepala adat wilayah* is comparable to 'mobile' *pateh* while *kepala adat dusun* has quite similar role as the *pateh* of specific village.

40. Kinship in Dayak society is traced in both lines of genealogy (*tusut*). Although, in Dayak Iban society, men and women possess equal rights in status and property ownership. Political office has strictly been the occupation of the traditional Iban patriarch. There is a council of elders in each longhouse. Dayak leadership is through a *Penghulu*. Individual Dayak groups have their social and hierarchy systems defined internally, and these differ widely from Ibans to Ngajus and Benuqs to Kayans.

41. Predominant occupation among Dayak is agriculture, dry land paddy field and rubber garden. In the two FMU shifting cultivation is still dominantly practiced by Dayak communities. Dayaks organize their labor in terms of traditionally based land holding groups, which determine who owned rights to land and how it is to be used. The Iban Dayaks practice a rotational and reciprocal labor exchange called "*bedurok*" to complete works on their farms owned by all families within each longhouse.¹⁵ To get cash, Dayaks collect jungle produce for sales at markets. With the coming of cash crops, Dayaks start to plant rubber, pepper, cocoa, etc. Nowadays, some Dayaks plant oil palm on their lands while others seek employment or are involved in trade.

42. The main dependence on subsistence and mid-scale agriculture by the Dayak has made this group active in this industry. The modern day rise in large-scale monocrop plantations such as palm oil and bananas, proposed for vast swathes of Dayak land held under customary rights, titles and claims in Indonesia, threaten the local political landscape in various regions in Borneo. Further problems continue to arise in part due to the shaping of the modern Malaysian and Indonesian nation-states on post-colonial political systems and laws on land tenure. The conflict between the state and the Dayaks on land laws and customary rights will continue as long as the colonial model on land tenure is used against customary law. The main precept of land use, in customary law, is that cultivated land is owned and held in right by the customary owners, and the concept of land ownership flows out of this central belief. This understanding of *adat* is based on the idea that land is used and held under customary domain. Invariably, when colonial rule was first felt in the Kalimantan Kingdoms, conflict over the subjugation of territory erupted several times between the Dayaks and the respective authorities.¹⁶

43. **The Melayu.** Malay Indonesians are ethnic Malays living throughout Indonesia, as one of its indigenous peoples. Indonesia has the second largest ethnic Malay population after Malaysia with about 1,259,890 persons documented in West Kalimantan. Historically, Indonesian, the national language of Indonesia, was derived from the Malay spoken in Riau Archipelago, a province in eastern Sumatra. There were a number of Malay kingdoms in Indonesia that covered the islands of Sumatra and Kalimantan, such as Srivijaya, Melayu Kingdom, Sultanate of Deli, Riau-Lingga, Sultanate of Bulungan, Pintianak Sultanate, and the Sultanate of Sambas.¹⁷

44. Melayu community has been labeled as Moslem community and working mostly on aquatic resources such as rivers and lakes. They speak Bahasa Melayu, which is also a dominant language in the provincial city, Pontianak. Each village of Melayu community has

¹⁵ Report on the Iban by JD Freeman.

¹⁶ Iban Agriculture by JD Freeman.

¹⁷ "[Propinsi Kalimantan Barat - Dayakologi](#)". Retrieved 2012-09-07.

penghulu as the highest *adat* authority responsible for *adat* and religious aspect of community governance system.

45. In West Kalimantan, Melayu is the biggest ethnic group followed by the Dayak. The same holds true for Kapuas Hulu and Sintang districts. Leboyan village¹⁸ in Danau Sentarum is mostly Melayu. Their main occupations are fishing and honey collection. By tradition,¹⁹ farmers with access to open land are considered to become owners and retain rights on the land thereafter. Ownership thus derives from working the land and from social recognition in the community. In common with Dayak customs in West Kalimantan, a farmer also has first rights to open land inland from their current holding.

46. As for the forests used by villagers for the collection of forest products these are considered to belong to the village as communally-held lands and villagers, referred to as *pengurus hutan* (forest wardens), are charged with looking after these areas. Today these areas are known as *hutan bersama desa* (common village lands) but the *desa* system was only actually introduced into the area in the early 1980s before villages were known as *kampung*. The *Melayu* of Mekar Jaya recognise that forests are charged with spiritual powers but while they know neighboring Dayak groups recognize sacred sites within forests, the *Melayu* have no sacred places apart from gravesites.

47. Malay aristocrats tend to have patrilineal systems, in Mekar Jaya and Beringin lands are inherited equally given to male and female heirs, acknowledging adherents to stricter forms of Islam have taken to giving half shares to female heirs in accordance with Sharia law. In practice, lands tend to be allocated by elders to their heirs when they get old rather than at death, maintaining the association between land ownership and those who actually work the land.²⁰

C. Impact Assessment

48. The project would potentially provide positive impacts rather than the negative ones for it has been developed on the basis of community's needs and proposals. However, the impact assessment was done considering there might always be unpredictable negative impacts of a project to MHA communities such as restricted access to forest and other natural resources for their livelihoods. To provide for such uncertainty, mitigating measures have to be taken, in order to minimize consequences and to prevent negative impacts. Consultation with communities, including women has been done at the initial phase to identify the possible impacts of the project through focus group discussions and community meetings.

49. Potential positive impact of the project (see Table 3) would benefit communities in the project area which can be summarized into: (i) capacity enhancement of local institutions to ensure community effective participation in resource planning and management; (ii) improved quality of life and food security of MHAs through economically viable, socially equitable and environmentally sustainable activities; (iii) MHAs legitimacy in utilizing natural resources; (iv) improved access to market and social services to community; and (v) rehabilitation of roads to support community access to market.

¹⁸ Interview with community.

¹⁹ M. Colchester, S. Chao, N. Jiwan, A. I. Cinditiara, H. and E. Kleden. PT Agrowiratama and the Melayu and Dayak peoples of Sambas, West Kalimantan.

²⁰ Ibid.

Table 3. Anticipated FIP Impacts and Corresponding Mitigations

Outputs / Activities	Positive Impacts	Negative Impacts	Mitigation
<p>1. Community-focused and gender-responsive REDD+ pilots implemented in Kapuas Hulu and Sintang districts</p> <p>REDD+ pilots focusing on forest livelihood options implemented with MHA and local communities, including women. Livelihood options include non-land based activities (including NTFPs) - beekeeping, fish culture, handicrafts, community based ecotourism, and land based activities including 1,880 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-scale village infrastructure (including small roads rehabilitation (2km and 2m wide per village) and facilities for ecotourism).</p>	<p>The project provides alternative livelihoods and households' income: added value from wet paddy field, rubber, honey and handicraft, including in processing and marketing.</p> <p>The project potentially endorse the change of status from illegal to legal of community existence in the FMU areas and improved capacity for sustainable forest management</p> <p>The development of the project has the potential to improve existing social infrastructure and to increase access to towns. It is noted that the project will involve the upgrade of 2 km roads for participating villages. This will reduce current travel time to and from service centers (includes schools, markets and medical facilities) and reducing costs of transportation of goods as well as increasing business opportunities.</p> <p>The project will improve access to market, rural roads from farm to market and enhance required capacity of community to have access to market</p>	<p>Positive impact in economic gain might trigger undesired competing claims over resources addressed by project activities, such as competing claims over rubber agroforestry areas; claim over area for ecotourism development, etc.</p> <p>There might be potential impact to community culture/tradition and institutions due to development of ecotourism with outsiders coming and interacting closely with community.</p> <p>New learnings especially conceptual ones (REDD+, GHG, etc) may impact on worldviews: their connection to local culture and tradition related to social organization, natural resources management and ecosystem services</p> <p>It may affect their access to land and forests; while value added income generating activities results to raising income in terms of cash, it may lead to commercialization of cultural practices that affect social relationships and sense of collectivity in natural resources management.</p>	<p>Endorse clarity of tenure through participatory mapping to prevent conflicting claims over lands and forest, promoting CBFM as the main approach of the Project activities</p> <p>Secure consent through broad community support. Build consensus among community member on the clarity of claims over the area.</p> <p>Consultation and intensive discussion with community regarding potential change and or transformation they might be facing and build awareness among the MHA</p> <p>Conduct of meaningful consultation and participation and operationalize culturally appropriate communication strategies.</p> <p>Provide clear information on community culture/traditions, local institutions and their role for outsiders. Developing rules of the game for outsiders while being in and interacting with the communities.</p> <p>Impact on connection to culture and tradition will be addressed through well designed training</p>

Outputs / Activities	Positive Impacts	Negative Impacts	Mitigation
	<p>It also has the potential to improve health conditions in the local area should electricity be provided to MHA and local communities. The provision of local electricity supply can decrease reliance on other energy resources, such as burning firewood, which can negatively impact on health, for example increasing the risks of respiratory diseases and high mortality/ morbidity rates, in poorly ventilated dwellings (ADB, 2012).</p> <p>FMU staff and MHA/ local communities will have enhanced understanding and capacity to be involved and participate in REDD+ readiness and implementation, FPIC procedures, conflict mediation, landscape management and payment for ecosystem services.</p> <p>MHA communities will have the opportunity to participate in REDD+ pilots focusing on livelihood and will have capacity to develop value added non-timber forest products processes and showcase their culture through ecotourism which in turn can raise their income and connect them to markets.</p>	<p>Encroachment of forest due to improved access to market and rehabilitation of rural roads.</p> <p>Social exclusion due to elite capture in the development of the Project, particularly when the Project started to provide benefits.</p> <p>These may however affect community traditions as regards the agricultural cycle from opening the forest to harvesting ceremonies.</p> <p>Economic displacement or restriction to access among households traditionally utilizing the area.</p> <p>Vulnerable groups which can include women, children, economically disadvantaged and MHA communities are typically less resilient to change, may be more vulnerable to project impacts and may also have limited opportunities to take advantage of the benefits of development.</p> <p>Permanent and temporary losses of small areas of land due to rehabilitation/ construction works may be unavoidable, in addition to loss of crops, trees and structures, may occur, although not expected to cause severe impacts since rehabilitation works</p>	<p>and workshop that provide transformative perspective on local culture to show its conformity with modern science and knowledge.</p> <p>Strengthening monitoring system of FMU with community participation and improve coordination between community institutions and FMU.</p> <p>Revisit knowledge management initiatives for the project. There may be no need to force through some concepts. Rather, project implementers will have to base REDD+ concepts anchored on traditional forest management schemes and reinforce these.</p> <p>Appropriate livelihood replacement for lost areas whether in terms of new area for daily occupation or in terms of alternative economic activities.</p> <p>The pricing policies of project benefits, for example electricity supply has to ensure that distribution of Project benefits is equitable and considers the economic limitations of certain groups.</p> <p>FMU authorities need to be socially sensitive to community needs as well as culturally sensitive to traditions to generate</p>

Outputs / Activities	Positive Impacts	Negative Impacts	Mitigation
	<p>Activities on food production may prevent the community from opening up more forest areas for shifting cultivation. Communities are able to participate in sustainable food production management.</p> <p>Provision of electricity for communities which they can use to support domestic activities.</p> <p>Provides opportunities for communities to participate and share access to benefits from forest management; with security of tenure.</p>	<p>will be carried out within existing right-of-way.</p> <p>Decrease in traditional community decision-making with respect to natural resource management. As a state-driven initiative, MHA communities will be subject to control through the FMU: plans will have to be in line with the FMU Long Term Management Plan.</p>	<p>meaningful and effective participation. Social preparation has to be considered and planned well with communities.</p>
<p>2. Provincial REDD+ strategy in West Kalimantan effectively implemented.</p> <p>Some activities include:</p> <p>(i) Province-wide workshops, exchange visits, and training programs conducted on REDD+ concepts, FMU business plan development, carbon accounting, and SFM guidelines.</p> <p>(ii) Provincial strategy for tenure conflict management, including REDD+ data clearinghouse, safeguard information system and grievance and redress mechanism, developed and implemented.</p> <p>(iii) Multi-stakeholders consultations conducted to improve.</p>	<p>Strengthened capacity for preventing deforestation and forest degradation.</p> <p>Tenure clarity.</p> <p>Provides opportunities for communities to participate in alternative economic activities and get benefits from these activities, participate in policy collaboration and information dissemination.</p>	<p>Potential restriction of access to forest and forest lands.</p> <p>Classification and zoning under spatial planning may restrict access to areas and resources presently available to MHAs.</p> <p>As the project area is largely rural, agricultural based economy dependent on natural resources is likely to be high. The project will have to consider the use of natural resources in the context of how the project might increase competition and/or conflict over natural resources, including water. The project may impact on MHA communities' use of water for irrigation and drinking supply.</p>	<p>Providing alternative livelihood for household income design in close participation of communities.</p> <p>Meaningful consultation and broad community support will have to be observed and harness partnership with local NGOs.</p>

Outputs / Activities	Positive Impacts	Negative Impacts	Mitigation
<p>accountability & transparency on Kapuas Hulu and Sintang districts land use planning, hence accelerating the process to legalize the spatial plan.</p>			
<p>3. Sub-national fiscal policies on REDD+ harmonized with national policies.</p>	<p>Effectiveness of implementation of REDD+ strategy and sustainable forest management.</p>	<p>Potential restriction of access to forests and forest lands. Potential restriction could result in disorientation of communities as to what could substitute for their loss of income due to limitations. For the time being they are strongly dependent upon forests and forestlands. Sudden restrictions will cut their dependency on the forest and its resources.</p>	<p>Social preparation is necessary in the provision of alternative income generating activities prior to implementation of the project and should include clear information regarding possible impacts and alternatives.</p>

IV. SOCIAL ASSESSMENT AND MHA PLANNING FOR SUB-PROJECTS

A. Social Assessment

50. To prepare the sub-projects requires a social assessment,²¹ this includes baseline information on demographics, social, cultural, and political characteristics of affected communities. The social assessment provides a key analysis for preparing a MHA planning document so that adverse impacts can be avoided and strategy to enhance positive impacts can be delivered in a culturally appropriate manner.

51. The following are some elements of social assessment to be followed as necessary in respect of the project preparation:

- (i) Identification and confirmation of the presence of MHA in the project area and project impact zone;
- (ii) Baseline socioeconomic profile of the MHA groups in the project area and project impact zone;
- (iii) Assessment of their access to basic social, economic, and community services, including their land and resource use and land tenure system;
- (iv) Assessment of the short- and long-term, direct and indirect, and positive and negative impacts of the project on each group's social, cultural and economic status and differential impacts of the project on their livelihood systems, culture and socioeconomic status;
- (v) Assessment and validation of MHA vulnerability;
- (vi) Gender-sensitive assessment of the perceptions among affected MHA of project impacts on them;
- (vii) Conduct and report on meaningful consultation with affected MHA and recommendations for culturally appropriate consultation approaches during project implementation;
- (viii) Recommendations for culturally appropriate methods to proportionally include MHA in receiving project benefits;
- (ix) If negative effects are unavoidable, include measures to avoid impacts on indigenous lands and natural resources in indigenous lands;
- (x) Recommendations for resource requirements and culturally appropriate institutional arrangements to address the various project-related concerns and issues; and
- (xi) Identification of culturally appropriate indicators for monitoring project activities.

52. The project's potential impacts (positive and negative, direct and indirect) have been initially identified during project preparation using participatory methods. Table 3 lists various impacts and mitigative measures.

53. Many tools and methods can be utilized in data collection and analysis on impact of the project on IP. For this project, it is recommended to use socio-economic and risks and vulnerability profiles. For the socio-economic profile, secondary sources such as statistical records, government reports, and civil society and academic investigations can be used. The profile involves:

²¹ ADB Indigenous Peoples Safeguards: A Planning and Implementation Good Practice Sourcebook - Draft Working Document. Revised June 2013. Chapter VI, pages 32-40.

- (i) Identifying the relevant IP groups and any other populations likely to be affected by the project;
- (ii) Identifying subgroups that may have different needs and interests; and
- (iii) Assessing the relevant needs, demands, constraints, and capacities of these groups and subgroups in relation to the proposed project.

54. Risk and vulnerability profile will identify the most vulnerable groups, major risks affecting these groups; and opportunities to reduce risks or mitigate their impact on vulnerable groups through available or new mechanisms. Vulnerability of MHAs community ranges from economic, social, and political to cultural aspects that need serious protection and assistance from other stakeholders. Involvement in decision making related to natural/forest resources management is a very important aspect in addressing vulnerability and empowerment of MHAs.

B. IPDP (MHA Development Planning)

55. When the project has overwhelmingly positive potential impact, an IPDP will be part of community-based sustainable forest management. However, when the project has potential negative impact during its implementation, the IPDP will be developed separately. The IPDP will be included in annual work plan in each district (Kapuas Hulu and Sintang).

56. An IPDP will be prepared by UPT with support from project implementation supporting unit (PISU) at national, provincial and district levels. FMU will provide data and information based on the real situation and challenges in the field in terms of impacts from project implementation to UPT. Communities, by using GRM, will inform FMU on positive and negative impacts of implementation. UPT will carry out verification of data and information, and might mandate this task to technical committee or other independent team established for verification. Report of verification will be reported to IA which in turn will delegate to UPT the work of IPDP development and coordinate the support needed for its development in terms of financial, human resources, and access to local authorities.

57. The IPDP should consider quantitative/ demographic information, particularly with regard to level of poverty and educational attainment, and gender disaggregated data and customary communities/ ethnic affiliation as generated from the social assessment. It should consider cultural aspects that support the project and those aspects, which would possibly impede project implementation. In terms of environmental sustainability, particularly preventing deforestation and forest degradation, customary communities planning shall set out the measures to mitigate potential risks through informed and meaningful consultations.

58. Through a series of consultations, the IPDP shall set out the measures to operationalize mitigating measures through informed and meaningful consultations. These will be conducted through a series of meetings with all stakeholders, most importantly with communities, including separate group meetings to focus on MHA communities' village chiefs, men, and women, especially those who live in the subproject affected areas. Discussions will focus on sub-project impacts, positive and negative, and recommendations for subproject design and implementation.

59. Entry points for MHA planning will have to recognize and harness the unique planning processes and legitimate MHA representation per MHA community through its local project units and NGOs. MHA communities specific to the subprojects will be socially prepared during planning stage and will always be updated following the completion of sub-project design.

Should new groups of MHA communities be identified prior to finalization of the IPDP, effective and meaningful consultation will be conducted with these communities in the same way.

60. Qualified and experienced specialists will prepare planning documents through meaningful consultation (Appendix 3) with affected groups to ensure that affected MHA communities receive social and economic benefits and that potential adverse impacts on them will be avoided to the maximum extent possible, whenever they are identified. When avoidance is deemed impossible, the IPDP will identify measures to minimize, mitigate, and compensate for adverse impacts.

61. Information and communication is an important aspect in MHA communities planning. It is not only about dissemination of information and identification of the most effective language in communication but also about the method to get people to understand the project and its positive and negative impacts.

62. The level of detail in IPDPs will vary depending on the specific subproject and the nature of impacts to be addressed. Key elements of the IPDP are presented in Appendix 4. If customary communities are the sole or the overwhelming majority of direct project beneficiaries, and when only positive impacts are identified, the elements of an IPDP could be included in the overall project design rather than preparing a separate IPDP. As such, the project document will include a summary on how the project complies with ADB IP safeguards. It shall explain how requirements for meaningful consultation are fulfilled and how the accrual of benefits has been integrated into the subproject design. Also where appropriate, combined resettlement and MHA plans will be prepared.

63. Despite limited involvement in the decision making processes at the village level and adat institutions, women in Kapuas Hulu and Sintang districts have traditionally had the rights of access to land. Land inheritance is not based on gender, with men and women enjoying equal access to family land, even after marriage. Inheritance patterns are usually determined by ability or willingness of people (male or female) to care for their parents during old age. Those assuming responsibilities for parent-care in their old age tend to inherit more parental property than their siblings. Women and men in Kapuas Hulu and Sintang districts have combined production systems that rely on dry land paddy cultivation, vegetable gardening and rubber production. Women contribute extensively in the production and marketing of vegetables. In terms of forest access, women and men have relatively equal access to forest resources.

64. While women engage in numerous forest-related activities such as harvesting non-timber forest products (e.g. honey, traditional medicine, tubers and wild vegetables), men are usually in charge of harvesting timber forest products and hunting for fulfilling subsistence needs. In the rotational fallow farming (shifting cultivation), there is a clear division of labor between men and women. Men are usually in charge of clearing land (for trees and big bushes) while women help to clear grasses and small bushes. The burning of the cleared land is mostly done by men. Paddy planting and weeding is mostly done by women while rice harvesting is carried out by both men and women. Women are responsible for post-harvest activities (drying, milling, storages and seed selection). There is a taboo associated with the sale of rice that has been self-produced, hence most of it is consumed rather than sold commercially. However, some women cited that they occasionally sold their rice when there was a surplus. It is very important to conduct gender analysis accordingly in preparation of IPDP. Gender analysis and Gender Action Plan has been prepared for the project and IPDP will highlight and address issues related to MHA.

65. In preparing IPDP (MHA Plan), the information gathered must be sufficient to understand and describe the following:

- (i) The legal and institutional framework applicable to MHAs in the project context;
- (ii) Baseline information on MHAs' demographic, social, cultural and political characteristics, and their dependence on the land/territories and natural resources that will be affected by the sub-project;
- (iii) A culturally appropriate, gender sensitive process of meaningful consultation that will be used at various stages of the sub-project;
- (iv) The positive and negative impacts of the sub-project; and
- (v) MHA perceptions about the sub-project and its impacts;

66. Based on the above, measures will be developed to avoid adverse impacts, minimize and compensate for unavoidable impacts, and ensure MHA communities receive culturally appropriate benefits. The IPDP (MHA Plan) that will be prepared to address potential negative impacts should have the following chapters:

- (i) Description of the Sub-project/Activities.
- (ii) Profile of MHA preparing and implementing the sub-project.
- (iii) Social Impact Assessment: methods used during the social impact assessment, and findings.
- (iv) Information disclosure, consultation and participation. This will describe activities already carried out during IPDP preparation, feedback from affected MHA communities, and consultation and participation mechanisms to be used during implementation to ensure continuing MHA participation.
- (v) Grievance redress mechanism.
- (vi) Beneficial measures and mitigation measures.
- (vii) Budget and financing plan for IPDP activities.
- (viii) Institutional arrangements for IPDP implementation.
- (ix) Implementation schedule.
- (x) Monitoring and reporting arrangements.

V. CONSULTATION, PARTICIPATION AND DISCLOSURE

A. Consultation and Participation

67. Meaningful consultation should be conducted to ensure issues, concerns, voices and potential of MHA are incorporated in the project preparation, implementation, monitoring and reporting. Therefore the following elements should be included:

- (i) Begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle;
- (ii) Provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people;
- (iii) Is undertaken in an atmosphere free of intimidation or coercion;
- (iv) Is gender inclusive and responsive, tailored to the needs of disadvantaged and vulnerable groups;
- (v) Enables the 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; and

- (vi) Meaningful consultation is built upon the free, prior and informed consent (FPIC) principles which addresses the right of community to be informed, consulted and to exercise their right to accept or refuse initiatives offered to them by outsiders. In case that a development plan was initiated by community and developed based on their needs and proposal, FPIC would have been an agreement between community and other stakeholders of related development project.

68. An issue in conducting consultations with MHAs is establishing proper representation and ensuring their preference for internally selected spokespersons, who may not be the same as the formal leaders of the administrative units. When several MHA groups are likely to be affected, the consultation process needs a cross-section of said groups. The number of people from each group should be proportional to the effects the project will have on it and each group may have its own leader/representative.

69. To ensure meaningful consultation and participation with MHAs, the project will thus determine (i) appropriate mechanisms and structures for carrying out consultation and building participation; and (ii) specific activities that will enable customary communities to engage in the project to be conducted. Consultation with MHA communities across project stages will be documented.

70. **Broad community support.** FPIC (in terms of broad community support) at each stage of the project will be conducted to identify MHA communities' perspectives, issues and concerns. Broad community support is deemed by ADB to exist, if the following conditions are met.²²

- (i) The majority of recognized representatives of the affected IP communities formally express their support;
- (ii) A considerable majority of affected IP communities' members, and particularly those most severely affected, provides their support either through formal agreements or other informal means;
- (iii) Any significant opposition or major disagreement has been resolved through a good faith negotiation (GFN) process.

71. ADB SPS 2009 acknowledges that MHA communities may be particularly vulnerable when a project has any of the following four types of activities when deciding whether to proceed with a project: (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. the project shall seek the consent of affected communities (regardless of whether the project is category A or B). Consent will be in the form of broad community support. When the project entails any of the four types of project activities requiring consent of affected MHA communities, the project should carry out an engagement process by conducting meaningful consultation and good faith negotiations that lead to broad community support. The process and outcomes of such engagement should be documented and submitted to ADB.

²² *Ibid.* Page 71.

72. 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 written in the commonly used MHA language and as authorized by community leaders shall be 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;
- (ii) All meetings and proceedings shall be conducted in a process and language spoken and understood by the MHA communities; and
- (iii) The minutes of meetings or proceedings conducted shall be written in English or Bahasa Indonesia and in the language of the MHA community and shall be validated with those who attended the meeting or assembly before the finalization and distribution of the same.

73. **Good faith negotiations.** Facing major disagreements²³ with affected IP the project, its components, or the IPDP, the EA/IA may consider GFN. GFN is a joint exploration of key outstanding issues relevant to the project among project-affected people and the EA/IA, with the main intention to mutually resolve those issues.

74. The EA/IA should document the negotiations with the MHAs, including their informed participation in the negotiation process, and the successful outcomes (or otherwise) of such negotiation. Impacts on vulnerable groups within the affected MHA communities should be adequately addressed in the negotiation and documentation. Examples of documents include a memorandum of understanding, a letter of intent, a joint statement of principles, and written agreements. The results are reported in the IPDP to confirm the responsibilities of the parties.

75. **Consultation at preparation stage.** It has to be reiterated that the expected FIP impact will be increased environmental and livelihood benefits. The outcome will be improved REDD+ implementation in project areas of West Kalimantan province. Thus, meaningful consultation was conducted with MHAs through community meetings attended by elders, youth and women which varied from 20 to 40 participants from each village. Focus group discussions (FGDs) were conducted with community leaders, and key informant interview. All in all, consultation was done for 13 villages. The PPTA stakeholder assessment revealed the following:

- (i) Government stakeholders have important roles, thus scored high on both importance and influence scales though implementing/executing government institutions with decentralized modalities scoring slightly higher (5) than central government (4).
- (ii) Communities and community groups including MHAs scored high (5) under the importance scale but low (2) on influence.
- (iii) Civil society organizations/NGOs were deemed average in terms of importance and influence.
- (iv) Private/business sector may not be that important (2) but rated 4 on the influence scale.

²³ Major disagreements might relate to the nature of mitigation or benefit-sharing measures, or the scope of the project area. In one project, the major disagreement was the location of the new resettlement site for the community; in another whether new roads could be constructed in certain areas; and in another, whether certain groups arriving after the cut-off date for determining eligibility for compensation would also be entitled to benefit from the livelihood program.

B. Disclosure

76. The EA is required under SPS 2009 to provide information to and consult with the affected MHA and other stakeholders in a manner appropriate for the anticipated project impacts. This requirement is intended to facilitate engagement so as to establish and maintain constructive relationships over the life of the project.

77. MHA communities should be provided relevant project information in a language(s) and manner suitable to them. The information materials include particular graphics so that women and men with less literacy will be able to understand. Separate FGDs will be held with MHA and women groups to assess the project impacts and benefits to these groups. Accordingly, the project plans, including IPDP, can be prepared in consultation with MHA communities. Outcomes of social assessment and programs/measures for MHA communities will be presented in community workshops/meetings.

78. The following are required to be disclosed: (i) draft IPDP, as endorsed by MOEF; (ii) final IPDP; (iii) new or updated IPDP if any; and (iv) monitoring reports. These documents will be generated and produced in a timely manner, and posted in both ADB and project websites, and at any locally accessible place in a form and language understandable to the affected communities and other stakeholders. The project information will be made available to affected customary communities as leaflets or brochure in Bahasa Indonesia or the prevailing community local language, whichever is applicable for greater customary community comprehension. The EA shall also post the summaries of approved documents on the ADB website. During project implementation, the EA will prepare monitoring reports on the application of the IPDP and submit the same to ADB for review.

79. The ADB SPS 2009, ADB Public Communication Policy 2011 as well as government issuances will serve as guides. The documents listed above will be uploaded in the project management information system as well as in ADB website.

VI. GRIEVANCE REDRESS MECHANISM

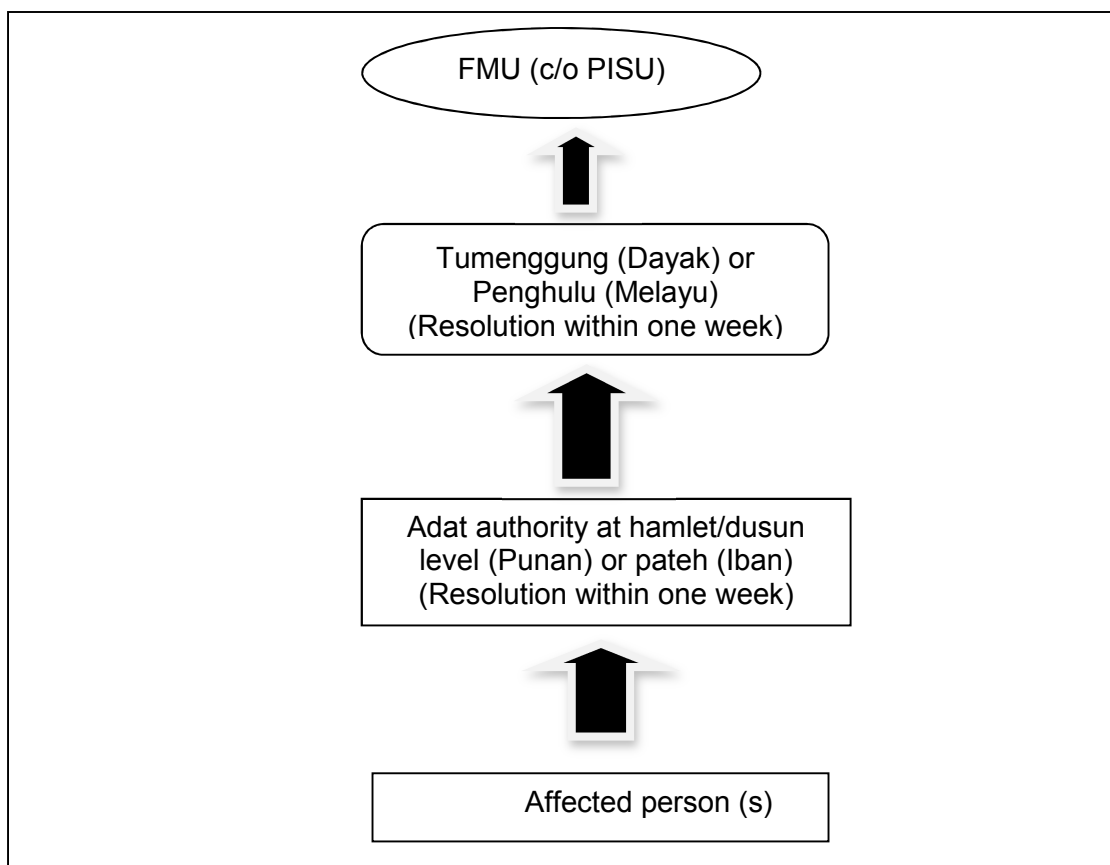
80. A GRM is a systematic process to receive, evaluate, and address the project-related grievances of affected persons (AP) and/or groups. The MOEF, in cooperation with PISU, will set up GRM at the national level in consultation with relevant stakeholders within six months of grant effectiveness and 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.

81. For customary communities, GRM shall follow their internal mechanism (if any) or any mechanism provided by local government based on community request. Communities may also raise their grievances to MOEF following the newly 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 grievances related to environment and forestry resulting from project, the communities can raise their concerns to the team.

82. At the village level, APs through their facilitator or representative may bring the complaints to the village leaders and/or customary leaders, then 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 within 3 days.
- (ii) The community leader – *Tumenggung* or *Penghulu* – prepares an official report for documentation purposes and attempts to address and resolve the grievance at the community level. Cases have to be acted upon/resolved at the community level within one (1) week.
- (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.

83. Flow chart of GRM applicable to IP grievances is provided below:



84. The community development specialists, and/or 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 will consider the complaint and within 15 working days will convey a decision to the APs. Social safeguards specialists, along with local government district officials, will facilitate communication between the APs and the PISU and assist the project

coordinator in reviewing and addressing the complaint. Project's district officer will record/file keeping the complaint. However, in the event that complaints arise, avenues for grievance redress are provided, as guided by the government laws and procedures in conjunction with ADB principles on grievance redress.

VII. INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

A. Institutional Arrangements

1. National Level

85. The Directorate General of Social Forestry and Environmental Partnerships (Perhutanan Sosial dan Kemitraan Lingkungan – PSKL) in MOEF will serve as 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.

86. 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) (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.

87. 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.

88. The FIP steering committee comprises MOEF as the Chair, MOF as Vice Chair with MOHA, BAPPENAS, SC DGM, National Forestry Council (*Dewan Kehutanan Nasional - DKN*), and FIP Focal Point as members. ADB, World Bank, and IFC participate as observers.

B. Provincial and District Level

89. **Forest management units (FMUs).** The FMUs will coordinate site level implementation. Implementation will be assisted by PISU consisting of village facilitators team and other

specialists who shall work with communities.²⁴ The FMU will handle daily activities of the project in the forest area at site level and oversee adherence to this IPPF preparation and implementation. With the support of the social safeguard specialists and village facilitators, the FMU will undertake surveys, consultations, and delivery of entitlements. For IPPF preparation and implementation in non-forest area, FMU will coordinate with relevant agencies, particularly at provincial level that has the authority under UU 23/2014 on Regional Government in terms of non-state forest area management, specifically in terms of forest rehabilitation

90. The FMU will ensure that entitlements and measures in IPPF are consistent with IPDP and that suitable budgetary provisions are made for timely implementation of the IPPF. FMU will coordinate with relevant government agencies with regard to income/livelihood restoration which – in terms of state forest area – is under the authority of the provincial government.

91. For subprojects 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 closely work with local governments. In as much as there are at least three districts within West Kalimantan, FMU 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.

92. The IAs 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 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 FMUs in conducting consultations with local communities, APs and other stakeholders.

93. In order to support the coordination, the project should maximize the use of communication infrastructure to be established in Jakarta, Pontianak and FMUs in Kapuas Hulu and Sintang districts. This will support internal communications within the project; for coordination, handling management issues, emerging trends and threats, planning, and to ensure efficient functioning of project implementation. This will facilitate coordination between national, sub-national, district or FMU for the delivery of almost-real-time information from activities on the ground to keep both central and local government to up date with the same information - to facilitate policy coordination, technology collaboration and information dissemination.

94. Figure 3 provides the schematic representation of the FIP organizational structure. PISU has direct role to address issues related to MHAs in the project areas. PISU will provide any

²⁴ 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.

information, data, and problems related to MHAs to UPT and to FMUs, and provide recommendations on possible measures to handle the issue.

1. Site Level: MHA Development Planning

95. **FMU.** The FMU will coordinate site level implementation and resettlement planning, to handle daily activities and oversee adherence to IPPF in IPDP preparation and implementation. It will undertake surveys and consultations with the help of qualified experts and the IP4T. The FMU shall assign one staff as the social safeguards focal point during program implementation. Village facilitators shall assist and work with communities and other field staff of the project.

96. Preparation of MHA Development Planning will depend on the impact of the project. In case the Project has overwhelmingly potential positive impact, an IPDP will be developed as part of community-based sustainable forest management, which is included in FMU annual work plan, but in case it has potential negative impacts during its implementation, an IPDP will be developed separately. The FMU will ensure appropriate/sufficient budgetary provisions are made for timely implementation of the IPDP.

97. For subprojects involving involuntary resettlement within customary lands 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 provincial and district government in terms of capacity building for IPs and in using traditional knowledge of IPs community including empowering IPs institutions. In as much as there are at least three districts within West Kalimantan, FMU 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.

98. The FMU has the following specific responsibilities in terms of IPPF:

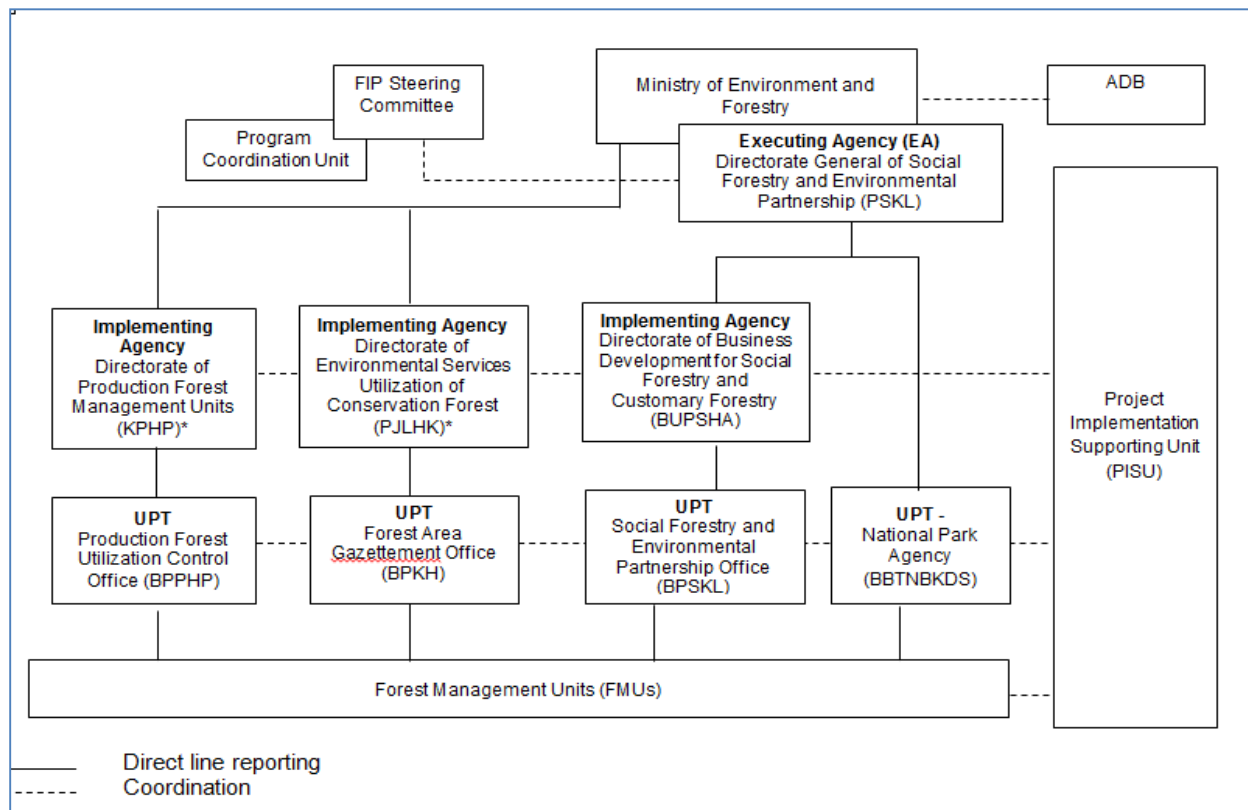
- (i) Collaboration with provincial and/or district land officer to carry out their work in compliance with the Project and ADB requirements;
- (ii) Provision of qualified personnel/entities to conduct social impact assessment;
- (iii) Ensure all requirements are carried out concerning broad community support, meaningful consultations and disclosure, and grievance redress;
- (iv) Collaborate with provincial and/or district land officer for any land negotiations, leases for use of land, and income/livelihood restoration programs;
- (v) Endorsement of the draft IPDP for MOEF approval;
- (vi) Monitor IPDP implementation; and
- (vii) Coordinate with contractors/NGOs/civil society organizations towards capacity building and monitoring and reporting.

99. 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.

100. Implementation of activities of non-forest 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 Home 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.

Figure 3. Project Organizational Structure



C. Capacity Building

101. The project has an extensive support for capacity building. Aside from project technical concerns, capacity building is necessary to orient project management on operationalization of IPPF as well as prevailing government policies impinging on IP safeguards. Similarly, all structures across management levels will be capacitated. Assessment of current capacity and structures of FMU, CBFM, UP4T and other relevant structures will be done and based on the assessments; capacity development planning will be prepared. Adequate resources (both human and financial resources) and time will be allocated to support the implementation of capacity plan, and this should be done at the very beginning of the project implementation (first year). Capacity of community facilitators, representatives of MHAs will be also enhanced to ensure the participatory CBFM will be conducted accordingly. NGOs are expected to participate in the overall program including operationalization of this IPPF to eventually produce the necessary IPDPs under contract with FMU.

D. IPDP Implementation

102. **FMU.** The FMU will coordinate site level implementation. Implementation of activities will be assisted by village facilitators who shall work with communities and other field staff of the project. With respect to MHA planning, the FMU under EA's supervision will be responsible for ensuring that the implementation shall (i) make use of appropriate mechanisms and structures at the village/sub-village level or MHA communities; (ii) undertake specific activities, that will

enable MHA to meaningfully engage in subproject activities; and (iii) ensure that MHA would fairly benefit from alternative income generating activities the project provides.

103. For subprojects involving customary land and other local communities within forestlands, the PSU/FMU operationalize 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 closely work with local governments. In as much as there are at least three districts within West Kalimantan, PMU/FMU 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.

104. **Provincial government.** This office, specifically through the Governor, shall head the IP4T team to resolve issues of customary rights and land tenure in forests located in more than one district/municipal territories. The IP4T team comprises of the following:

- (i) Head of National Land Agency Regional Office as Chief and member;
- (ii) Staff of relevant Provincial Office that handles forestry affairs as secretary and member;
- (iii) Staff of Forest Area Assignment Agency as member;
- (iv) Staff of relevant Provincial 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.

105. 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.

106. 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.

107. **MOEF.** MOEF will approve the IPDP. 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. MOEF will ensure that the project will be implemented with consideration of REDD+ safeguards under Cancun Agreement particularly on paragraph 71 and 72 which emphasized providing information on how the safeguards are being addressed and respected throughout the implementation of the activities referred to in paragraph 70; and ensuring the full and effective participation of relevant stakeholders, inter alia MHAs and local communities

E. Unanticipated Impacts

108. Indirect, and/or unanticipated impacts on MHA may become apparent during project implementation.²⁵ Should this occur, the FMU together with the provincial office shall ensure that a social impact assessment is conducted resulting to an updated IPDP or formulation of a new IPDP covering all applicable requirements specified in this IPPF. Social impact assessment for updating IPDP or formulation of a new IPDP shall include representatives of groups or sub-groups impacted by the project, leaders of MHAs and village authority .

VIII. MONITORING AND REPORTING ARRANGEMENTS

109. The IAs, with support from FMUs and PISU, will ensure proper monitoring and evaluation of compliance of IPPF. Compliance monitoring will be conducted to include establishment and maintenance of an IP database, and monitoring arrangements to: (a) track engagement of indigenous groups in the various project activities, and; (b) determine whether IPDPs were carried out as planned, and in accordance with the IPPF; The IAs will conduct supervision and in-house monitoring of implementation of the IPDP. A sample of process and outcome monitoring indicators are provided in Appendix 5 to serve as guide in the determination of indicators for the M&E.

110. **IP community participation in monitoring.** MHA community participation in monitoring aims to strengthen the relationship between IAs and local governments, and the MHA, which in turn shall influence the government to play a more proactive role in knowing more about the MHA communities and respond to their needs. MHA communities through their representatives will participate in monitoring at village level and closely work as or with village facilitators.

111. **External monitoring.** External monitoring and evaluation will be commissioned by project management through a qualified individual, consultancy firm or NGO with qualified and experienced staff. The EA prepares the terms of reference (TOR) for external monitoring acceptable to ADB prior to contracting and ensures that funds are available for monitoring activities, and that monitoring reports are submitted to ADB.

112. As FIP is classified as a category A project for indigenous peoples, experienced external experts or qualified NGOs are needed to verify monitoring information. The external experts should be appropriately qualified professionals with relevant experience in similar activities, and are not associated with day-to-day operations of the project. The external experts shall verify internal reports by validating the delivery of mitigation and beneficial measures to the affected MHA. Semi-annual site visits and reports are necessary and deemed most effective in a participatory mode - directly involving project affected MHAs.

²⁵ ADB Safeguards Policy Statement 2009: Annex 3.

113. The key responsibilities of external experts are: (i) to verify monitoring information to assess if IPDP objectives have been met, and particularly whether adverse impact mitigation and beneficial measures have been effective; and (ii) advise the EA/IA on safeguard compliance issues identified during monitoring (See Appendix 6 for a sample TOR on external monitoring).

114. **Schedule of monitoring and reporting.** Semi-annual monitoring reports will be prepared for submission to ADB that will include the progress of all activities. The reports should document: (i) the process and the extent of IPDP implementation, (ii) status updates on the IPDP monitoring indicators, and (iii) any unforeseen changes or impacts on MHA from the project. It is anticipated that MHA impacts may occur even after a subproject is completed, particularly the indirect impacts. Monitoring will therefore continue for two years after loan closure or until any major concerns have been reasonably addressed.

IX. BUDGET AND FINANCING

115. The MOEF has allocated funds for planning and implementation of IP plans as well as built into the project financial requirements. Detailed budget will be prepared. Specifically, the following activities will be provided with the necessary budget support during implementation:

- (i) Provision for IP Specialists
- (ii) Social assessment and IP planning
- (iii) Internal and external monitoring and reporting
- (iv) Capacity building of project implementers, facilitators, partners and representatives from IP communities
- (v) IP livelihoods/income generation program including provision for study tour for MHAs communities for cross learning

APPENDIX 1: DESIGN AND MONITORING FRAMEWORK

Impact the Project is Aligned with			
Increased environmental and livelihood benefits (REDD+ National Strategy, 2012*; Indonesia Forest Investment Plan, 2012** West Kalimantan Provincial Action Plan for Reducing GHG Emissions, 2012***).			
Results Chain	Performance Indicators with Targets and Baselines	Data Sources and Reporting	Risks
Outcome Improved REDD+ implementation in project areas of West Kalimantan province	By 2026: a. Cumulative GHG emissions in project area reduced by 3.7 million tCO ₂ e. (2017-2026 baseline net GHG emissions of 12.4 million tCO ₂ e) By 2022: b. Household income of local communities ¹ in three FMUs increased by 20% in real terms (2015 baseline: Rp30M/year in Kapuas Hulu, Rp15M/year Sintang in project villages) (with sex disaggregated data on targeted beneficiaries).	a-b. Government reports to the UNFCCC, MOEF records, BAPPENAS statistics, West Kalimantan REDD+ monitoring system	Rapid expansion of agriculture into project areas can lower net emission reductions Conflicts of interest and unclear responsibilities on REDD+ among stakeholders, including communities Low commodity market prices erode household income Natural disasters, forest fires, plant pathogens, or pests destroy forests
Outputs 1. Community-focused and gender-responsive REDD+ pilots in Kapuas Hulu and Sintang districts implemented.	By 2022: 1a. Five FMUs in two districts implement REDD+ pilots in a participatory manner (2016 baseline: .N.A.) 1b. 6,000 ha of degraded land rehabilitated through community-based assisted natural regeneration. (2016 baseline: 0) 1c. 1,880 ha of deforested land brought under improved community-based agroforestry systems. (2016 baseline: 0) 1d. 5,000 ha of additional natural forest protected directly (2016 baseline: 1,400 ha) and 91,000 ha indirectly (2016 baseline: 0) through community-based forest fire management, including improved honey collection and fish drying techniques. 1e. 17,000 ha of natural forest land brought under CBFM. (2016 baseline: 0) 1f. At least 20 staff and 500 community members (200 women) trained in implementing community-based REDD+ pilots. (2016 baseline: 8 staff, 0 community members) 1g. At least 10,000 people (5,000 women) in 2,800 households in project villages with improved clarification on access to land and natural resources. (2016 baseline: N.A.)	1a-e. PPMS reports, FMU management plans, FIP progress report 1f. Training reports, PPMS reports 1g. Field surveys, PPMS reports	Lack of ownership by FMU staff and local communities Lack of clarity on tenure and overlaps with concessions, and unexpected revisions in local forest management arrangements can delay implementation of CBFM agreements and planning of REDD+ pilots. Natural disasters, forest fires and pests affect forest growth and quality

Results Chain	Performance Indicators with Targets and Baselines	Data Sources and Reporting	Risks
2. Provincial REDD+ strategy in West Kalimantan effectively implemented.	<p>By 2022:</p> <p>2a. Three provincial regulations supporting REDD+ issued. (2016 baseline: N.A.)</p> <p>2b. Grievance redress mechanism on tenure and REDD+ operationalized. (2016 baseline: N.A.)</p> <p>2c. At least 50 staff (15 women) trained on REDD+ planning, implementation and communication. (2016 baseline: 5)</p> <p>2d. Safeguards and community-based monitoring system for REDD+, including activity registry, established. (2016 baseline: N.A.)</p>	<p>2a-b. Provincial reports</p> <p>2c-d. PPMS reports, provincial reports</p>	Conflict of interest and lack of commitment to make necessary changes in policies & regulation.
3. Sub-national fiscal policies on REDD+ harmonized with national policies.	<p>By 2022:</p> <p>3a. Guidelines for integrating natural capital considerations into fiscal policies and incentive mechanisms drafted. (2016 baseline: N.A.)</p> <p>3b. At least three sub-national policies (fiscal, benefit sharing and incentive mechanisms) harmonized with national policies. (2016 baseline: N.A.)</p> <p>3c. At least three gender-responsive proposals for mobilizing sub-national REDD+ funding developed. (2016 baseline: N.A.)</p>	3a-c. PPMS reports, MOEF reports	Conflict of interest and lack of commitment to make necessary changes in policies & regulation.

Key Activities with Milestones

1. Community-focused and gender-responsive REDD+ pilots in Kapuas Hulu and Sintang districts implemented

- 1.1 Facilitate coordination and information dissemination on SFM and REDD+ between FMU offices and provincial agencies, with improved communication infrastructure. (Q4, 2017)
- 1.2 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. (Q3, 2018) [G/CD]
- 1.3 Formulate CBFM agreements with local communities, including women. (Q3, 2018) [GE, G/CD]
- 1.4 Train FMU staff and local communities, including women, in forest products utilization, value addition and enterprise development. (Q4, 2018) [G/CD, GE, PSD]
- 1.5 Establish a REDD+ monitoring and safeguards information system, with geospatial databases. (Q3, 2019) [G/CD]
- 1.6 Develop spatial and business plans for FMUs, through a participatory process, consistent with CBFM plans. (Q3, 2019) [G/CD]
- 1.7 Support establishment of FMU “block XXI” and prepare its long-term business plan. (Q4, 2019)
- 1.8 Establish a fund-flow mechanism at community level as a basis for results-based payments for verified performance in SFM and emission reduction. (Q4, 2020) [G/CD]
- 1.9 Implement REDD+ pilots² with local communities, including women, to generate income and reduce emissions. (Q3, 2021) [PSD, GE]
- 1.10 Provide equipment and training for community-based forest fire management. (Q3, 2021)

2. Provincial REDD+ strategy in West Kalimantan effectively implemented

- 2.1 Facilitate coordination and information dissemination on forestry planning and policy between provincial agencies and national and district-level agencies, with improved communication infrastructure. (Q4, 2017)
- 2.2 Conduct provincial workshops and training programs on REDD+ concepts, FMU business plan development and carbon accounting, including drafting of regulations. (Q3, 2019) [G/CD]
- 2.3 Establish a provincial monitoring system and safeguards information system for REDD+. (Q4, 2019)
- 2.4 Establish a grievance redress mechanism on tenure and REDD+ activities. (Q3, 2019)

<p>3. Sub-national fiscal policies on REDD+ harmonized with national policies</p> <p>3.1 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. (Q3, 2017) [KS]</p> <p>3.2 Facilitate coordination and information dissemination on forestry policy between national and sub-national agencies, with improved communication infrastructure. (Q4, 2017)</p> <p>3.3 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. (Q2, 2018)</p> <p>3.4 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. (Q4, 2021) [G/CD]</p> <p>Project Management Activities</p> <p>A project performance management system established and operational (Q2, 2017)</p> <p>200 staff from various levels (national, provincial and FMU) trained on project management (Q2, 2018)</p>	<p>Inputs</p> <p>ADB: \$0.0 million</p> <p>Government: \$1.7 million</p> <p>Strategic Climate Fund: \$17.0 million (grant)</p> <p>Assumptions for Partner Financing</p> <p>Not Applicable</p>
<p>ADB = Asian Development Bank, BAPPENAS = Ministry of National Development Planning, CBFM = community-based forest management, FIP = Forest Investment Program, FMU = forest management unit, FPIC = free, prior and informed consent, G/CD = governance and capacity development, GE = gender equity, KS = knowledge solutions, MOEF = Ministry of Environment and Forestry, N.A. = not available, PES = payment for environmental services, PPMS = project performance monitoring system, Q = quarter, REDD+ = reducing emissions from deforestation and forest degradation, tCO₂e = tons of carbon-dioxide equivalent emissions.</p> <p>¹ The local communities predominantly comprise Dayak and Melayu, in Indonesia known as <i>masyarakat hukum adat</i> (MHA) or <i>customary communities</i>.</p> <p>² REDD+ pilots include forest-based activities (such as agroforestry systems, rubber plantations and assisted natural regeneration), other income generating activities (beekeeping, catfish culture, handicrafts, community-based ecotourism) and provisioning of training and small-scale infrastructure (such as rural road improvement, micro-hydro and solar panels).</p> <p>* REDD+ National Strategy, Indonesian REDD+ Task Force, Jakarta, Indonesia, June 2012</p> <p>** Indonesia Forest Investment Plan, document FIP/SC.9/6, Government of Indonesia, 2012.</p> <p>*** Provincial Action Plan for Reducing GHG Emissions, Government of West Kalimantan, 2012.</p> <p>Source: Asian Development Bank</p>	

APPENDIX 2: MASYARAKAT HUKUM ADAT SCREENING CHECKLIST²⁶

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
A. MHA Identification				
1. Are there socio-cultural groups present in or use the project area who may be considered as "tribes" (hill tribes, scheduled tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the project area?				
2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				
8. Are such groups represented as "Indigenous Peoples" or as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels?				
B. Identification of Potential Impacts				
9. Will the project directly or indirectly benefit or target MHAs?				
10. Will the project directly or indirectly affect MHAs' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance)				
11. Will the project affect the livelihood systems of MHAs? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the project be in an area (land or territory) occupied, owned, or used by MHAs, and/or claimed as ancestral domain?				
C. Identification of Special Requirements <i>Will the project activities include:</i>				
13. Commercial development of the cultural resources and knowledge of MHAs?				
14. Physical displacement from traditional or customary lands?				
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of MHAs?				
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by MHAs?				
17. Acquisition of lands that are traditionally owned or customarily used occupied or claimed by MHAs?				

²⁶ ADB Social Safeguards Categorization and Checklists.

APPENDIX 3: ATTENDANCE TO CONSULTATIONS

A. MHA Community Consultation

1. A series of consultation with communities has been done since October 2014 to April 2015. Consultation with communities in FMU Kapuas Hulu and Sintang districts took place in October 2014. The next consultation with communities were carried out in November followed by the third consultation in December. In April the fourth consultation took place in the two FMUs, in the district and provincial offices. Participant of all these consultation were community member of Radin Jaya, Senangan Jaya, Tanjung Sari, Wana Bhakti, and Swadaya in FMU Sintang and Leboyan, Mensiau, Malemba, Batu Lintang, Sungai Utik, Banua Tengah, Rantau Prapat, Sungai Uluk Palin, Tanjung Lasa, Padua Mendalam, Bunut Hulu, and Sibau Hilir in Kapuas Hulu. Common suggestions raised by participants were support for development of rubber agroforestry, non-timber forest product value added development, micro-hydro electricity generator, and food-security related activity.

B. District Offices

2. Consultation with district offices has been carried out since the beginning in the same period with consultation with communities. District offices the consultations have been undertaken were district and provincial forestry offices, District Development Planning Body (BAPPEDA), local government (representative of District Secretary or Sekda), regional office of Forest Gazettment or BPKH, and FMU. Main suggestion and recommendation from consultations were that the project need to consider District and Provincial Middle Term Development Plan or RPJMD, FMU Middle Term Forestry Development Plan, particularly those that related to REDD+ program. These consultations took place in the same period with those held for communities.

C. National Offices

3. Consultation with national offices was held in March 2015. Ministry of Environment and Forestry, Ministry of Home affair, Bappenas, National Land Agency, and Ministry of Foreign Affairs were involved in the consultation. Besides this consultation, regular consultation has been held since the beginning with the Center for Standardization and Environment (Pustanling). Main consideration resulted from the consultation was the synergy with national development program in terms of village development, REDD+ program, and financial mechanism.

APPENDIX 4: SAMPLE MONITORING INDICATORS

Examples of process and outcome indicators are shown in two tables below. These are not exhaustive, and should be selected as required with reference to the DMF as well.

Example of Process Indicators	
Demographic baseline	<ul style="list-style-type: none"> • The numbers of affected MHAs by category of impact, gender, age, habitat (village etc.), income, status and position • Number of households with handicapped, elderly or invalid members • Number of female headed households • Number of vulnerable households (poor, elderly) • Number of households by ethnic group • Number of births and deaths
Consultation and participation	<ul style="list-style-type: none"> • Number of consultation and participation activities that occur—meetings, information dissemination, brochures; flyers, training • Percentage of MHA women as participants; number of meetings exclusively with MHA women • Percentage of vulnerable MHA groups represented / attending meetings; number of meetings exclusively with vulnerable MHA groups. • Languages used at meetings • Good faith negotiations—recording of process, participants, locations, correspondence • Broad community support—record of processes, participants, locations and agreement <input type="checkbox"/> obtained • Consultation and participation progress against plan and budget
Mitigation measures	<ul style="list-style-type: none"> • Progress of implementation of mitigation / beneficial measures against plan <input type="checkbox"/> • Number of activities that occur/completed—such as construction, livelihood restoration, disbursements, training • Percentage progress against timelines and budget
Grievance redress	<ul style="list-style-type: none"> • Total number of people or group using the grievance redress procedure. • Number of distinct people/groups. Any MHA group with significantly more grievances? • How many times has a household submitted the same grievance? • Number of grievances resolved? • Length of time taken to be resolved? • Types of grievance categories and prevalence
Implementation problems	<ul style="list-style-type: none"> • Identified delays—(days, cost) due to personnel, capacity, insufficient funds, etc • Number of times implementation schedule revised
Example of Outcome Indicators	
Consultation and participation program	<ul style="list-style-type: none"> • Awareness of MHA issues among implementing stakeholders in each sector • Awareness of IPDP mitigation and beneficial measures amongst recipients • Awareness of project details amongst stakeholders • MHA perception of effectiveness, cultural appropriateness and inclusiveness of consultation measures • Attendance at consultation and participation activities • Level of involvement by MHA and representatives in the design and implementation of consultation and participation
Enhanced dignity of MHA groups, integrity of traditional kinship networks and livelihood patterns	<ul style="list-style-type: none"> • Changes in religious/cultural practices • Changes in cultural governance • Participation in cultural governance (by gender, status) • Number of people (age & sex) who can speak national language and/or local dialect • Changes in condition of schools, community buildings, temples structures • Numbers of religious/cultural events and persons (monks shamans, priests etc.) • Participation in cultural/religious events (by gender, time/resources allocated)

Livelihoods and living standards	<ul style="list-style-type: none">• Major asset inventory—e.g. vehicle, phone, tools, kitchen equipment• Changes in patterns of MHA occupation, production, and resource use• Changes in income and expenditure patterns among IP households• Savings• Change in food used by MHA—amount, nutrition source• Cost of living changes—market prices etc.• Changes in key social parameters—gender roles of production• Vulnerable groups—status, relative income, livelihood• Education—literacy and numeracy level in national/ethnic language• School attendance of MHA children (by sex and age)• Key health indicators of MHA (by gender, age)
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APPENDIX 5: SAMPLE TERMS OF REFERENCE FOR EXTERNAL MONITORING

A. Objectives

1. The objective of this consulting service is to verify the ongoing monitoring information of the implementation of an indigenous peoples development plan (IPDP) and advise MOEF on safeguard compliance issues for FIP, considered to have significant *masyarakat hukum adat* (MHA) impacts.

B. General Scope of Work

2. This scope of work will require the expert to undertake the following general tasks, among others:

- (i) Coordinate closely with MOEF and MHA communities regarding the monitoring and evaluation of the situation of affected MHA communities;
- (ii) Review and verify the progress in implementing the IPDP through the monitoring information internally generated.
- (iii) Monitor the effectiveness and efficiency of MOEF as regards IPDP implementation.
- (iv) Assess whether the MHA objectives, particularly the mitigation of project impacts and provision of beneficial measures are being achieved, or have been met.
- (v) Assess whether the overall results of IPDP activities are being achieved. In particular, improvement of livelihood and living standards; and protection or enhancement of MHA cultural integrity. Provide recommendations for improvement.
- (vi) Assess whether there are significant MHA issues that are not being addressed and, if required, draw on policy and practices to advise on a corrective action plan.

C. Specific Scope of Work

3. The expert's work will include several specific tasks:

- (i) Visit each project location bi-annually during the implementation phase to review the results of internal monitoring for the purpose of preparing a monitoring report;
- (ii) During site visits, involve the MHA communities in focus groups discussions to assess the projects impacts (positive and negative). Focus groups discussions will be led by locally trained facilitators, preferably, in the MHA language and ensure that women, the vulnerable and poor, and any relevant social and cultural MHA subgroups are meaningfully included;
- (iii) Identify the strengths and weaknesses of the IPDP objectives and approaches, as well as of the implementation strategies;
- (iv) Review the results of the internal monitoring reports and verify progress in IPDP implementation in each subproject.
- (v) Prepare a semi-annual report for MOEF after the implementation of the plan begins. In particular:
 - a. Verify and assess the implementation and effectiveness of the information disclosure, participation and communication strategies;
 - b. Assess the grievance redress mechanism and verify the handling of grievances with the aggrieved MHA.

- c. Assess the efficiency, effectiveness, impact and sustainability of the results achieved by the various IPDP measures.
 - d. Suggest modifications in the implementation procedures, if necessary, to achieve the principles and objectives of the IPDP.
- (vi) Make two further monitoring visits to each project location 1 and 2 years following completion to assess sustainability of IPDP measures. These visits will coordinate with the internal monitoring activities with the MHA and involve special attention to monitoring impacts on the women and other vulnerable groups among the impacted MHA.

D. Outputs

4. The outputs expected will involve the following:

- (i) A detailed monitoring report after each monitoring visit. Apart from the specific items noted above, the monitoring report will:
 - a. Specifically describe whether the implementation program has been successfully implemented in accordance with the IPDP;
 - b. Outline any outstanding actions that are required to bring the implementation activities in line with the IPDP and the Safeguard Requirements 3 of the ADB Safeguard Policy Statement (2009);
 - c. Describe further mitigation/beneficial measures needed to meet the needs of any MHA communities judged and/or perceiving themselves to be worse off as a result of the project;
 - d. Provide a timetable and define budget requirements for any supplementary measures for the IPDP and draft a corrective action plan or IPDP update to address such issues;
 - e. Describe any lessons learned that might be useful for future activities.
- (ii) Attend a joint meeting with representatives of PMU, ADB, and any MHA-nominated representative to present the findings, including recommendations for meaningful improvements in the implementation process.
- (iii) Ensure that the monitoring reports, corrective action plan and/or IPDP updates are submitted to ADB for review and disclosed in full on the MoEF and ADB websites.

E. Qualifications

5. The external expert or NGO will have significant experience in monitoring and evaluation. Familiarity and work experience with the subject MHA would be preferred. Experience with other similar MHA groups in Indonesia would also suffice. Persons with a social science background will be preferred.

F. Estimated Person-Months

6. 10 person-months.