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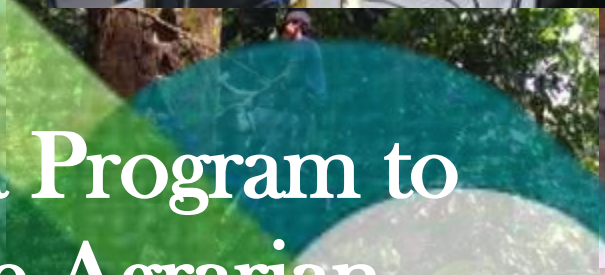

Indonesia Program to Accelerate Agrarian Reform

ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK (ESMF)

GLOSSARY

Term	Definition
Adat	Customs, social norms and tradition
***Adat* law**	Customary law (known and agreed practices)
APBN	Anggaran Pendapatan dan Belanja Negara – State Budget
AMAN	*Alliansi Masyarakat Adat Nusantara* (Indigenous Peoples Alliance of the Archipelago, a coalition of Indigenous Peoples' communities in Indonesia)
AMDAL	*Analisa Mengenai Dalam Lingkungan* (Study on Environmental and Social Impact Assessment)
APL	*Area Penggunaan lain* (Other Types of Land Uses)
ATR/BPN	*Ministry for Agraria and Tata Ruang/Badan Pertanahan Nasional (Ministry for Agraria and Spatial Planning/National Land Agency)*
BAPPENAS	*Badan Perencanaan dan Pembangunan Nasional* (Indonesia's National Development Planning Agency)
BATB	*Berita Acara Tata Batas (*Minutes of Boundary Demarcation)
BIG	*Badan Informasi Geospasial* (National Mapping and Geospatial Agency, formerly known as Bakosurtanal; also called as National Geospatial Agency)
BP	Bank Procedures
BPK	Audit Board of Indonesia *(Badan Pemeriksa Keuangan)*
BKPRN	*Badan Koordinasi Penataan Ruang Nasional.* (National Spatial Plan Coordination Board)
BKSDA	*Balai Konsevasi Sumberdaya Alam (*Natural Resources Conservation Board)
CMEA	Coordinating Ministry for Economic Affairs (*Kementerian Koordinator Bidang Perekonomian*)
CPF	Community Participation Framework
CORS	Continuously Operating Reference Station
CSO	Civil Society Organization
Dana desa	Village fund
Data collection	Evidence or information collection on land holdings
Data custodian	An organization responsible for the continued physical existence, collection, storage, maintenance, availability and dissemination of data.
Desa	Village; smallest territorial unit that has autonomy to manage itself
DG	Director General
DIPA	GoI's Budget Document
Diklat	ATR/BPN Training Department/Center
Dikuasai Negara	State land
Ditetapkan	Enacted (declared legally as Forest Area, with a decree from MoEF)
Ditunjuk	Identified (as Forest Area by MoEF, but has not been legally enacted)
DPMD	Village Empowerment Agency
eLand	Electronic Land Administration System
ESMF	Environmental and Social Management Framework

Term	Definition
ESA	Environmental and Social Assessment
FGD	Focus Group Discussion
FPIC	Free, Prior and Informed Consent (An internationally agreed set of principles particularly with regard to land acquisition for investments)
GDP	Gross Domestic Product
Geo-referencing	The process of assigning a geographic location to spatial information
Geospatial data	Data with implicit or explicit reference to a location relative to the Earth's surface. Related terms: Geodata, Geographic Data, Location-Based Data, Spatial Data, Geospatial Information, Geographic Information
GIS	Geographical Information Systems (a computer based spatial information processing system)
GLONASS	Global Navigation Satellite System of Russia *Globalnaya Navigazionnaya Sputnikovaya Sistema*
GoI	Government of Indonesia
GPS	Global Positioning Systems (a coordinate determination system on earth surface using navigation satellites)
GRM	Grievances Redressal Mechanism
Hak-hak Adat	Customary titles (issued under the customary arrangements and law)
Hak menguasai	Right to control
Hak Menguasai Negara	Government-controlled state land
Hak Milik Adat	Communal property (groups, communities, IPs)
Hak Pengelolaan	Broader land management rights
Hak Pijam Pakai	Mining areas (or areas granted for mining activities)
Hak Ulayat	Customary Land Rights (applies to Indigenous Peoples and *Adat* communities)
HGB	*Hak Guna Bangunan* (Building Purpose Rights)
HGU	*Hak Guna Usaha* (Land rights through concessions for cultivation purposes
HKTI	*Himpunan Kerukunan Tani Indonesia (*Indonesian Farmers' Association)
HKM	*Hutan Kemasyarakatan* (Community forestry license)
HM	*Hak Milik (*Ownership Rights, equivalent of a freehold)
HMN	*Hak Menguasai Negara (State right to control)*
HP	*Hak Pakai* (Land Use Rights – usufuctuary rights)
HPH	*Hak Pengusahaan Hutan* (Right to Forest Concessions)
HPHH	*Hak Pengelolaan/Pemungutan Hasil Hutan* (Right to extract and use forest products)
HPHHMA	*Hak Pengelolaan/Pemungutan Hasil Hutan Masyarakat Adat (*Right to use forest products by customary (*Adat*) communities).
HPL	*Hak Pengelolaan Lahan* (Land Utilization Rights)
HTR	*Hutan Tanaman Rakyat*, (Community Plantation Program)
Hukum Adat	*Adat* law
HuMA	An Indonesian NGO engaged in advocacy work on natural resources, environment and legal reforms.
Hutan hak	Private forests

Term	Definition
Hutan tetap	Permanent forest
ICT	Information and Communication Technologies
INIS	World Bank Indonesia Infrastructure Support Trust Fund
Inpres	*Instruksi Presiden (*Presidential Instruction)
IP	Indigenous Peoples
IP4T	*Tim Inventarisasi Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah* (Team for the Inventory of Occupation, Ownership, Use and Utilization of Land)
IPK	*Ijin Pemanfaatan Kayu* (Timber Utilization Permit)
IPKR	*Ijin Pemanfaatan Kayu Rakyat* (Permit to use timber from community forests)
IPKMA	*Ijin Pemanfaatan Kayu Masyarkat Adat (*Permit to use timber extracted from customary community areas)
IPTN	*Industri Pesawat Terbang Nusantara* (Government Aircraft Factory)
IPPK(H)	*Ijin Pinjam Pakai Kawasan (Hutan)* (Permit to use forest land areas)
ISFL	Initiative for Sustainable Forest Landscapes
IUP	*Ijin Usaha Pertambangan.* Mining Exploration Permit *Ijin Usaha Perkebunan* or Plantation Permit
JKPP	*Jaringan Kerja Pemetaan Partisipatif* (Participatory Mapping Network)
K1, K2, K3 and K4	Kategori, Category of land parcels according to legal status
Kampung	Hamlet/sub-village
Kantah	Local Land Office (also known as *Kantor Pertanahan*; refers to district level ATR/BPN unit)
Kawasan hutan	Forest Area (Enacted by the Ministry of Environment and Forestry)
Kawasan khusus	Special Area
KBA	Key Biodiversity Areas
Kecamatan	Sub-district; government territorial units to coordinate a number of villages
Kemendagri Kementerian Dalam Negeri	Ministry of Home Affairs
Kemitraan	*Kemitraan Kehutanan* (Partnership in Forestry)
KBA	Key Biodiversity Areas
KNUPKA	*Komisi Nasional untuk Penyelesaian Konflik Agraria* (National Commission for Agrarian Conflict Resolution)
KPH	Forest Management Unit
Kyai	Muslim priest
LAP	Land Administration Project
Land tenure	Land tenure is an institution, i.e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights to land are to be allocated within societies. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints. FAO, 2002.
LIS	Land Information System
Litbang	ATR/BPN Research Department
LMPDP	Land Management and Policy Development Project
NSDI	National Spatial Data Infrastructure
M&E	Monitoring & Evaluation
Masyarakat Adat	A community that is bound together by *Adat*

Term	Definition
MK	*Mahkamah Konstitusi* (Constitutional Court)
MoEF	Ministry of Environment and Forest
MoEMR	Ministry of Energy and Mineral Resources (*Kementerian Energi dan Sumber Daya Mineral*)
MoHA	Ministry of Home Affairs
Musyawarah Adat	A community-level meeting governed by *Adat* procedures and practices
NGO	Non-Governmental Organization
NTFP	Non-Timber Forest Product
OMP	One Map Policy
Operational policies	A broad range of practical instruments such as guidelines, directives, procedures and manuals that address topics related to the planning, implement and management of a project (life cycle) and that help facilitate access to and use of grievances and information.
Panitia Batas Daerah	Regional Boundary Committee
PCC	Project Coordination Committee
PDO	Project Development Objective
Pembagian Hak Bersama	Divorce Related Division of land or property
Pembaharuan Agraria dan Pengelolaan Sumber Daya Alam	Agrarian Reform and Natural Resource Management
Pemerintah Daerah	Local government
Pemerintah Desa	Village government
Pemerintah Kabupaten	District government
Pengukuhan Kawasan Hutan	Enactment of the Forest Area (official note issued after due identification and demarcation)
Peraturan Daerah (Perda)	Local regulation
Peraturan Menteri Dalam Negeri	Ministry of Home Affairs Regulation
Peraturan Menteri Kehutanan	*Peraturan Menteri Kehutanan* (Minister of Forestry Regulation)
Perhutani	*Perusahaan Kehutanan Nasiona Indonesia (Indonesian* Forestry Government Enterprises)
PERPU	*Peraturan Pemerintah Pengganti Undang-undang* (Government Regulation in lieu of Law)
PIM	Provincial Implementation and Monitoring Unit
PIU	Project Implementation Unit

Term	Definition
PMU	Project Management Unit
POM	Project Operations Manual
PPTKH	Land Tenure Settlement in Forest Areas
PRONA	*Proyek (pertanahan) Nasional*. A nationwide BPN Agrarian Reform program to regularize land rights of poor families
PTSL	*Pendaftaran Tanah Sistematis Lengkap* (Systematic and Complete Land Registration)
RALAS	Reconstruction of Aceh Land Administration System
RDTR	Detailed Spatial Plan (*Rencana Detail Tata Ruang*)
REDD	Reducing Emissions from Deforestation and Degr*Adat*ion
Rencana	Detailed Tata Ruang (Detailed Spatial Plan)
Rancangan Undang-undang	Draft bill or law
Rencana Tata Ruang Wilayah	Regional spatial plan
RPJM	Medium Term National Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*)
SEP	Stakeholder Engagement Plan
SK	*Surat Keputusan*
SID	*Sistem Informasi Desa* (Village Information System)
STEP	Systematic Tracking Exchange in Procurement
TA	Technical Assistance
TORA	*Tanah Obyek Reforma Agraria* Land [*made*] Available for Agrarian Reform
UNFCCC	United Nations Framework Convention on Climate Change

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EXECUTIVE SUMMARY

This Environmental and Social Management Framework (ESMF) report has been prepared for the Indonesia Program to Accelerate Agrarian Reform Project. The ESMF provides an overview of the Project, the processes, institutional arrangements, and frameworks for addressing and mitigating environmental and social risks. A framework approach is chosen because the project supports a regional process for land mapping where site-specific interventions will not be identified until during project implementation.

The preparation of this ESMF is based on information review, field visits and consultations undertaken at the central and subnational level. Engagement has taken place with both internal stakeholders within ATR/BPN at the national and subnational levels as well as external stakeholders, including relevant ministries (i.e. Ministry of the Environment and Forestry, Ministry of Home Affairs) and Civil Society Organizations (CSOs) in the land sector. Such engagement has informed the project design, identify environmental and social risks and to discuss development of measures to address those risk. Minutes of these consultations are appended in **Annex 10**.

The Government of Indonesia (GoI) is implementing the Reforma Agraria (*Agrarian Reform*) Program through the Ministry of Agrarian and Spatial Planning/National Land Agency (*Ministry for Agraria and Tata Ruang/Badan Pertanahan Nasional,* ATR/BPN) and the National Geospatial Agency (*Badan Informasi Geospasia*l, BIG). This project-specific credit with support from the World Bank (WB) would finance activities under the Agrarian Reform and One Map Policy (OMP). The proposed project would establish clarity on actual land rights and land use at the village level in the target areas. The increased clarity over land rights and land use would enhance agrarian reform, sustainable landscape management, land governance, social stability, access to land for investments, inclusive growth, conflict resolution, and environmental protection and conservation including positive co-benefits to climate change adaptation and mitigation, and women's awareness and access to legal land rights individually or through joint ownership.

The objective would be achieved by: (i) participatory mapping including fit-for-purpose mapping of parcels in non-Forest Areas, land use, indicative village administrative boundaries, and other land use occupation (Forest Area[1] boundaries and mining concessions etc.); (ii) enhancing the availability and access to up-to-date geospatial information; (iii) promoting access to and availability of electronic land administration services; (iv) improving capacity, procedures and legal framework for accelerating implementation of Agrarian Reform, OMP and modern e-Land Administration; (v) assessing, addressing and monitoring social and environmental vulnerabilities and monitoring project impact to vulnerabilities; (vi) promoting gender disaggregated monitoring and reporting, awareness raising and regularization of indigenous peoples and women's land rights. The project would target Agrarian Reform and the GoI's priority fire-prone provinces in Sumatra (Riau, Jambi and South Sumatra) and Kalimantan (East, Central, West and South).

[1] The Forest Law 41 of 1999 stipulates the Forest Area (*Kawasan Hutan*) including State Forests (*Kawasan Hutam Negara*) and individually held Titled Forests (*Hutan Hak*) that is to be retained as forest. This project would focus on non-Forest Areas including the outer boundary of the Forest Area and excluding areas inside the Forest Area.

Accelerating the implementation of the Agrarian Reform/OMP through the Systematic and Complete Land Registration program (*Pendaftaran Tanah Sistematis Lengkap,* PTSL, **Annex 1**). The project would produce village level parcel boundary maps in the project target areas (covering non-Forest Areas and Forest Area outer boundaries), and facilitate land rights regularization and registration in the electronic land administration system (eLand), including joint titling and individual titling for women as appropriate. The project would (i) implement ATR/BPN's systematic and complete land registration process (PTSL) through an inclusive fit-for-purpose approach resulting in a comprehensive map of tenure rights (ownership, possession, occupancy, concessions, licenses, leases, etc.), land use, indicative Forest Area delineation and affirmation (through a joint survey with MoEF), and other agreed boundaries, and significant features of the project target provinces. Areas of overlapping rights and interests, and areas or boundaries under dispute would be identified. The project would also strengthen the local land office infrastructure and services including by adopting an electronic land administration system and digital archives. The project would also improve access to and the availability of geospatial information for agrarian reform, land and tenure rights administration, and environmental and natural resource management in the target provinces by investing in the geospatial reference network and National Spatial Data Infrastructure (NSDI) technology and services.

Environmental and Social Benefits and Risks: The project triggers four WB's safeguards policies: Environmental Assessment (OP/BP 4.01), Forests (OP/BP 4.36), Physical Cultural Resources (OP/BP 4.11), Indigenous Peoples (OP/BP 4.10) and Involuntary Resettlement (OP/BP 4.12). The rationale for these policy triggers is detailed in Chapter 3.

Review of the relevant GoI's policies, regulations and guidelines that would relate to project objectives, particularly those related to land administration and management (and PTSL) were assessed for their relevance and adequacy vis-à-vis the environmental and social provisions under the World Bank's Safeguards Policies (further described in **Annex 2**).

The project has been classified as a Category A (High Risk) project for Environmental Assessment. The high risks are primarily third party and downstream risks associated with the project scope not covering the Forest Areas. The potential environmental and social risks of the project are mostly associated with Component A.1 (Participatory Mapping and Agrarian Reform), A.2 (Land Registration), and A.3 (Forest Area Boundary Demarcation).

Field assessments and consultations carried out as part of this ESMF indicated that the overall project is expected to yield positive environmental and social benefits by: (a) documenting changing patterns of land use and deforestation; (b) providing demarcation of external boundaries of Forest Areas including State Forests (production, protection and/or conservation forests), thereby enhancing the government's capacity to provide the necessary protection; (c) reducing the probability of issuance of conflicting or inappropriate land use licenses; (d) providing incentives for improved land management; (e) improved community livelihoods based on sustainable natural resource management; (f) provision of up to date geospatial base data (i.e. orthorectified high resolution satellite images) for line ministries and agencies to enhance natural resources management and g) social impacts of registration and then titling (security of tenure, inclusiveness, health and education, residential mobility).

The only direct potential environmental impacts from the project would be associated with renovation/improvement of existing buildings/infrastructure under Component A.4 on Strengthening Local Land Offices. Such renovation activities are expected to have low impacts and could be addressed with the application of an Environmental Code of Practices (ECOPs), which forms an integral element of the ESMF.

The project activities would directly involve and affect Indigenous Peoples, including *Adat* communities and their territories, since the mapping activities would likely take place in areas claimed by these communities. This includes areas around and/or near Forest Area boundaries, and possible communal tenure holdings in non-Forest Areas. Environmental and social effects which may be anticipated during the project implementation would apply to Indigenous Peoples, as well as other communities. These effects are likely associated with: a) lack of community participation during mapping activities due to lack of prior information, exclusion of certain groups, as well as lack of willingness to participate; b) improper legal and physical data collection for parcels to be mapped, resulting in inaccurate boundaries and erroneous titling which may be subject to future disputes; and c) potential tension and conflicts stemming from lack of socialization and understanding of the project, as well as expectations for tenure security in areas where ATR/BPN has no mandates (e.g. Forest Areas, concessions). In general, there is also a level of reputational risk due to public expectations that the project would address on-going tenure conflicts across the priority provinces, which the current design and institutional capacity are not equipped to do, particularly regarding tenure settlements in Forest Areas. A Community Participation Framework (CPF) and Indigenous Peoples Planning Framework (IPPF) have been prepared **(Annex 4)** to ensure that general principles and procedures will be applied for ensuring consultation, and in the case of Indigenous Peoples and *Adat* communities ensuring their broad community support, an opportunity to benefit from the program, and measures to avoid adverse impacts.

The project includes a mechanism to screen for issues and areas requiring special treatments prior to location selections, as well as incorporating screening and social mapping processes (**Annex 5**) community engagement and facilitation as Grievance Redress Mechanism (GRM) as well as community-level dispute mediation as part of the overall PTSL process.

The project activities do not involve land acquistion, nor does the project displace people and/or their resources. The project does not support mapping or certification in areas under territorial disputes. Furthermore, the project does not target Forest Areas beyond forest boundary demarcation. The project does not support participatory mapping or certification in areas under territorial land disputes or conflict, and the project does not cover areas inside the Forest Area. The scope of land registration/certification financed by the government budget (Component 1.3) is limited to asset legalization which is legitimate by law (e.g. with valid proof of long-standing claims and occupation such as tax receipts, recognition of land rights by village governments or *Adat* institutions, etc.).

There is potential high social risk due to possible third party and downstream impact of the project in particular to Forest Area dwellers. To address these other risks, institutional collaboration with the Ministry of Environment and Forestry (MoEF) will be key. The collaboration will help address the complex nature of land governance in Indonesia and issues arising from Forest Area outer boundary demarcation activities. In response to this risk, the World Bank Policy (OP 4.12) on Involuntary Resettlement has been triggered as a pre-cautionary measure and a Resettlement Policy Framework (RPF) and Process Framework (PF) (**Annex 6**) has been prepared to manage such potential risks if they happen during project implementation. The World Bank Policy (OP 4.12) sets out key measures to address impacts in the case of access restrictions and eviction by third parties downstream.

MoEF will be needed to implement the RPF and PF if forced displacement and access restrictions occur in Forest Areas demarcated under the proposed project. As such the RPF and PF has been produced to outline necessary measures, including institutional arrangements and roles and responsibilities to manage any potential displacement impacts arising from increased scrutiny and regularization of land tenure by the MoEF as the custodian of the state forests. Supervision of this framework will be retained within the project PMU at the ATR/BPN, with oversight provided by the provincial PIM units and technical implementation by the district land offices (*Kantah*). A Project Coordination Committee (PCC) would be established at the national level, co-chaired by ATR/BPN and BIG with members from the various stakeholder agencies including CMEA, BAPPENAS, MoHA, MoEF, and MoEMR, to facilitate inter-agency coordination and cooperation of project activities. Section I of the RPF and PF further elaborates on implementation arrangements.

Section J of the RPF and PF deals with the preparation, implementation and monitoring and evaluation of RAPs and PoA and provides details of consideration in the case of this possible forced evictions and restrictions of access resulting from:

a. Community living deep inside the Forest Areas that are currently under Status Quo may face increased Government scrutiny to deny their tenure claim as a result of the affirmed boundary of the conservation and protection Forest Areas;
b. Communities living around unclear forest boundaries may find their land partially or fully lies within state Forest Areas, hence requiring the change in their settlement and livelihood locations;
c. Informal settlers in the state land and/or private concessions in non-Forest Areas may face increased pressures with regards to the legal status of their occupation, with possibilities of evictions if government agencies and/or concession holders seeks to reclaim land ownership.

The costs for the implementation of the RPF and PF are integrated into project design and the ESMF specific budget described in Chapter 6, Section Overall costs of alternative livelihoods support and/or resettlement cannot be determined at this stage, since the number of people who might be affected (it could be zero), as well as the when or where remains unknown as does the nature, extent and scale.

If any resettlement were to occur then the RAP would be prepared with the Component C support. In most cases, the resettlement would concern State Forests, and most likely Conservation or Protection Forests, and while GoI is broadly responsible of implementing this ESMF, MoEF would be the responsible executive agency that would have to prepare the RAP or PoA and specify the dedicated source(s) of Government funding to be used to carry out the budgeted resettlement-related commitments.

Consideration of Alternatives. One Map Policy implementation acceleration through participatory parcel mapping without direct linkage to Agrarian Reform was the initial approach considered for the project. However, the adoption of Agrarian Reform and land certification targets to the project became necessary for linking the project to the ATR/BPN's mandate and programs, and also for providing incentives for participation for the land holders in the project target areas. The project would mostly work in non-Forest Areas, with an added component of Forest Area boundary demarcation. The overall benefits of doing the project in comparison to not doing the project far outweigh its risks, which are mainly social. Project design and a series of measures have been thoroughly developed to manage project risks.

Cumulative Impacts. The project consists mainly of participatory mapping and demarcation and technical assistance to establish clarity on actual land rights and land use at the village level in the target areas. No significant cumulative impacts are anticipated. Potential social impacts to specific communities or individuals are mostly related to downstream indirect impacts resulting from the project, potential disputes or other social impacts that are identified, and would be managed through

the project design and implementation of the safeguard instruments. Environmental impacts resulting from the project are considered minor. The project would mostly work in non-Forest Areas, with an added component of Forest Area boundary demarcation. The project would not result in the designation of large areas of forest resources that would lead to pressures and a reduction in value of forest resource areas. Furthermore, there would no other initiatives (plans or proposals – either in planning or implementation stage) that could lead to significant cumulative impacts; for example, proposals for designating watersheds or agricultural land or other similar land zoning that might exacerbate pressures or lead to otherwise unforeseen consequences for the forest areas or for areas outside of the designated forest areas.

In response to the identified risks, the government has put in place several measures, through the PTSL process, and has developed this ESMF, to mitigate impacts. The summary of risk prevention and mitigation measures for project implementation is presented in **Chapter 3** and further details are appended in **Annex 3**. Key approaches to the ESMF are summarized as follows:

a. ***CITIZEN ENGAGEMENT*** is the key underpinning element for the implementation of the ESMF. The proposed citizen engagement approach is based on a two-way interaction and dialogue between the government, landholders, private sector stakeholders and citizens. Citizen engagement for this project includes stakeholder consultations, a multilevel GRM along with operationalization of a responsive 'hotline' grievance handling (administered by the ATR/BPN) and local community participation in project planning and implementation as well as tracking progress. Periodic consultations with landholders, project beneficiaries, Indigenous Peoples and relevant organizations, and other stakeholders will start at the pre-feasibility stage (site-screening and risk mapping) and continue throughout project cycle. The ESMF includes measures to enable continued mechanisms for citizen consultations and feedback during project implementation. Citizen engagement including consultations with stakeholders would be undertaken in a manner that is inclusive and culturally appropriate, by taking into account concerns and preferences of Indigenous Peoples, *Adat* and socio-economically disadvantaged groups. At the site level, separate consultations for women or youth only sessions will be convened taking into account their availability, facilitator preferences as well as modes of delivery. Both the CPF and IPPF in Annex 4 cover engagement with the IPPF focusing specifically on Indigenous Peoples and *Adat* communities.

b. ***SAFEGUARDS SCREENING AND RISK MAPPING PROCEDURES***. A pre-implementation

"environmental and social screening and risk mapping" of all proposed project sites will be carried out at the planning and pre-feasibility stage to collect ground level information and assess key concerns and risks. This should help to identify issues and risks to be considered prior to the confirmation (or start of work) of PTSL locations for project work. This screening will also help to identify presence of Indigenous Peoples and *Adat* communities as land users, owners or claimants in the areas targeted for PTSL activity, possible physical cultural resources site and areas with high-conservation value in non-Forest Area. Such a preliminary screening is expected to provide opportunities to establish a mutual dialogue with various stakeholders, understand their concerns and foster their participation during project planning and implementation as well as facilitate early agreements on contentious issues (see **Annex 5** on the TOR for Site

Screening and Risk Mapping). Results from the site screening will inform further elaboration of necessary risk management measures, including decisions on alternative locations, possible conservation efforts and special consultation measure for Indigenous Peoples, *Adat* and poorer communities to obtain their support for site-specific project activities. The findings will also be used to complement information from other technical studies conducted as part of the project activities. Safeguards staff and technical advisor at PMU and PIM level would support this process through continual support to PTSL task force during implementation.

c. ***ENHANCED STAKEHOLDER ENGAGEMENT DURING PROJECT PREPARATION AND IMPLEMENTATION*****.** Based on the results of site-screening, ATR/BPN through their respective District Land Offices (*Kantah*) will develop and implement a Stakeholder Engagement Plan (SEP) for specific sub-districts or villages, with technical assistance from the Public Relations teams from the Project Management Unit (PMU) and Project Implementation and Monitoring (PIM) units. A draft of the SEP will be made public and applicable for both ATR/BPN surveyors as well as private sector contractors when the work is outsourced (most or all the project supported PTSL work will be outsourced). Necessary site-specific amendments will be made during implementation. The SEP will take into account socio-economic, environment, and land-specific local characteristics and claims/interests of various stakeholders as well as propose different levels of engagement and methods of consultations accessible to marginalized groups, Indigenous Peoples, and *Adat* communities. Further engagement will build upon communication and information dissemination channels identified during preliminary stakeholder engagement and risk screening, for instance through community facilitators or champions. In the event that additional and/or unanticipated risks emerge, the field teams, in coordination with their respective *Kantah*, the PMU and PIM units will take necessary measures to address such risks, including mobilization of additional measures or postponing activities until cases/concerns are addressed.

Detailed information about the project, including feedback and grievance redressal processes will be made available and accessible to the public prior to and during project implementation. Based on site-screening results, site-specific information will also be delivered at periodic intervals during the course of implementation.

d. ***ADDRESSING DOWNSTREAM IMPACTS ASSOCIATED WITH EVICTIONS AND/OR ACCESS RESTRICTIONS*****.** While the project would not acquire land, there could be indirect, downstream impacts and as a result of third party actions, that could result in involuntary resettlement in Forest Areas and/or State and Public Lands in non-Forest Areas. Such impacts would materialize if MoEF and/or concession holders used the new affirmed Forest Area or State Land boundaries to regularize informal tenure settlements in both Forest and non-Forest Areas, or chose to evict people from these settlements based on the project affirmed boundaries, for example conservation or protection forests. To address such potential impacts, an RPF and PF have been prepared as a pre-cautionary measure. If informal occupants or landholders on forest areas, including State Forests or on other State Land, would be physically displaced and/or restricted from access to natural parks or protected areas, the GoI would need to apply the World Bank Policy (OP 4.12). Resettlement Action Plans (RAPs) and Plans of Actions (PoA) would be prepared under Project Component C. The GoI's responsibilities and institutional arrangements in implementing the RPF and PF, as well as subsequent RAPs and PoAs, would be confirmed at the loan negotiations.

e. ***COMPLAINTS HANDLING GRM*****.** The ESMF sets out steps and processes for complaints and grievance handling based on the existing systems used and managed by ATR/BPN and GoI in general. It includes the responsibilities of key stakeholders to address public concerns. The

PMU and PIM units will be responsible for ensuring that an effective GRM is established for each field team and made accessible to the public. The whole GRM cycle will include: (i) raising public awareness among local communities on how to use the GRM services; (ii) establishing of multiple channels and locations for submitting of grievances; (iii) proper registration of all grievances related to project activities to enable tracking and review of resolution status; (iv) facilitating community-based dispute mediation and (v) identification of systematic issues affecting the project. Under Component 1 and 3, the project will build capacities of implementing teams to be able to promptly respond to concerns of local communities, civil society or any other project-affected parties in a timely manner. The GRM will utilize existing formal or informal or community-based grievance or dispute resolution methods/mechanisms supplemented with project-specific arrangements. Such a mechanism will be part of ATR/BPN's existing departments and supplementary measures will be mainstreamed as part of the project activities.

f. ***ADDRESSING ENVIRONMENTAL RISKS.*** The direct potential environmental impacts from the project will be associated with minor renovation works of land office facilities. Such renovation activities are expected to have low impacts which can be addressed with the application of an Environmental Code of Practices (ECOPs), which forms an integral part of the ESMF. The project supported PTSL community based participatory mapping process would also demarcate State Lands with high-conservation value in non-Forest Areas as a standard practice (Annex 1 and 5).

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g. ***MAINSTREAMING GENDER.*** The ESMF strives to ensure that women have an adequate opportunity and space to participate in all discussions and engage in decision-making affecting their access to and control over land and natural resources. These are reinforced by incorporating specific steps in the PTSL processes and procedures tailored to women such as convening "women-only" meetings and gender-responsive timeframes and guidelines during planning, data collection, and engagement to clarify questions about the maps produced and publicly displayed. The proposed measures include support and advisory services on inheritance rights and dispute resolution as well as community mobilization to ensure that women's rights to land are protected. Steps will be taken to ensure that sufficient number of women facilitators are trained and assigned to work as part of the field teams along with translation support (local dialects) as and when needed and feasible.

h. ***ENSURING PRO-ACTIVE ENGAGEMENT WITH INDIGENOUS PEOPLES AND ADAT COMMUNITIES.*** The project will promote inclusion of Indigenous Peoples and *Adat* communities through an affirmative process of socialization and consultation to ensure that they receive complete information on the proposed mapping and registration processes and have adequate opportunities to meaningfully engage in the process, and have access to appropriate recourse in the event of grievances to address them. The PTSL process will take into account preferences of Indigenous Peoples and *Adat* communities with regards to their tenure arrangements, to assist them in understanding tenure options if their claims are located outside Forest Areas and are not contested, and supporting land regularization based on their preferences. In case Indigenous Peoples and *Adat* households (or communities) submit their claims for land parcels within Forest Areas (outside of ATR/BPNs mandate) or with overlapping boundaries, the project will make the best efforts to document such claims in the ATR/BPN's database and address them through a participatory process as per GoI guidelines and procedures.

i. ***COMMUNITY MONITORING***. Community monitoring will be conducted in two stages. First, at the time of boundary demarcation and mapping of land parcels. Second, after completion of the PTSL work to understand impacts as well as beneficiaries' satisfaction levels. For the latter, the activities will be financed by the Component 1.3 and will be spearheaded by a joint team that will be led by ATR/BPN's Training Department *(Diklat*) for preparation, development and delivery of required training modules and ATR/BPN Research and Development Department (*Litbang*) for analytical work. The field teams will be trained and mentored by *Diklat* and *Kantah* on eliciting and supporting the role and responsibilities of community members in project monitoring. It will also include orientation on ATR/BPN's Standard Operating Procedures and guidelines for community monitoring, followed in Indonesia, to enable proactive engagement of local civil society and community leaders in public consultations and mapping processes.

j. ***CAPACITY BUILDING.*** The PMU will provide the overall leadership and management support for project's compliance with safeguards requirements as set out in the ESMF. It will work in cooperation with the BIG/PIU, PIM Units, *Kantah,* and other relevant agencies both at the national and sub-national levels. Based on the analysis on risks and existing capacities, the ESMF has identified a set of areas where investments are needed to improve and strengthen the awareness, understanding, knowledge, and skills for stakeholders at national and subnational levels, communities, civil society and field teams. The capacity building plan includes: (i) basic training on environmental and social risks and impacts in land administration and management; (ii) engagement with Indigenous Peoples and *Adat* communities, including development of a social baseline; (iii) understanding of relevant regulations and guidelines; (iv) specific training on the ESMF; (v) a series of national and subnational workshops and dissemination sessions on the project, PTSL process, and benefits of mapping and feedback from the local governments as well as beneficiaries; and (vi) techniques for community monitoring and reporting. This training will be conducted regularly and involve ATR/BPN, BIG, the World Bank, and experts in relevant fields. Capacity building programs will also cover

training and workshops and other capacity strengthening activities financed under all of the components.

k. ***RESOURCES FOR ENVIRONMENTAL AND SOCIAL SAFEGUARDS.*** A Safeguards' Team will be established at the PMU and will lead day-to-day management, oversight and facilitate capacity building to program implementing entities (i.e., field teams and staff at district land offices). At the provincial level, the PIM units will be staffed with additional technical advisors who will be responsible for the program's community awareness raising and public relations (i.e., managing inquiries from the public and civil society organisations/non-governmental organisations (CSOs/NGOs)), assisting *Kantah* to develop stakeholder engagement plans and oversee the grievance processes, as well as assisting to address other environmental and social risks as they emerge from time to time. This team will also liaise with BIG/PIU and other government entities on project safeguards. The TOR for safeguards team at PMU, technical advisors at PIM, and technical specifications for the environmental and social vulnerability mapping and monitoring would be approved by the Bank. The Bank's safeguards team would also conduct regular implementation support mission every 6 months.

Disclosure and public consultations on the draft ESMF: The ESMF was developed based on review of information, field visits and consultations undertaken at the central and subnational level. ATR/BPN carried out stakeholder consultations during field visits in Grobagan District of Central Java and Dumai District of the Riau Province between mid-2017 and early 2018 and series of Focus Group Discussions/workshops were held between January and February 2018. Engagement has taken place with both internal stakeholders within ATR/BPN at the national and subnational levels as well as external stakeholders, including relevant ministries (i.e. MoEC, MoHA) and CSOs in the land sector. As well as informing project design, the engagement has informed identification of social risks and the development of measures to address those risks.

The draft ESMF has been disclosed at the BPN's website www.bpn.go.id since 10 April 2018, and two public consultations have taken place involving national and regional stakeholders including CSOs/NGOs:

The first formal public consultation on the ESMF was conducted on 19 April 2018 at the ATR/BPN office. The public consultation was chaired by Minister of Agrarian Reform and Spatial Planning Mr. Sofjan Djalil and attended by representatives from national and local civil society and advocacy groups on Agrarian Reform, indigenous peoples and local community rights, governance reform, and women affairs, as well as representatives from the Indonesian Surveyors Association. Among the leading sector activists that attended were the Executive Director of Consortium for Agrarian Reform/KPA (that represents 85 CSOs including local chapters of AMAN (representing *Adat* / indigenous communities), and 68 local and national NGOs), and representatives from DGMI National Steering Committee, the Samdhana Institute, and Kemitraan. Discussion was vivid, and representatives provided multiple suggestions to the ESMF including on the risk and risk mitigation measures related to communal and indigenous peoples' rights. Subsequently, these inputs have been incorporated by ATR/BPN in the ESMF. The consultation ended to a consensual agreement to continue discussion on the project implementation arrangements and risk mitigation with the civil society organizations periodically throughout project implementation.

The second public consultation was held on 28 May 2018. The consultation was undertaken following the revision of the ESMF taking into consideration feedback from the first consultation. The revised ESMF, in Bahasa Indonesia, was disclosed on the ATR/BPN website prior to the consultation. Consortium for Agrarian Reform KPA, two representatives of AMAN representing the regions, Serikat Petani Pasundan, Sayoga Institute, and the Indonesian Surveyor Association. Representative of the

MoEF including from the Forest Investment Program-2, as well division heads from provincial land offices were also present. The consultation session discussed the revisions made to the ESMF as a result of the 1st consultation which then were confirmed by the stakeholders. The addition of Annexes 4 on CPF and IPPF and 6 on RPF and PF were presented. Inputs to these instruments, including representing regional perspectives were requested at the start of the meeting. Participants from AMAN, KPA, and Sayoga Institute provided many useful inputs aimed at ensuring that communal and *Adat* claims are provided with clear administrative procedures for tenure regularization. The meeting also discussed the resettlement option currently included in the PPTKH. Participants both from Government and civil-society generally viewed that resettlement should be avoided, and therefore the policy (PPTKH) would need to be revised and options for avoiding resettlement to be prioritized to be clearly defined and would be considered under Component 3 of the Project. If indeed involuntary resettlement is unavoidable, the standards and processes will need to be defined as part of implementation procedures of PPTKH. The meeting reached important consensus that the results of participatory mapping of *Adat* claims covering 9 million hectares facilitated by AMAN proposed sites for Agrarian Reform in 406 locations facilitated by the KPA will be available for the Project to support the risk mapping and screening[2].

Finally, it is noted that a Project Operations Manual (POM) would be prepared and approved by ATR/BPN and BIG – prior to the start of project implementation – consolidating the guidance on public consultations, information disclosure and grievance redress, which are essential for the ESMF implementation and management. The POM would elaborate, assign resources and timelines for the adoption of the recommended actions including: (a) guidelines and procedures required to support field level implementation of risk mitigation and inclusion of communities, women, Indigenous Peoples and *Adat* communities in the PTSL process; (b) steps needed to develop capacity and facilitate changes at the local level; and (c) areas for follow-up and further field research to develop better understanding of the challenges and opportunities.

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[2] Indonesian Laws and regulations refer to *Adat* rights based on Government recognition to an indigenous community group as Legally Recognized *Adat* Community (*Masyarakat Hukum Adat*). Such a legal recognition falls within the realm of broader National Unity and Politics (*Kesatuan Bangsa dan Politik*) along with recognition of other civic rights. The jurisdiction for *Adat* recognition rests within the Local and Provincial governments (not under land administration or forest management). Therefore the 9 million hectares mapped through the participatory process may not necessarily covering all legally recognized *Adat* community. But the information serves as an important baseline for the project in managing *Adat* and communal claims.

ACKNOWLEDGMENTS

This Environmental and Social Management Framework (ESMF), in support of ATR/BPN's 'Accelerating Agrarian Reform Project', has been prepared by the ATR/BPN's Research and Development Department at the request of ATR/BPN's Directorate General for Agrarian Infrastructure in collaboration with *Badan Informasi Geospasial* (BIG or National Geospatial Agency). The report was prepared between December 2017 and February 2018 by a Working Group assigned by both agencies, and revised in May based on public consultations and feedback.

Following ATR/BPN's staff have contributed to the discussions and development of this document: (a) Ali Rintop Siregar (Head of Research and Development Department), (b) Izda Putra (former Head of Research and Development Department), (c) Adi Darmawan (Director General for Agrarian Infrastructure), (d) Embun Sari (Deputy Director General of Agrarian Infrastructure), (e) Gabriel Triwibawa (Head of the ATR/BPN's Bureau of Planning and Cooperation), (f) Agus Wahyudi (Director of the Survey and Basic Mapping Directorate), (g) Iskandar Syah (Sub-section Head at the ATR/BPN's Bureau of Planning and Cooperation), (h) Sitti Hafsiah (Sub-section head at the DG Land Disputes and Legal Conflicts), (i) Arwin Boso (former Sub-section Head of Legal and Public Relations Bureau and now Sub-section Head at ATR/BPN's Training Center), and (j) Ayu Nadiariyani (ATR/BPN's Bureau of Planning and Cooperation).

The core team members from ATR/BPN's Research and Development Department who were responsible for data gathering, analysis, preparation of the report and public consultations include: Makmur A Siboro (Sub-section Head at the Research and Development Department) as the coordinator, Aulia Latif (staff at the Research and Development Department) as a Co-coordinator of this assignment, and Septina Marryanti and Romi Nugroho (researchers) as team members. Aulia Latif served as the primary technical lead for the preparation of this report.

The preparation of this document has been informed by consultations undertaken and information and observations gathered from field visits to Dumai District, Riau Province, Grobogan District, Central Java, and Tangerang District, West Java and from the two consultations convened (January 2018 in Tangerang and February 2018 in Jakarta). A list of those who participated at these consultations is provided in the report. Their inputs and suggestions are thankfully acknowledged.

This document draws information and data from an in-house work and report prepared by various Government of Indonesia, ATR/BPN and independent research institutions in the country. It also drew from several reports published by the development partners including the World Bank compiled report on land in Indonesia: *Towards Indonesian Land Reforms: Challenges and Opportunities: A Review of the Land Sector (Forest and Non-forest) in Indonesia* (2014).

CHAPTER 1: INTRODUCTION

I. BACKGROUND OF THE PROJECT

Indonesia's policy-legal framework is characterized by a multiplicity of overlapping land-related regulations and guidelines, creating ambiguous provisions concerning the administration and management of land land-based resources. These multiple legal and regulatory frameworks have created separate land administration systems with overlapping authorities and jurisdictions for governing land-related affairs. This condition is aggravated by weak institutions, lack of inter-sectoral coordination. In addition, across the archipelago, a large variety of grievances and disputes around land tenure and access to land-related resources exist, ranging from disputes within families about division of inheritance or limitations of land plots, to those resulting from occupation of land by investors or in-migrants, or those about land-between farming households and government authorities. Many of these issues have been caused by lack of clarity over land boundaries, weak legal protection of rights and land claims by Indigenous Peoples, *Adat* communities, forest dwellers, swidden farming communities, etc., and unresolved grievances that continue to build up. The reforms undertaken since 1998 have not been successful in completely eliminating the dualism created thus far. However, the continued administrative separation that MoEF deals with forests and the ATR/BPN deals with non-forestland evolved from practices rather than law. In sum, lack of multi-sectoral collaboration and political-will for resolution are long standing barriers to development of a sustainable land administration and management system in Indonesia.

In principle, Indonesia is committed to longer-term forest and land tenure reform and this is reflected in Government's Decree No. 9/2001 (Tap MPR) on Land Reform and Natural Resources Management. That 2001 Decree has mandated the government to periodically review and revise all land tenure-related legal instruments and ensure multi-sector synchronization. This MPR Decree also mandated government entities to conduct land reform while considering procedures for dispute/conflict resolution and measures to resolve land inequality, particularly among landless in the rural areas; to develop inventory and registry of land tenure comprehensively and systematically; to resolve all natural-resource management conflicts that may arise out of overlapping mandates among government entities or rights/claims of other stakeholders; and implementation based on the principle of recognizing, respecting, and protecting *Adat* customary rights.

In response to the multiple geospatial challenges, in 2011 the Government of Indonesia (GoI) introduced the Geospatial Information Law[3] and the OMP aiming to establish a unified, agreed-upon base set of geospatial data (i.e., topography, land use, and tenure) that informs decision-making at the

[3] Geospatial Information Act, Law No. 4 of 2011.

national and sub-national levels as the base of the National Spatial Data Infrastructure (NSDI). The Medium-Term Development Plan (RPJM) for 2015-2019 reflects OMP with the aim to complete 100% of forest demarcation, establish and make operational 629 Forest Management Units (KPH), and foster community forestry partnerships across 12.7 million hectares (including customary holdings). The RPJM also targets 60% coverage of non-forest land maps and 70% coverage of land certificates, 89,000 kilometers of forest boundary demarcation and mapping at 1:5000 scale, and the integration of the forest land registration into a national land registry.

Recently, the GoI issued Presidential Regulation No. 88/2017 outlining a procedure to resolve/settle the tenure status of lands inside the state Forest Areas (i.e. designated as forests under the Forestry Law) currently occupied and/or used for various purposes. A new Presidential Instruction No. 2/2018 instructs key agencies to collaborate, to address the lack of integration and synchronization between forest and non-Forest Area regulations[4] which remains a major issue.

In parallel, the GoI has established a new program for Agrarian Reform (*Tanah Obyek Reforma Agraria*/TORA). Agrarian reform in accordance with Basic Agrarian Law (BAL) of 1960 is a rearrangement for the restructuring of ownership, control and use of agrarian resources. The goal is to create social equity, increase productivity and improve people's welfare. The main prerequisite for the implementation of agrarian reform is the political support of the government and the accurate information on agrarian resources (i.e., lands and people).

The GoI is committed to implement Agrarian Reform through two steps, first through the legalization of assets, then continued with the redistribution of assets. The TORA targets a) asset legalization and land redistribution covering 9.8 million hectares; b) systematic land certification targets of ATR/BPN of 23 million parcels by 2019; and c) Social Forestry program by MoEF that aims to release 12.7 million hectares of forest lands for communal uses. BPN/ATR implements the TORA in non-forest lands through a systematic registration/land certification program. Based on the ATR/BPN data, by 2017, there were more than 126 million land parcels (estimate) outside the Forest Area. Of these, only 49 million land parcels have been registered to date, and only around 24 million of these have been verified with the land parcels surveyed and recorded. ATR/BPN's systematic land certification target is 23 million parcels of the period of 2017 - 2019 and it is to adopt an annual production rate of 10 million

[4] 'Title forests' are issued as per MoEF Regulation No. 32 of 2015 are included in synchronization program as those titles are issued by the ATR/BPN.

parcels/year starting from 2019. ATR/BPN mapped 4.5 million parcels in 2017, and the target is 7 million parcels for 2018.

The ATR/BPN's PTSL was launched in 2016, based on lessons learned from implementing diverse mapping programs and processes in Indonesia over the past decades. PTSL is a complete village-based land registration system, for certification to cover village by village all registered and unregistered land parcels in non-Forest Areas. Under the PTSL approach, all land parcels in a village will be mapped and registered with the land office and relevant data entered into the electronic database (KKP). Land parcels previously not certified and free of encumbrances (i.e. no competing claims, no overlaps with Forest Areas, concessions and other land parcels) will be declared eligible for issuance of titles. This approach not only focuses on building public confidence in land administration through a participatory process but also invests in technological upgrades and adoption of appropriate policies and guidelines to support operations.

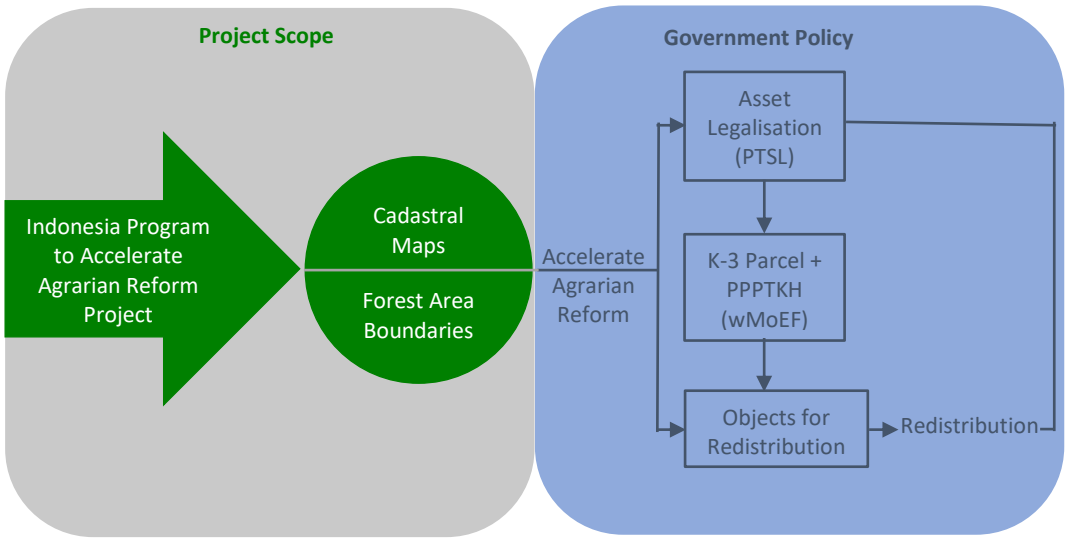
The PTSL process also reinforces the importance of decentralized land administration and management models and good practices in governance of resources. Actual land parcel and village-administrative boundaries, asset legalization (parcels classified as K1), and inventory of overlapping claims and land disputes (parcels classified as K2 and K3) are all addressed via PTSL.

The full parcel map resulted through the PTSL would provide complete data on the tenure and ownership of the parcels of land throughout Indonesia. With the availability of accurate agrarian data, lands that can be allocated for redistribution can be appropriately and accurately identified.

The PTSL starts by preparation of Base Maps (to map scale 1:5,000 or better) and collection of all available geospatial data would be obtained and analyzed to pre-identify existing land parcels, various concessions, mining licenses, *Adat* land alienation, and forest zone boundaries summoning all to a working map parcel layer of a digital Working Map. Before commencing participatory mapping, a community awareness and engagement campaigns and vulnerability mapping (under C.3) are carried out to ensure sensitivity to social and environmental concerns, and to educate the participating communities, authorities and other stakeholders on the applied process and expected inputs, outcome, roles, responsibilities and benefits accruing to all. The extended PTSL process proceeds village by village, parcel by parcel, and apply fit-for-purpose participatory mapping process and all-digital recording of locations and features completing coverage of the target area in question i.e. to survey every parcel in the target village or other administrative area.

The mapping targets cannot be made without streamlining the PTSL process and contracting private sector for most of the work. Further details on PTSL methodology is included in **Annex 1**. As depicted in the figure below, the main scope of PTSL and hence also this Project is to provide complete cadastral maps and also to delineate the boundaries of the forest areas. These two outputs will then become the basis of the ATR/BPN in carrying out its regular land administration policy and services to legalize community land titles, and to identify lands within state forests that can be designated as objects for agrarian reform/land redistribution to the people (TORA) as part of the implementation of the broader Government's Agrarian Reform Policy.

FIGURE 1. PROJECT SCOPE PROVIDING INPUTS TO AGRARIAN REFORM POLICY IMPLEMENTATION



The project is essentially to support the objectives of the GoI's Agrarian Reform Program and thereby accelerate work on OMP through implementation of PTSL. This support will also include building necessary institutional capacities and complementary processes to safeguard the potential social and environmental impacts, which this document outlines and addresses. The Project helps address the fundamental land issues outlined above, by:

a. establishing clarity over actual land use, occupation, claims and boundaries at the village level, including forests and non-forest boundaries;
b. improving tenure security through support to asset legalization in non-Forest Areas;
c. improving transparency and access of information pertaining to land and natural resources, and
d. fostering collaboration across sectors both at the national and sub-national levels to agree on boundary demarcation and use of one common map to reduce overlaps and provide greater right protection to land-holders.

All activities will involve stakeholder participation and ensure civic engagement by design, including with compliance with the project's CPF entailing extensive community consultations, involving local CSOs/NGOs as well as Indigenous Peoples, *Adat* and local communities. For this purpose, the project will build on the successful process established under the earlier Bank-financed land administration projects, including Land Management and Policy Development Project (LMPDP, 2004-09) and Reconstruction of Aceh Land Administration System (RALAS[5], 2005-09) using local facilitation to address the needs of targeted beneficiaries. The project will also focus on disseminating the benefits of tenure security and building capacities of local land offices so that they can better understand and facilitate the change process, particularly with regard to land mapping, land registration and service delivery, updating the land registry, and improving tenure security of landholders and other stakeholders. Access to land information and better land services are expected to increase with the improvement of land offices, the promotion of e-governance, and the building of stakeholders' capacity.

[5] Land Administration Project (LAP, 1995-2001), Land Management and Policy Development Program (LPMDP) and Registration of Aceh Land Administration System (RALAS) are previous World Bank's financed projects.

II. PROJECT DESCRIPTION

The proposed Project Development Objective (PDO) would be to establish clarity on actual land use and land rights at the village level in the target areas through the accelerated implementation of Agrarian Reform and OMP. This would enhance sustainable landscape management, land governance, social stability, access to land for investments, inclusive growth, conflict resolution and environmental protection and conservation. This would also include positive benefits to climate change adaptation and mitigation. The project would target the provinces of Sumatra (Riau, Jambi and South Sumatra) and Kalimantan (East, Central, West and South).

The objective would be achieved by (i) implementing participatory approach to fit-for-purpose mapping of parcels, land use, village administrative boundaries, and other land use occupation (Forest Area and mining concessions etc.); (ii) enhancing the availability and access to up-to-date geospatial information; (iii) promoting access to and availability of electronic land administration services; and (iv) improving capacity, procedures and legal framework for accelerating implementation of Agrarian Reform, OMP and modern e-Land Administration. The project would help to target and accelerate the implementation of Agrarian Reform and the Sustainable Landscapes Program's priority provinces in Sumatra (Riau, Jambi and South Sumatra) and Kalimantan (East, Central, West and South).

A. PROJECT COMPONENTS AND ACTIVITIES

The project consists of three components, each outlined below:

Component 1: Participatory Mapping and Agrarian Reform (US$ 202 million)

The objective of this component will be to produce village level parcel boundary maps in the project target areas, and facilitate land rights regularization and registration in the electronic land administration system (eLand). It supports the implementation of ATR/BPN's PTSL through an inclusive fit-for-purpose approach resulting in a comprehensive map of land use, tenure rights, Forest Area boundary, and other agreed boundaries, and significant features of the project target provinces. Areas of overlapping rights and interests, and areas or boundaries under dispute would be identified. The component activities include strengthening the local land office, including infrastructure and services, by adopting the accessible electronic land administration system and digital archives.

Component 2: Geospatial Data Infrastructure (US$ 10 million)

The objective of this component will be to improve the access to and the availability of geospatial information for agrarian reform, land and tenure rights administration and environmental and natural resource management in the target provinces. The project would support the densification of the Continuously Operating Reference Stations (CORS) network, strengthen the NSDI technology infrastructure and support the geo-referencing of existing, recent, high-resolution satellite imagery for a base map in project target areas.

Component 3: Project Management and Institutional Development (US$ 28 million)

The objective of this component will be to ensure efficient implementation of the Project; full inclusion and transparency in the project conduct, and compliance with the World Bank's safeguards policies; and improve the institutional capacity and operational framework to implement participatory mapping based on practical experiences from piloting innovative approaches and technologies. The component would support: (i) project management, monitoring and evaluation to meet the procurement, fiduciary and safeguards requirements; (ii) conducting studies and analysis to strengthen the policy, legal, regulatory and institutional frameworks; (iii) carrying out pilots to test new practical approaches, capacity development, regulatory and institutional arrangements and innovative technologies in support of participatory mapping; and (iv) policy dialogue to promote land and geospatial system integration in Indonesia.

The land registration activities (**sub-component 1.2**) of the project are part of GoI's on-going programs and would be financed through the GoI's budget (APBN). The resulting parcel maps funded by the project would be processed into land registration and certification upon meeting eligibility criteria.

TABLE 1. PROJECT ACTIVITIES

SUB-COMPONENT	ACTIVITIES	FINANCING SOURCE
***Component 1**: Participatory Mapping and Agrarian Reform*		
1.1 Fit-for-Purpose Cadastral Mapping	- Provision of Working Map - Community Awareness Raising - Participatory Mapping - Data Processing for Parcel Map - Publication/Public Display - Dispute Resolution - Revision of Parcel Map - Data Entry to Land Activities Computerization (KKP) - Quality Control.	Loan
1.2 Land Registration	- Public awareness; - Legal and other advisory services; - Legal review, adjudication, and registration activities; - Appeal, resolution and facilitation - Issuance of Land Rights Certificates	APBN
1.3 Forest Boundary Demarcation	- Support for the operation of joint taskforces for forest boundary demarcation (ATR/BPN, MoEF) - Survey and mapping of agreed forest boundaries (*de facto a*s part of the PTSL process) - Preparation of maps and other documents for forest boundary affirmation process	Loan
1.4 Strengthening Local Land Offices	- Communication line upgrades (excluding maintenance) and local offices' ICT infrastructure investments; - Scanning and digital archives production;	Loan

SUB-COMPONENT	ACTIVITIES	FINANCING SOURCE
	- Paper archives upgrading - Other local land office infrastructure, field equipment and capacity upgrades	
1.5 Strengthening Land Information System	- Development of improvements and new features of the existing Land Information System components and their integration forming the new eLand; - Development of the land information portal and e-Services for the public, businesses and the government; - Development of the mobile eLand applications; - Development and project target office implementation of the digital archives (either as standalone or as part of eLand); - Strengthening of ATR/BPN's data centers and ICT infrastructure; - Acquiring standard software and licenses; - Strengthening digital security and introduction of digital signature and electronic transaction capability.	Loan
Component 2: Geospatial Data Infrastructure (US$ 10 million)		
2.1 Strengthening Geodetic Framework (US$3 million)	- Procurement of 35 GNSS CORS (including CORS pillar monumentation and site installation with appropriate power and communication equipment) with an extended warranty for at least the duration of the project; - Upgrading of CORS operational systems to integrate CORS network services between BIG and ATR/BPN.	Loan
2.2 Strengthening NSDI (US$5 million)	- Upgrading the NSDI Data Center and INA-Geoportal hardware and software solutions; - Consultancies; - Policy dialogue and capacity building.	Loan
2.3 Preparing Satellite Imagery for Working Maps (US$2 million)	- Technical services for ground control point surveys, DEM/DSM enhancement and ortho-rectification.	Loan
Component 3: Project Management and Institutional Development (US$ 28 million)		
3.1 Project Management and Monitoring and Evaluation	- Project management, staff, operational costs, etc.	Loan
3.2 Strengthen Policy, Legal and Institutional Framework	- Establishment of an inter-agency policy and legal/regulatory formulation team; - A pilot to integrate administrative and forest boundary demarcation, participatory cadastral mapping and land registration processes; - A program of international and regional comparative studies; - Consultations and workshops to discuss key policy issues;	Loan

SUB-COMPONENT	ACTIVITIES	FINANCING SOURCE
	- Consultancy services to develop draft policies and procedures.	
3.3 Capacity Development, Outreach and Community Monitoring	- Training needs assessments and programs; - Public awareness campaigns; - Legal advisory services; - Site-screening and risk mapping; - Community monitoring; - Study tours and conferences**.**	Loan

B. PROJECT BENEFICIARIES

Project beneficiaries would include all private/public/individual/men/women/group/communal land users whose security of tenure and access to land and natural resources would improve, and central and local government that have improved capacity for decision-making through NSDI, electronic land administration services, clarified tenure, and parcel/cadastral map. Altogether, the project would positively contribute to growth, poverty reduction, governance, environmental conservation, climate change mitigation and adaptation, equal access to land rights by men, women and communities, and reduce social conflicts on land. Public sector institutions such as ATR/BPN, BIG, MoEF, MoHA, MoEMR, Bappenas, CMEA, Ministry of Village, Sub-national (provincial, district and village) government administrations, and the taxation authorities and municipalities would benefit multiple ways from improved clarity and better access to land and geospatial information. Private sector's location-based business development would benefit from the improved information on land use, and improved performance of local surveying companies. The indirect benefits are expected to include further development of precision agriculture applications with improved quality and access to a geodetic reference system. The data generated by this project would provide the basis for improved spatial planning, land and natural resources management (including for agriculture, forestry, mining and extractives, and conservation).

Systematic affirmation of forest boundaries would have direct positive impacts on deforestation through improving the security of tenure of land users on both sides of the boundary. It would reduce incentives for land use conversion and increase incentives to invest in forestry activities with mid-term and long-term returns. Security of tenure would also increase local and indigenous household and community capacities to adapt to climate change impacts on livelihoods and food security, with longer term investments and plans. The parcel/cadastral map and up-to-date base map would also support Indonesia's environmental protection and conservation efforts including peat land restoration. Altogether, the project would positively contribute to growth, poverty reduction, governance, environmental conservation and climate change mitigation.

C. PROJECT COST AND FINANCING

The total project cost is USD 240 million, consisting of IBRD loan of USD 200 million, accompanied by GoI's counter-part financing of USD 40 million. The GoI's counterpart funding is specifically earmarked to financing land registration activities (specified under sub-component 1.2).

TABLE 2. EARMARKED PROJECT COSTS FOR EACH COMPONENT

Project Components	Project cost	IBRD Financing	Trust Funds	Counterpart Funding
Total Costs				
Total Project Costs	240,000,000	200,000,000		40,000,000
Component 1: Participatory Mapping and Agrarian Reform	202,000,000	162,000,000		40,000,000
Component 2: Geospatial Data Infrastructure	10,000,000	10,000,000		
Component 3: Project Management, Institutional Development and Monitoring	28,000,000	28,000,000		
Total Financing Required				240,000,000

III. GEOGRAPHIC COVERAGE

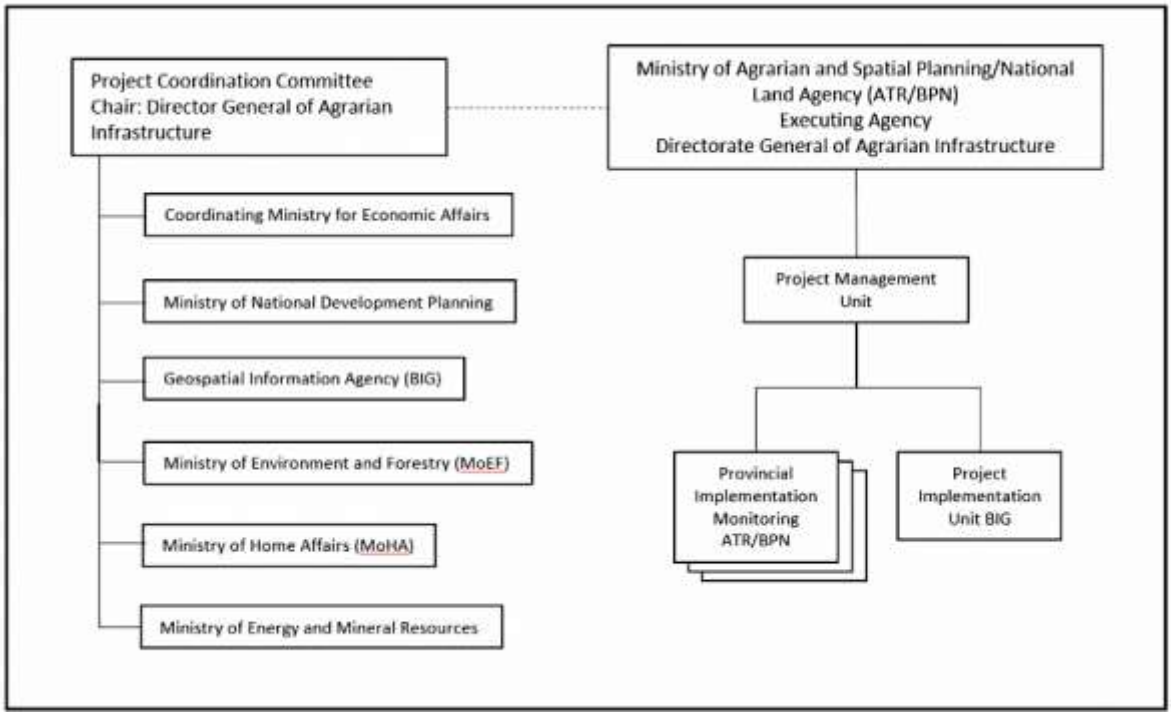
The project is expected to target Agrarian Reform and the GoI's priority fire-prone provinces in Sumatra (Riau, Jambi and South Sumatra) and Kalimantan (East, Central, West and South). Project target sites are marked below in color.

FIGURE 2. PROJECT LOCATIONS (PROVINCES)

IV. INSTITUTIONAL ARRANGEMENTS FOR PROJECT IMPLEMENTATION

ATR/BPN, as the Executing Agency of the OMP, will host the PMU, including PIM units at the provincial level, and take on the overall management and coordination responsibility for the project, as well as directly managing the implementation of the Project 1s 1 and 3. The BIG will establish a PIU for managing activities under Component 2. MoEF, MoHA, MEMR and possibly other line ministries and agencies would participate in the project as an equal partner funding their involvement through the national budget, or through project resources on a cost-recovery basis as agreed upon with the ATR/BPN.

FIGURE 3. PROJECT INSTIUTIONAL ARRANGEMENTS



A Project Coordination Committee (PCC) would be established at the national level, co-chaired by ATR/BPN and BIG with members from the various stakeholder agencies including Menko (CMEA), Bappenas, MoHA, MoEF, and MEMR, to facilitate inter-agency coordination and cooperation on project activities. Secondly, a PMU would be established in the ATR/BPN headquarters and small PIM units in target provinces, to provide overall management support to the project and to implement project components 1 and 2. A separate PIU would be established in BIG to implement Component 2 activities. PMU, PIM units and the PIU would be responsible for day-to-day implementation of project activities by ATR/BPN and by BIG, respectively, including the project's fiduciary functions, social and environmental safeguards implementation, and monitoring and evaluation and reporting.

The PMU located at ATR/BPN will have a Senior ATR/BPN official, assigned on a full-time basis, as the Project Director. He/she would report to the Head and the Director General of ATR/BPN (DG, Infrastructure), mandated for the purpose, and would oversee the work of the PMU and liaise with other participating institutions and stakeholders both at national and subnational levels. A PIU and PIM units would be headed by appointed officers who also serve as Project Officers/Commitment Making Officers (PPK) for the project in the GoI's governance system.

A single, joint BPN-BIG monitoring and evaluation (M&E) system would be designed and implemented to assess the performance and impacts of the project, including environmental and social safeguards. The M&E system would mostly focus on performance indicators of each project subcomponent, but also include more global project development and land governance indicators. At least three beneficiary and public perception surveys funded by the loan would be conducted throughout the lifetime of the project measuring mainly the impact of expanding eServices and land registry coverage of ATR/BPN. The baseline survey would be carried out early on in the first project year, and the follow-up surveys would be conducted towards midterm and the end of the Project.

The institutional arrangements for management of social and environmental safeguards, guided by this ESMF, will be further described in **Chapter 4**.

V. UNDERSTANDING THE PTSL AS A "PROJECT CYCLE"

As outlined above, the project is expected to support ATR/BPN's current efforts to expand its asset legalization program across the seven target provinces, with an additional element to facilitate forest boundary demarcation as mandated by the Presidential Instruction no. 2/2018.[6] The asset legalization aspect of the Agrarian Reform is targeting 23 million parcels (and 4.5 million hectares) of non-forest land applying the PTSL approach to cover village-by-village registration as well as unregistered land parcels in non-Forest Areas. ATR/BPN estimates (2017) that there are 126 million land parcels outside the Forest Area, which of 49 million have been registered to the land register and of those only 24 million land parcels have been surveyed to ATR/BPN's standards and accuracy. Thus, land certification is ATR/BPN's priority task. The PTSL's target has increased from 5 million parcels in 2017, to 7 million in 2018 and 10 million parcels annually starting in 2019.

TABLE 3. GOI'S TARGETS FOR PTSL PROGRAM

PTSL Targets	2017	2018	2019 — 2024
Number of Parcels to Certify	5,000,000	7,000,000	10,000,000/yr
Estimated Number of Parcels Uncertified	54,200,000	47,200,000	0 (by 2024)
Percentage of Parcels Uncertified	50%	44%	0% (by 2024)

Currently efforts are being undertaken to streamline PTSL processes for parcel mapping and quality control, including contracting works to third-party licensed cadaster surveyors. To achieve national coverage, ATR/BPN recognizes that the Agrarian Reform approach, especially the asset legalization, needs to be made more efficient. The participatory mapping program needs to progress systematically across the territory, include all state, communal, and private stakeholders and engage directly with land holders in verifying/demarcating their land use and occupancy.

The ESMF developed for this project follows the overall PTSL cycle and aims to pilot the Fit-for-Purpose approach to land administration (see **Annex 1**). As a methodology, the Fit-for-Purpose approach suggests that land administration systems (especially the underlying spatial framework of large scale mapping) should be designed for the purpose of addressing the current land issues within a specific region rather than simply utilizing the most advanced technology. The approach advocates low-cost approach along with community participation, and seeks to maximize involvement of landholders in mapping and delineation of parcel boundaries. Key features of the Fit-for-Purpose approach include being: a) flexible in the spatial data capture approaches to accommodate changes in land use and occupation overtime; b) inclusive in scope to cover a range of tenure rights; c) participatory in the approach to data capture to foster community support; d) affordable for the government to establish

[6] In order to implement the program, President Joko "Jokowi" Widodo on 13 February 2018 has signed A Presidential Instruction Number 2 of 2018 on the Acceleration of Complete Systematic Land Registration to all parcels of land in the Republic of Indonesia was signed by President Joko Widodo to instruct the government officials to take necessary measures in accordance with their respective tasks, functions, and authorities in order to implement the acceleration of Complete Systematic Land Registration throughout Indonesia as a part of National Movement. The move is aimed at manifesting a complete land registration throughout Indonesia and to support National Strategic Projects. The subjects of the Presidential Instruction are: 1. Minister of Agrarian and Spatial Planning/Head of National Land Agency (BPN); 2. Minister of Environment and Forestry; 3. Minister of Public Works and Public Housing (PUPR); 4. Minister of Home Affairs; 5. Minister of State-owned Enterprises; 6. Minister of Finance; 7. Minister of Villages, Disadvantaged Regions and Transmigration; 8. Indonesian National Police Chief; 9. Attorney General of the Republic of Indonesia; 10. Head of Government Procurement of Goods and Services Agency; 11. Head of National Institute of Aeronautics and Space; 12. Head of Geospatial Information Agency; 13. Governors; and 14. Regents/Mayors.

and operate and the society to use; e) reliable in terms of information that is authoritative and up-to-date; f) attainable to establish the system within a short timeframe and within available resources; and g) upgradable with regard to incremental improvement over time in response to social and legal needs and emerging economic opportunities.

FIGURE 4. AN OVERVIEW OF THE PTSL

What is PTSL?

A pro-active measure to provide a secure, low-cost, and reliable approach to registering all lands across Indonesia.

What are the principles of PTSL?

- Makes use of existing legal frameworks.
- Provides clear working steps with administrative responsibilities and good work organization.
- Procedures and tools must be clear and standardized and applicable for government personnel working at sub-district/district levels.
- Provides for clear target group orientation.
- Land mapping and registration procedures should be digitized to the highest degree possible.
- Necessity to use modern technology with required accuracy.
- Systematic registration to optimize costs in relation to outputs (maps, certificates).
- Provides for countrywide applicability in view of existing mandates, responsibilities and management capacities.
- Flexible design to meet needs and expectations of the population.

Reference: Ministerial Regulation of ATR/BPN No. 12/2017

What are the products of PTSL?

- Systematically and in a participatory manner mapping all lands in a specific area.
- Public display listings.
- Sorts out land parcels according to current legal status.
- Data and information for registration.
- Documentation ready for generating title certificates when necessary.

Who is responsible for implementing PTSL?

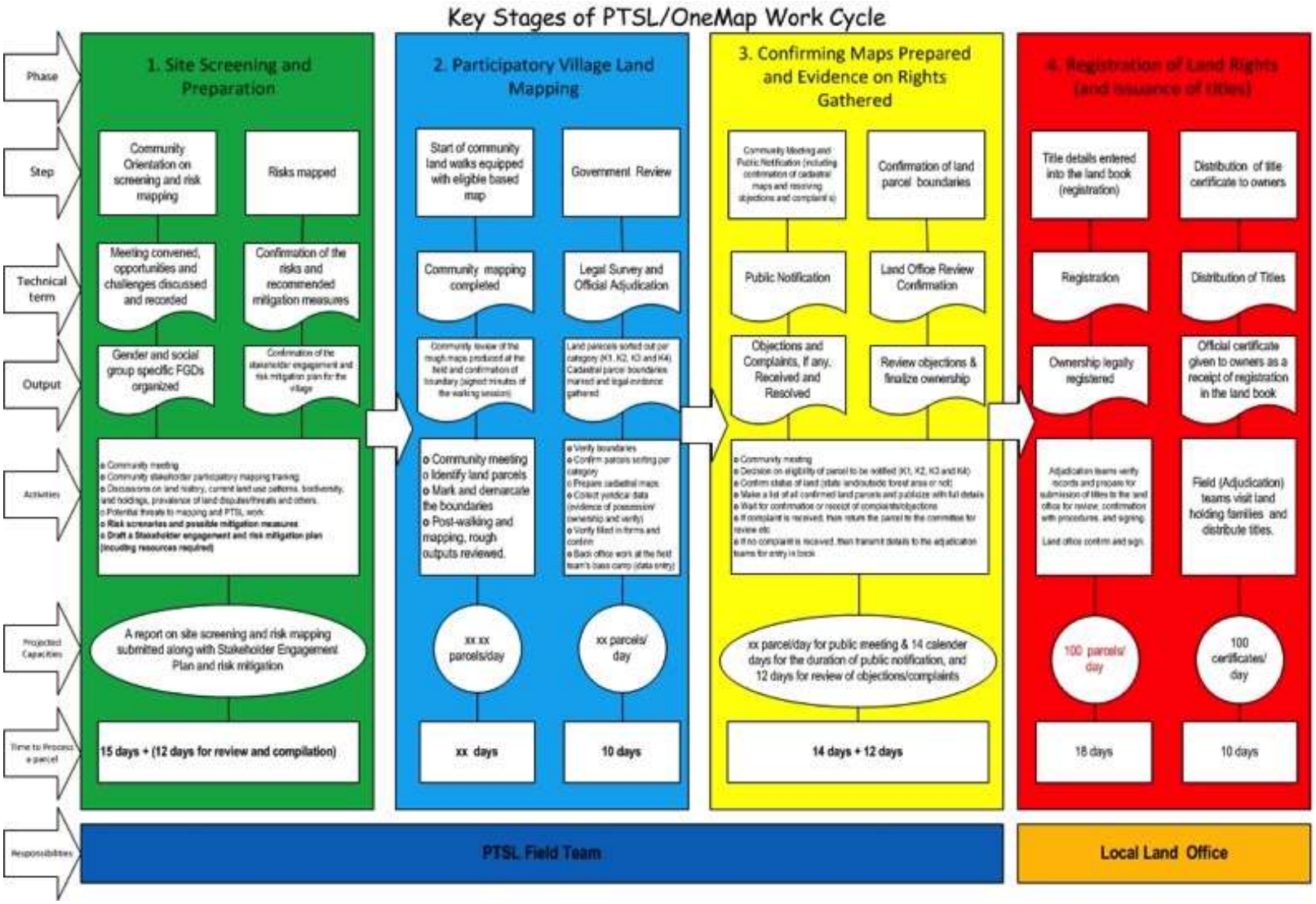
- ATR/BPN is implementing PTSL through its district land offices (Kantah)

Benefits of PTSL

- Legally recognized boundaries between settlement areas, farmland, common areas and forests are gradually generated.
- Land disputes/encroachments are identified and addressed (leading to more transparency of land use rights).
- Generates data for better protection of natural resources.
- Provide additional value to and make use of spatial planning activities.

Key processes/steps in the PTSL are illustrated in **Figure 4** below. The area marked in red color indicates that specific activities (i.e. land registration) will be financed by the government's budgetary resources (APBN) and will not be financed out of Bank credit.

FIGURE 5. KEY STEPS/STAGES OF PTSL CYCLE



VI. SCOPE AND APPROACH OF THE ESMF

The ESMF supports the project design to ensure that adverse environmental and social impacts are avoided or appropriately mitigated and compensated for. It is based on the GoI's safeguards policies and guidelines as well as World Bank's policies and requirements. It lays out the process concerning site-screening and risk mapping, team preparation, implementation and monitoring of the ESMF work plan in an orderly manner. Environmental and social issues will be tracked during all stages of project implementation to ensure that project-financed activities comply with the policies and guidelines laid out in the ESMF.

The ESMF has been prepared to provide guidance for implementing agencies (ATR/BPN and BIG) to ensure that potential environmental and social risks and impacts resulting from and/or associated with the proposed project investments are adequately assessed and managed. The ESMF scope is land administration, which is in line with the PTSL processes and the broader Agrarian Reform and One Map Policy. The ESMF covers screening of all relevant risks and impacts whose mitigation measures fall under the purview, capacity and authority of ATR/BPN (further described in **Chapter 2 and 3 and Annex 3)**, including citizen engagement, grievance handling and capacity building related to social and environmental safeguards under the project.

Potential indirect and induced environmental and social risks that fall outside ATR/BPN's mandates and authority to control, regulate and/or manage (for instance management of natural resources and tenure security in Forest Areas including concessions) would be addressed as part of broader policy discussions under Component C.2 of the project. Potential displacement or access restrictions in Forest Areas will be addressed through the RPF and PF (**Annex 6**). In this ESMF document, analysis of ATR/BPN's risk management capacity will be further elaborated in the section on institutional responsibilities (**Chapter 4**).

In preparing this ESMF, a framework approach was adopted since specific locations will be decided during project implementation. The ESMF adopts a risk management hierarchy approach which, first and foremost, avoids adverse impacts whenever feasible. In circumstances where risks and impacts are inevitable and/or foreseen, mobilization of resources for mitigation measures will be

commensurate to risk levels and adaptive to risks as they emerge and/or change during implementation.

The ESMF takes into account lessons learned and important insights gleaned from implementing safeguards in other projects in Indonesia that have resonance for the proposed project on the Agrarian Reform and OMP. These include:

a. The need to build in-house capacity of implementing agencies to identify, manage and monitor environmental and social safeguards issues;
b. The importance of timely and systematic consultations with all stakeholders, including appropriate approaches for Indigenous Peoples and *Adat* communities, respecting social structures, language, cultural norms, timeframes;
c. The need to establish a responsive and accessible GRM at the outset of the project which will also act as an "early warning system" and provides locally accessible mechanisms for dispute resolution; and
d. The need to make adequate budgetary provision to ensure the effective implementation and management of all safeguards elements in the ESMF.

An overview of the measures planned includes:

a. Prior to the implementation of mapping processes, an early on-site screening process would be conducted for each sub-district by the PTSL Taskforces in consultation with village stakeholders (including women) and authorities and community representatives to identify conflict potential (e.g. map out extent and features of various *Adat* claims, overlapping land claims, etc), areas with high-conservation values as well as forest and concession boundaries. The screening results would inform whether the villages are mapped or not, what engagement approaches risk management efforts and oversight are warranted. Based on the assessment, decisions with regards to "site eligibility" or "no-go" and proposals for alternative locations will also be made at this stage. The process will ensure that communities are well informed that they will have the ability to appeal to cancel the mapping process and that measures will be in place to enable them to do so;
b. The project would ensure that an early warning system is in place during project implementation by ensuring defined steps of risk reporting and grievance feedback to the respective Adjudication Committees, PTSL Taskforces, PIM units and PMU[7];
c. The project would introduce mechanisms for strengthening receiving (and responding to) citizen feedback and build on existing GRM, to ensure they are widely communicated, accessible and affordable and that increased resources and effort is invested in community dispute mediation approaches, noting that these may be more culturally appropriate and more effective; and
d. Following the completion of PTSL processes, periodic social and environmental monitoring will be coordinated by the ATR/BPN's research department and the community empowerment sub-section of the ATR/BPN District Office (*Kantah*) in the target areas. These periodic assessments will include a module on participation. Results of social monitoring processes will inform the PTSL team if risks emerge following prior to or upon completion of PTSL and mobilization of necessary mitigation measures. Social monitoring will also inform broader policy discussions, particularly with regards to long-term impacts of strengthening tenure and asset security and management of natural resources attributed to PTSL.

[7] Risk management at the implementation level are generally directly managed by the respective PTSL Taskforces, who report to the Adjudication Committee, led by the Head of District Land Offices or his/her delegated officer. As such, field teams will keep respective district offices in the communications and will be guided by them. All public inquiries and complaints are managed on a case-by-case basis either at district, provincial or national offices (for further details, refer to Section on Complaints and Grievances Handling).

The impacts and mitigation measures proposed are detailed in **Chapter 3, 4 and 5**. Further details of the steps and institutional responsibilities for the ESMF implementation will be discussed in **Chapter 4**, along with the ESMF implementation road-map in **Chapter 6**.

VII. PREPARATION OF THE ESMF

The preparation and development of the ESMF was led by a Working Group comprised of ATR/BPN officers drawn from relevant departments and representatives from the BIG (A list of members of the Working Group is presented in **Annex 7).** The process consisted of several stages as follows:

A. STOCK-TAKING AND SYNTHESIS

- Review of the relevant GoI's policies, regulations and guidelines that would relate to project objectives, particularly those related to land administration and management (and PTSL) were assessed for their relevance and adequacy vis-à-vis the environmental and social provisions under the World Bank's Safeguards Policies (further described in **Annex 2**);
- A systematic analysis of the vast body of knowledge produced by ATR/BPN, BIG, the World Bank and other development partners was undertaken to ensure robustness and validity of the assumptions used in the ESMF. This included mapping out the issues related to the intersection between land and natural resources management and social policies, in particular, policies directed to local populations, and especially Indigenous Peoples, *Adat* communities, and those residing in or near Forest Areas and also those residing in non-Forest Areas[8].

B. FIELD VISITS AND CONSULTATIONS

- ATR/BPN carried out stakeholder consultations during field visits in Grobagan District of Central Java and Dumai District of the Riau Province between mid-2017 and early 2018. The principle objective of these visits was to verify secondary data, clarify examples raised during meetings, investigate opportunities for pilot activities, and seek local input on issues and options for handling of social and environmental impacts.

C. MULTI-STAKEHOLDER ENGAGEMENT AND PUBLIC CONSULTATIONS

- Meetings between the working group and several national and sub-national and NGO/CSO groups to triangulate issues and identify potential constraints and bottlenecks with regards to mitigation measures proposed in this ESMF.
- A series of Focus Group Discussions (FGDs)/workshops were held between January and February 2018. Feedback, recommendations and concerns raised in these FGDs were used to validate key assumptions and improve risk mitigation measures proposed in the ESMF. These processes were also used to ensure that the ESMF is known across stakeholder groups, particularly within ATR/BPN departments and offices and key safeguards measures.

[8] The team also analyzed the different themes which have arisen in Indonesia's land-related social policies, notably: a) land holders' access to land and agrarian reform; 2) community forestry and smallholder farms; 3) IPs, *Adat* and urban poor communities; and 4) reaching out to women and disadvantaged groups. Further analysis of Indonesia's land sector policies and legal issues is presented in **Annex 1.**

Discussions at FGD1 in January 2018

D. DISCLOSURE

- The draft ESMF was publicly disclosed at ATR/BPN website 10 April 2018 and copies disseminated to key stakeholders, including civil society groups. A first consultation workshop involving key stakeholders from the national and sub-national levels along with civil society representatives was held on 19 April 2018 (see **Annex 10 and 11** for FGD documentation and minutes of consultation). The public consultation was chaired by Minister of Agrarian Reform and Spatial Planning Mr. Sofjan Djalil and attended by representatives from national and local civil society and advocacy groups on Agrarian Reform, indigenous peoples and local community rights, governance reform, and women affairs, as well as representatives from the Indonesian Surveyors Association. Among the leading sector activists that attended were the Executive Director of Consortium for Agrarian Reform/KPA (that represents 85 CSOs including local chapters of AMAN, and 68 local and national NGOs), and representatives from DGMI National Steering Committee, the Samdhana Institute, and Kemitraan. Discussion was vivid, and representatives provided multiple suggestions to the ESMF including on the risk and risk mitigation measures related to communal and indigenous peoples' rights. Subsequently, these inputs have been incorporated by ATR/BPN in this revised ESMF. The consultation ended to a consensual agreement to continue discussion on the project implementation arrangements and risk mitigation with the civil society organizations periodically throughout project implementation.
- Key points of discussion from this first consultation included: a) the scope and position of the project in the bigger Agrarian Reform Program, b) focus on targeting forest-edge communities as well as plantation areas (HGU) which are often plagued with conflicts, c) handling of *Adat* claims which have continued to evolve, d) capacity and governance risks due to large targets, e) bottom-up process for the identification of TORA (land redistribution) scheme under the PTSL, f) incorporating villages mapped within the Forest Areas (est. 25,000 villages), including transmigration sites, g) collaboration with MoEF, h) perverse incentives for parcel mapping, i) impacts of land distribution and asset legalization on people's welfare and poverty alleviation. Some of these concerns, particularly with regards to the handling of *Adat* claims, management of risks in forest-edge areas, community participation, have been addressed in the ESMF and supplementary measures to ensure gender representation, community engagement, and protection of *Adat* land claims have been mainstreamed in the ESMF. Other concerns are related to the broader policy development and project design which will continue to be revisited during the project implementation.

- A second public consultation was held on 28 May 2018. The consultation was undertaken following the revision of the ESMF taking into consideration feedback from the first consultation. The revised ESMF, in Bahasa Indonesia, was disclosed on the ATR/BPN website prior to the consultation. Consortium for Agrarian Reform KPA, two representatives of AMAN representing the regions, Serikat Petani Pasundan, Sayoga Institute, and the Indonesian Surveyor Association. Representative of the MoEF including from the Forest Investment Program-2, as well division heads from provincial land offices were also present. The consultation session discussed the revisions made to the ESMF as a result of the 1st consultation which then were confirmed by the stakeholders. The addition of Annexes 4 on CPF and IPPF and 6 on RPF and PF were presented. Inputs to these instruments, including representing regional perspectives were requested at the start of the meeting. Participants from AMAN, KPA, and Sayoga Institute provided many useful inputs aimed at ensuring that communal and *Adat* claims are provided with clear administrative procedures for tenure regularization. The meeting also discussed the resettlement option currently included in the PPTKH. Participants both from Government and civil-society generally viewed that resettlement should be avoided, and therefore the policy (PPTKH) would need to be revised and options for avoiding resettlement to be prioritized to be clearly defined and would be considered under Component 3 of the Project. If indeed involuntary resettlement is unavoidable, the standards and processes will need to be defined as part of implementation procedures of PPTKH. The meeting reached important consensus that the results of participatory mapping of *Adat* claims covering 9 million hectares facilitated by AMAN proposed sites for Agrarian Reform in 406 locations facilitated by the KPA will be available for the Project to support the risk mapping and screening[9].

VIII. LIMITATIONS

The environmental and social risk management measures outlined in the ESMF shall be viewed with the following important notes and limitations:

a) The project does not directly concern Forest Areas, nor land-use, nor land rights in the Forest Areas. Land rights and landholders in Forest Areas may be subject to indirect and downstream impacts of the Forest Area boundary demarcation.
b) Resolution of deep-seated issues in land and natural resource management hinges upon good governance, authorities, consensus and political-will which spread across key ministries and agencies. Under the context of PTSL, the project represents a step-wise approach to establishing clarity over actual land parcel and village-administrative boundaries, asset legalization (parcels classified as K1), and inventory of overlapping claims and land disputes (parcels classified as K2 and K3). Such efforts serve as a building block for improved land and natural resource governance over the long-term.
c) The ESMF has been developed to address potential risks and impacts resulting from the project's direct investments which relate to land administration, not the broader land and natural resource management issues. The latter will be addressed by other government programs, notably the Social Forestry and TORA (land redistribution), currently being implemented by MoEF in collaboration with ATR/BPN. Indirect social impacts (displacement

[9] Indonesian Laws and regulations refer to *Adat* rights based on Government recognition to an indigenous community group as Legally Recognized *Adat* Community (*Masyarakat Hukum Adat*). Such a legal recognition falls within the realm of broader National Unity and Politics (*Kesatuan Bangsa dan Politik*) along with recognition of other civic rights. The jurisdiction for *Adat* recognition rests within the Local and Provincial governments (not under land administration or forest management). Therefore the 9 million hectares mapped through the participatory process may not necessarily covering all legally recognized *Adat* community. But the information serves as an important baseline for the project in managing *Adat* and communal claims.

and access restrictions) in Forest Areas will be addressed through the RPF and PF of the ESMF (**Annex 6**).

d) The GoI is formulating and amending several policies and regulations pertaining to land and natural resources that may fundamentally change the way the government and other stakeholders work. The analysis presented is based on the contexts at the time the ESMF was developed with the assumptions that the broader picture of risks and impacts remain similar. The ESMF nevertheless strives to capture such risks in a broader sense to ensure that mitigation measures are responsive and adaptive regardless of changes in policy and regulatory contexts.

CHAPTER 2: ASSESSMENT OF ENVIRONMENTAL AND SOCIAL ASPECTS

I. OVERVIEW OF RISKS AND IMPACTS

This section of the ESMF provides an overview of general and specific risks and impacts identified as potentially occurring as a result of the project activities. It is the basis of the mitigation plans outlined in later sections, and of the resourcing requirements, including capacity building and monitoring activities, associated with the ESMF.

Based on the analysis, through the processes outlined in the previous chapter, the potential environmental and social risks of the project are mostly associated with 1.1 (Fit-for-Purpose Cadastral Mapping), 1.2 (Land Registration), and 1.3 (Forest Boundary Demarcation).

The project has been classified as a Category A (High Risk) project for Environmental Assessment. The high risks are primarily third party and downstream risks associated with the project scope not covering the Forest Areas.

Overall, the project is expected to yield positive environmental and social benefits by: (a) documenting changing patterns of land use and deforestation; (b) providing demarcation of external boundaries of Forest Areas including State Forests (production, protection and/or conservation forests), thereby enhancing the government's capacity to provide the necessary protection; (c) reducing the probability of issuance of conflicting or inappropriate land use licenses; (d) providing incentives for improved land management; (e) improved community livelihoods based on sustainable natural resource management; (f) provision of up to date geospatial base data (i.e. orthorectified high resolution satellite images) for line ministries and agencies to enhance natural resources management and g) social impacts of registration and then titling (security of tenure, inclusiveness, health and education, residential mobility). The potential social impacts will be mitigated through measures that reflect Bank policy. The measures will also take in good practice from other projects and regions, be adaptive and responsive to local socio-economic and cultural contexts and groups that may be potentially affected by the project activities.

The potential adverse environmental impacts would not be large-scale and can be avoided or minimized through mitigation measures that have been applied in similar Bank-supported land projects. The only direct potential environmental impacts from the project would be associated with minor renovation works of land office facilities. Such renovation activities are expected to have low impacts. Potential risks would be improper disposal of construction wastes (e.g. asbestos materials) and injuries resulting from the lack of use of proper personal protection equipment (PPE). Most of those impacts will be addressed by adopting and implementing Codes of Practice for Health, Safety and Environment that would be formulated during project preparation and embedded in renovation contracts (see **Annex 7**). If asbestos-containing materials were encountered during renovation work, handling and disposal would be in accordance with standard asbestos management measures that are

included in the ESMF. Other potential risks would be improper recording of areas with high-biodiversity values (such as wetlands, mangroves, etc.).

The ESMF seeks to strengthen the current PTSL protocols[10] to include measures for environmental screening and potential findings of any physical cultural resources prior to the mapping activities by developing a Physical Cultural Resources Management Framework (PCRMF – see **Annex 8**), as well as coordination with relevant agencies managing conservation and protection.

Across Indonesia, a large variety of grievances and disputes around land tenure and access to land-related resources exist, ranging from disputes within families about division of inheritance or limitations of land plots, to those resulting from occupation of land by investors or in-migrants, or those about land-between farming households and government authorities. Many of these issues have been caused by lack of clarity over land boundaries, weak legal protection of rights and poor recognition of land uses by Indigenous Peoples, *Adat* communities, forest dwellers, and swidden farming communities. Unresolved grievances continue to build up. The PTSL program along with the OMP are intended to address these underlying issues, but may also - through the nature of the topic and activities – reduce the community-level tensions on land issues that are brought to the team for resolution.

The GoI is aware that the proposed exercise of mapping of Forest Areas and village boundaries and preparation of complete parcel map and land registry in selected non-Forest Areas can be a contested and a conflict-laden process. This may result in the unintentional exclusion of marginalized and vulnerable households and community groups, in particular Indigenous Peoples and *Adat* communities. Past experiences indicate that participatory mapping can raise dormant conflicts and tensions at local level that will have to be addressed with adequate outreach and socialization efforts. Furthermore, both formal and informal (and traditional) decision-making institutions and structures at the local level often exclude groups such as women, Indigenous Peoples, *Adat* communities, poorer households and disregard their priorities when determining the allocation and use of community assets. The backdrop of fragmented land and natural resource governance, vested interests and various deep-seated issues may thus also affect the program and its intended beneficiaries. The issues are inherent in nature, requiring multi-sectoral collaboration and political will for some resolution.

[10] The current PTSL protocols mention about the possibility of the finding of "important objects" during mapping exercise.

Particular attention to citizen engagement, community participation, Indigenous Peoples, *Adat* communities, and gender in particular, along with robust effort to strengthen the GRM, are thus critical elements in this program approach.

The project activities will directly involve and affect Indigenous Peoples and *Adat* communities and their territories, thereby affect them including their livelihoods. The Indonesian legislation stipulates several criteria for certain communities to qualify as Indigenous Peoples and *Adat* communities. One particular distinguishing characteristic that differs from the World Bank Policy (OP 4.10) is the need for legal recognition of Indigenous Peoples and *Adat* communities concerned (i.e. issuance of district decrees/regulations affirming their existence). Under the context of the ESMF, if Indigenous Peoples and *Adat* claims are found outside Forest Areas and where claims are not contested, regular mapping processes and legalization of tenure will be facilitated. If contested, the project will facilitate dispute resolution and formal appeal procedures. However, even in such instances there is a limit to the extent ATR/BPN can exercise their authority and on a case-by-case basis field teams, in consultations with respective land offices, will take necessary action. On the other hand, if Indigenous Peoples and *Adat* claims are reported within specific Forest Areas, or with areas that overlaps along forest boundaries or within concessions, necessary identification and documentation in the e-land database platform would be made. Resolution of tenure settlements will be subject to the actions of other agencies/ministries e.g., MoEF and the project will help foster the necessary coordination and cooperation.

All identified potential environmental and social risks and impacts are presented by component in matrices as **Annex 3.** The general issues which may be anticipated during the project implementation are summarized as:

a. Lack of stakeholder participation during mapping activities, which could stem from lack of prior information, exclusion of certain groups including Indigenous Peoples, *Adat* communities, and women in the village structures and consultation processes, the mapping process does not take into account availability of certain groups and women to participate where and when the mapping process takes place;
b. Lack of willingness to participate by certain village governments and communities due to existing practices of village-level titling with land tax implications which they see as a disincentive to participate in this project;
c. Lack of community participation (especially women and indigenous women in particular), including lack of willingness of some parties such as village leaders or company representatives, to participate, which can affect the overall mapping process and data collection (physical and legal data of land claims);
d. Potential for tension and conflicts, stemming from lack of relevant information and socialization (about the process and rights and responsibilities), and from suspicion that lands will be taken away or from fears of reprisal by companies or other parties in some areas;
e. Reputational risks and heightened political tension due to public expectations that the project will deliver tenure security in disputed areas and address land claims within Forest Areas (*Kawasan Hutan*) including State Forests, private concessions and/or any other claims classified as government assets which the project does not have the mandate to address.

With regard to (e) above, ATR/BPN is not mandated to work in Forest Areas, which naturally means that it cannot facilitate any regularization or dispute resolution in State Forests. These are MoEF responsibility and are dealt with under the Social Forestry and TORA (land redistribution) programs and regulated by the Presidential Regulation 88/2017.

There are also indirect impacts that may occur, due to project activities in varying degrees, following the completion of the PTSL process. Such impacts have been analyzed in detail and while not within the direct scope of this ESMF, but summarized for reference:

a. Increased land-speculation and presence of influential land speculators. Despite their understanding of the benefits of land titles, land holders may be encouraged to use their certificates as collaterals or sell their lands for cash;
b. Potential land use changes/conversions due to erroneous classification and subsequent titling of lands with high-conservation values;
c. Potential future disputes due to erroneous titling which may not be detected and/or identified during the project implementation; and
d. Land use changes with potential positive and negative impacts on local community livelihood options.

The project activities do not involve land acquistion nor does the project displace people nor their resources. The project does not support participatory mapping or certification in areas under territorial land disputes or conflict, and the project does not cover areas inside the Forest Area. Although the direct footprint is limited the project however has potential for downstream indirect impacts related to subsequent forced evictions and restrictions of access by third parties. For example, as a result of increased scrutiny and regularization of land tenure by MoEF as the custodian of the Forest Areas including State Forests. Therefore the World Bank Policy (OP 4.12) on involuntary resettlement is triggered as a cautionary approach and a Resettlement Policy Framework (RPF) and Process Framework (PF) (**Annex 6**) has been prepared to manage such potential risks if they happen during project implementation.

There is potential high social risk due to possible third party and downstream impact of the project in particular to Forest Area dwellers. To address these other risks, institutional collaboration with the Ministry of Environment and Forestry (MoEF) will be key. The collaboration will help address the complex nature of land governance in Indonesia and issues arising from Forest Area outer boundary demarcation activities. MoEF will also be needed to implement the RPF and PF if forced displacement and access restrictions occur in Forest Areas demarcated under the proposed project. The ESMF outlines necessary mitigation measures, including institutional arrangements and roles and responsibilities under the program management.

Approaches to risk and impact mitigation, including policy approaches and specific direct measures are provided in **Chapter 3, 4 and 5**.

II. POLICY AND REGULATORY FRAMEWORKS

This section of the ESMF provides an overview of the legal and regulatory framework guiding the social and environmental impact management approaches under the ESMF. It includes analysis of World Bank Policy and any gaps for attention to improve the project's safeguard planning and implementation. The section comprises: a) analysis of institutional frameworks governing land administration; b) assessment of policy and regulatory frameworks governing environmental and social aspects of the project (direct and indirect risks and impacts); and c) assessment of WB's safeguards policies and the GoI's policy and regulatory frameworks relevant to the project.

A. INSTITUTIONAL FRAMEWORK FOR LAND ADMINISTRATION

At the formal level, there are two separate systems of land administration in Indonesia that cover either Forest Areas (*Kawasan Hutan*) and non-Forest Areas. ATR/BPN is responsible for land administration in non-Forest Areas, currently covering around 35 percent of the entire land mass in the country. Land administration in Forest Areas falls in the domain of the MoEF. The Forest Areas currently cover around 65 percent of the entire land-mass of Indonesia. MoEF holds the legal mandate to demarcate forest boundary, and carries out this responsibility through an inter-ministerial task force involving ATR/BPN and Ministry of Home Affairs (MoHA).[11] This process formally demarcate and establish forest boundaries and the results are announced in a MoEF decree (*Surat Keputusan*/SK). However, physical demarcation of Forest Areas and non-forest land may not be clearly visible on the ground. In addition, many parts of the land areas recognized or enacted as forest have been occupied and cultivated by communities for a long period of time and hence these are no longer forested.

Community occupation within Forest Areas is often perceived by MoEF as illegal and tenure rights as well as other rights to basic services are not guaranteed. Such issues have been complicated by various forest logging, plantation and mining concessions (administered by Ministry of Energy and Mineral Resources/MoEMR), which may overlap with community claims and favor concession holders over long-standing occupants of lands being acquired and/or leased. Lack of clarity over boundaries, protection and recognition of tenure rights and occupation of people living near and/or within forest zones and concession areas have led to both horizontal and vertical conflicts between communities, the government and concession holders. A more detailed description of divisions of roles and authorities in the land sector is further described in **Annex 5** (Contextual Overview of Land and Natural Resource Management Issues in Indonesia).

B. LAND ADMINISTRATION IN NON-FOREST AREAS (AREA PENGGUNAAN LAIN)

In line with its mandate, ATR/BPN delivers land administration services, including registration and certification in two modalities i.e., sporadic and systematic titling. Sporadic certification is based on demand (i.e., landholders requesting certification). Such a modality was parcel-specific and considered prevalent in the past, often resulting in inefficiency (e.g., higher costs), surveyed land areas remaining partial and incomplete and delineated boundaries, or land parcels that cannot be identified in the map (commonly referred to as “flying parcels”).

[11] Refer to MoEF regulation No. 93/2016. Also refer to Basic Forestry Law of 1967 and later amendments to it.

In recent years, ATR/BPN has begun implementing a systematic land registration[12] with the launch of PRONA (*Program Nasional Agraria*/National Agrarian Program) in 2015 (Regulation of ATR/BPN no.1/2015, further elaborated in Regulation of ATR/BPN no. 28/2016). PRONA requires complete village certification and is targeted to the poor. Implementation of PRONA has been challenged by limited budget to meet village-wide coverage. Furthermore, since subsidies for certification are only available to landholders classified as being "poor", complete village-wide certification remains incomplete due to some people's lack of interest to participate and willingness to pay fees for certification.

In line with those recommendations, in 2016 ATR/BPN launched a complete village-based land registration, namely the PTSL. PTSL is designed to be a completed mapping exercise, leaving no land parcel unmapped and unregistered. Follow-on regulations, such as joint-decree of ATR/BPN, MoHA and MoV (SKB 3 Menteri) provide clarifications on financing aspects as well as request for district government support for the acceleration of PTSL. Most recently, the Presidential Instruction No.2/2018 calls for joint facilitation by MoEF on forest boundary demarcation as well as multi-stakeholder support and coordination, including data-sharing, administrative investigations in the events of complaints or administrative errors (instead of direct criminal charges), and financing arrangements (i.e., tax reduction).

C. LAND ADMINISTRATION IN FOREST AREAS

MoEF is responsible for forest boundary demarcation in the Forest Area including land tenure regularization and dispute/conflict settlements within the Forest Area. Previously, access to forest land in the Forest Area was primarily available only to business entities (as concessions). Such land use concessions within Forest Areas are granted in the form of leases, such as in the case of logging (IUPHHK and IUPHHK-HTI) and mining activities (*Hak Pijam Pakai*). The formal process of reclassifying Forest Areas and declare them as 'eligible for non-forest uses' is required for plantation concessions (also known as rights to cultivate or HGUs). Due to lack of clarity over boundaries and legal recognition of land claims within Forest Areas, access to formal forest tenure by local communities was limited and this has resulted in conflicts.

In recent years, opportunities have been created through the Social Forestry schemes to improve and strengthen 'access rights to the Forest Areas' particularly amongst forest dependent communities, including Indigenous Peoples and *Adat* communities. Such schemes provide usufruct rights only,

[12] Systematic land registration was first adopted as a method for land administration and titling of land holdings in 1961. However, the original 1961 systematic registration did not take off due to proliferation of requests for sporadic certification land holdings and weak institutional capacities to undertake systematic registration work. Later, as part of World Bank-financed projects, BPN piloted systematic land registration and titling programs during 1996-2009 period in select areas.

whereas ownership for such areas remains with the State. Opportunities for further recognition of community claims over forest lands were further reinforced following the Constitutional Court decisions MK45 (2011) and MK35 (2013). Both of these rulings challenged the classical definition of Forest Areas and created a space for negotiation between the Government and forest-dwelling communities, including Indigenous Peoples and *Adat* communities to have their land claims legally protected and recognized.

It is to be noted that the Forest Area administration intersects with customary land ownership *(Adat or Hak Ulayat)* in two ways: a) since most forest land is traditionally owned or occupied, land mapping requires the full participation of customary land owners for better results; and b) mapping itself may pose threats to customary land ownership where land tenure is inadequate or insecure, prompting communities to feel vulnerable. It is necessary to ensure that customary landholders and forest-dependent communities have access to adequate information on decisions affecting their land, whether in non-Forest Area or Forest Areas, and neighborhood.

In the last 20 years – and more so since 2013 - the GoI has taken a number of measures to clarify interpretation of several laws and regulations both at the national and sub-national levels to strengthen community rights over land and natural resources to strengthen land governance in the country. Such measures are expected to support and speed up the current phase of reforms in the land sector. Building on such positive developments, the current government initiatives such as PTSL and OMP are helping to address issues critical for safeguarding the rights of people to own or access to land, forests and fisheries, and can provide a strategic tool for addressing specific tenure related programs both in non-forest and Forest Areas.

In 2017, Presidential Regulation 88/2017 was enacted to support settlements of land occupancies, including conflicts within Forest Areas by way of a joint taskforce involving ATR/BPN, MoEF, and MoHA under coordination of the Coordinating Ministry of Economic Affairs (CMEA). However, implementation of this regulation was reported to have been challenged by lack of collaboration across key agencies, lack of technical guidelines and availability of data with regards to boundaries and actual land use. The new Presidential Instruction No.2/2018 on Acceleration of PTSL is intended to address such weak sectoral collaboration among government entities by bringing key stakeholders on board during its implementation.

D. GOVERNING REGULATORY FRAMEWORKS FOR ADAT LAND RIGHTS

Land areas held under *Adat* claims are primarily administered and managed by sub-national governments. Their mandate includes: (a) supporting Indigenous Peoples, *Adat* and local communities to manage land in public and private domains; (b) resolving land conflicts; (c) allocating land for collective purposes; (d) supporting land offices to create property titles and update the cadaster; and (e) coordinating with the judiciary and other government departments. Though the recognition of rights takes place largely at regional level, the district head or the governor is authorized to designate *Desa Adat* (customary village or community). The next process is to register the *Desa Adat* to the provincial government and to gain its code number from the MoHA through its line departments at the respective location. With regard to recognition for customary rights, ATR-BPN is responsible for granting collective rights (*Hak Komunal*) and MoEF issues decrees on *Hutan Adat* (customary forests) or permits for forestlands (e.g., social or agro-forestry).

In May 2013 the Constitutional Court ruled that *Adat* forests are not part of the State forest (*Kawasan Hutan*). This Court decision modified the sub-classification of what was known as Forest Areas as: Titled Forests (*Hutan Hak*), and State Forests (including concessions, village forest programs as *Hutan Desa*, and *Hutan Hak*, those areas held by *Adat* communities). This decision further implied that *Adat* forests, wherever legally recognized, would be assumed to be the collectively owned forests of Indigenous Peoples and *Adat* communities i.e. part of the Titled Forests category.

Following the Constitutional Court decisions, several ministerial regulations were adopted that stipulate formal procedures for the protection and recognition of Indigenous Peoples and *Adat* status and their land rights. Such procedures empowered local governments to support the claims of Indigenous Peoples and *Adat* communities' rights over access to land. The authority to grant recognition of Indigenous Peoples status and land rights is granted by the Forestry Law (1999) and relevant ministerial regulations containing procedures for regional governments (or district governments). Indigenous Peoples status (as a community) is decided by regional governments and also authorized to make an assessment of their land claims. These new set of regulations defined roles and responsibilities with regard to key process questions on administration of Forest Area (*Kawasan Hutan*). Upon issuance of this local recognition (*Perda*), land rights of the respective Indigenous Peoples community will be subsequently to be confirmed at the ministerial level (either MoEF or ATR/BPN), depending on the legal procedure employed.[13]

[13] There are generally three legal procedures available for communities to obtain Indigenous Peoples status and land rights each leading to different types of legal recognition: (1) Regulation of the Ministry of Home Affairs (MoHA) no. 52/2014 that mandates the committee known as *Panitia Masyarakat Hukum Adat* (Panitia) and outlines procedures to recognize and protect customary *(Adat)* communities; (2) the Joint Inter-ministerial Regulation no. 79/2014 that encouraged the establishment of *Tim Inventarisasi Penguasaan, Pemilikan, Penggunaandan Pemanfaatan Tanah* (IP4T) obliging local officials to review the claims and provide recommendations to the MoATR/BPN and MoEF. This regulation put in place procedures to address issues related to land status and resource conflict within the Forest AreaForest Area (*Kawasan Hutan*). Upon receipt of a claim from the community, respective district heads are authorized to establish the committee/team to work through details for a resolution. Both the *Panitia* and the IP4T are required to conduct field validation and verification and submit a report to the district or provincial government; and (3) Regulation no. 9/2015 by

Recognition of communal land rights is currently regulated under the Ministerial Regulation of ATR/BPN No. 10/2016. Under the regulation, district land offices (Kantah) play an important role in determining the legal status of *Adat* communities concerned. *Adat* communities submit a preliminary application to the District Land Office following which the process for determining communal rights is triggered and procedures for determination of communal rights on customary land will be launched. On the basis of the report prepared by a team of government officials representing key ministries (known as IP4T teams) following their field verification, land tenure settlements will be handled depending on the status of the land claimed. If such claims are located within the Forest Areas, the IP4T will hand over the verification results to the MoEF in order for the claimed parcels to be released from the Forest Areas. If the land claimed is located within non-forestry concession areas (e.g. HGU), the IP4T will request the license holders to enclave the land parcels claimed and release them from the HGU areas. The granting of communal land titles by ATR/BPN will be subject to MOEF and HGU owners' willingness to release parts of their territories claimed by *Adat* communities. For *Adat* communities to be eligible to communal right titles, formal recognition of their existence as *Adat* (by district governments) is required.

In sum, the current legal framework encourages a community to apply for recognition of rights after submitting an application and documentation to seek land rights. This is bundled with the community's application seeking legal status (for them to be recognized as a legal personality). As such, the application is acceptable from a legal point of view as the community now has legal personality after formal recognition. *Adat* communities can apply for rights to land and other natural resources and rights (authority).

In addition, Village Law 6/2014 introduces a new category of *Adat* villages (*Desa Adat)* and such villages are legal entities entitled to village funds (*Dana Desa*) and guaranteed unprecedented levels of autonomy to set up governance structures and manage the commons.

III. ASSESSMENT OF GOI'S POLICY AND REGULATIONS AGAINST WORLD BANK ENVIRONMENTAL SAFEGUARDS POLICIES

Based on the analysis undertaken for this ESMF development, including desk reviews, field visits, FGDs and consultations as well as preliminary environmental and social screening, the relevant World Bank Safeguards Policies are:

a. Environmental Assessment (Operational Policies, OP/BP 4.01);
b. Indigenous Peoples (OP/BP 4.10);
c. Physical Cultural Resources (OP/BP 4.11);
d. Involuntary Resettlement (OP/BP 4.12); and

MoATR/BPN includes procedures for determining communal rights on customary land without subjecting applicants to a complex administrative process. On the basis of the report prepared by the respective committee/teams, the district or provincial government enacts or refrains from enacting local regulations concerning the recognition of a particular community as an *Adat* law (customary) community. The MoHA regulation no. 52/2014 provides an additional option to determine the status and land claims through a decree by the district head/mayor. These new legal instruments along with others present a comprehensive legal and regulatory framework for developing a modern communal land administration and management system. In addition, Village Law 6/2014 introduces a new category of *Adat* villages (*Desa Adat*). *Adat* villages are legal entities entitled to village funds (*Dana Desa*) and guaranteed unprecedented levels of autonomy to set up governance structures and manage the commons. Law 6/2014 has reinforced the rights of Indigenous Peoples and *Adat* communities and an additional route for claiming their rights.

e. Forests (OP/BP 4.36).

The rationale for triggering (or not to trigger) World Bank policies is set out in **Table 4**. The project triggers World Bank Policy (OP 4.12) on land acquisition and involuntary resettlement, as a precaution since the activities do not involve acquisition of any land nor displace people or their resources, but the subsequent clarification and affirmation of boundaries, by third parties, may lead to access restrictions and displacement of people living or carrying out livelihood activities within the state Forest Areas. The project does not support participatory mapping or certification in areas under territorial land disputes or conflict, and the project does not cover areas inside the Forest Area. PTSL includes a mechanism to screen for issues and areas requiring special treatment. The scope of registration and certification financed by the government budget (A.3) is limited to asset legalization with valid proof of long-standing claims and occupation (e.g. tax receipts, recognition of land rights by village governments, etc.). Erroneous titling which is considered a program technical risk, would be addressed through strengthened community participation and oversight.

Annex 2 provides further analysis of the World Bank and GoI's policy requirements, with proposed additional measures the project would undertake to address the identified gaps, to ensure environment and social safeguard requirements are met.

TABLE 4. ASSESSMENT OF RELEVANT WORLD BANK SAFEGUARDS POLICIES

Policy triggered	Brief Explanation
Environmental Assessment OP/BP 4.01	This policy is triggered since there are High environmental and social risks resulting from mapping activities, forest boundary demarcation, and minor construction works financed by the project. Minor environmental impacts are expected from small renovation works at the land offices (1A.4). Potential social impacts relate to community harmony/discord or tension and access to participation by marginal groups including women and indigenous peoples.
Forests OP/BP 4.36	The policy is triggered. The project will not finance commercial logging or activities that would convert or degrade critical Forest Areas or other natural habitats. However, the project activities are intended to trigger positive improvements in management, protection and clarity over forest boundaries.
Natural Habitat OP/BP 4.04	The policy is not triggered as the project will not cause significant conversion or degradation to critical and natural habitats. The project aims to support the asset legalization and tenure protection through the systematic identification of actual land use, occupation, and claims, particularly in non-Forest Areas through the PTSL approach. The program was envisaged as a form of restitution of past injustices where land belongs to the poor, landless people, Indigenous Peoples and *Adat* communities was given away to plantation, timber or mining concessions without considerations of people's long-standing claims and rights to the land they occupied. Land administration in Forest Areas (including protection and conservation forests) falls in the domain of the MoEF of which beyond the project's scope of activities.
Physical Cultural Resources OP/BP 4.11	The policy is triggered as activities supported by the Project will have potential positive impact on PCRs during the land registration exercise.
Pest Management OP/BP 4.09	The policy is not triggered as the project will not involve any purchase of pesticides, any activities that will indirectly cause significant use of pesticides or any pest management activities.

Policy triggered	Brief Explanation
Indigenous Peoples OP/BP 4.10	The project triggers World Bank Policy (OP 4.10) since there is likelihood that mapping activities will take place in areas claimed by *Adat* communities and/or other community groups that meet the World Bank's Indigenous Peoples criteria. Such claims are most likely located within and/or near Forest Areas, but possibly also in regular non-Forest Area. There may be on-going tensions and disputes over tenurial rights, particularly with MoEF and various concession holders. Forest Areas, including State Forests are outside the project scope. However, where the project area status is unclear and/or where the Forest Area boundaries are being demarcated, the project applies measures for screening and arranges meaningful Indigenous Peoples engagement at various stages of the mapping process. This ensures free, prior, and informed consultations and participation of Indigenous Peoples and *Adat* communities, including women. The project is expected to benefit Indigenous Peoples and *Adat* communities through increased awareness and participation, registry of their land claims in the ATR/BPN's database. The project also seeks to secure land tenure in non-Forest Areas, provided that such areas are not contested. An Indigenous Peoples Planning Framework (IPPF) has been prepared in line with the World Bank Policy (OP 4.10).
Land Acquisition and Involuntary Resettlement OP 4.12	The project activities do not involve land acquisition nor does the project displace people and/or their resources. Although the direct footprint is limited the project has potential for downstream, indirect impacts related to subsequent forced evictions and restrictions of access by third parties both in forest and non-Forest Areas. For example, as a result of increased scrutiny and regularization of land tenure by MoEF as the custodian of the state forests. Therefore, the World Bank Policy (OP 4.12) on involuntary resettlement is triggered as a pre-caution and an RPF and PF has been prepared to manage such potential risks if they happen during project implementation.

CHAPTER 2: MANAGEMENT OF POTENTIAL RISKS AND IMPACTS

This section of the ESMF sets out the approach and details for management of project environmental and social impacts and risks, both for the direct and indirect impacts. As noted previously, the ESMF adopts a risk management hierarchy approach which first and foremost avoids adverse impacts whenever feasible. In circumstances where risks and impacts are inevitable and/or foreseen, mobilization of resources for mitigation measures will be commensurate to risk levels and adaptive to risks as they emerge and/or change during implementation.

Analysis of the potential environmental and social risks and impacts arising from the project highlights the importance of a multi-dimensional approach for risk mitigation, covering:

a. Policy approach, strengthening the country systems for safeguards in general as applicable to the project activities, in particular, strengthening of environmental and social management under the PTSL process;
b. Management of direct environmental and social risk and impacts, for example, minor renovation works financed under project Component 1.4;
c. Management of indirect and downstream impacts; and
d. Management of potential risks and impacts associated with policy development.

The multi-dimensional approach set out here is intended to anticipate and mitigate the risks and impacts from various angles, with the main emphasis on strengthening the relevant process within the PTSL. Each aspect of the existing approach to impact and risk mitigation for the project is elaborated below, followed by a sub-section on supplementary measures proposed as part of the ESMF (i.e., project safeguard measures planned to be introduced to strengthen existing processes and to fill gaps between the GoI and WB policy requirements). Capacity building for environmental and social safeguards is also integral to the approach (see Chapter 4).

A critical objective in these approaches is to prevent conflicts/disputes and the proposed steps/processes to this end are outlined in this chapter. At the outset it is important to note that ATR/BPN has an established a system for

a. dispute/grievance handling, which is presented as a separate section of the ESMF to fully set out the relevant, existing information and additional measures proposed to strengthen the system.
b. addressing impacts to Indigenous Peoples and *Adat* communities through an IPPF which form part of the CPF, and a TOR for Site-Screening and Risk Mapping (environmental and social issues) and which are appended as **Annexes 4** and **5** respectively.
c. Addressing potential displacement and access restrictions an RPF and PF has been developed (**Annex 6**) to clarify regulations and processes to be followed to identify and handle cases relating to settlers inside Forest Areas, with complaints handling, information disclosure and dispute resolution mechanisms developed. The handling of forest tenure settlements (PPTKH) is coordinated by a PPTKH team with the institutional arrangements for resolution coordinated by the CMEA and led by MoEF, who holds the mandate over settlement of land occupation inside Forest Areas. Furthermore, the RPF and PF also attempts to set out a precautionary approach when mapping areas with informal settlements in non-Forest Areas and requires PTSL taskforces to provide information to land claimants with regards to the nature and legal status of their occupation, as well as alternative mechanisms to pursue tenure security under the broader GoI's Agrarian Reform and development programs.

I. POLICY APPROACH TO MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS UNDER PTSL PROCESS

As set out in the previous chapter and annexes, the main project risks could emerge and impacts could occur when mapping activities take place in areas with existing disputes and competing claims (either with individual claimants, government entities, or private companies), if or where community participation is limited and/or there is a lack of willingness for community to participate and grievances are not managed and resolved. These are considered as direct risks.

At the policy and regulatory framework level, ATR/BPN's authorities and mandates are limited to non-Forest Areas. Since there is likelihood that potential risks are not contained by such administrative

jurisdictions, additional measures supported by the project will be embedded in the current mapping processes led and coordinated by ATR/BPN to address gaps in the current policies and regulations.

Management of the direct risks above are guided by the prevailing GoI regulations and guidelines on land administration. Land registration process is guided by the Government Regulation No.24/1997 and its implementing regulation no. 3/1997 (as amended by ATR/BPN Regulation No. 8/2012). These regulations govern both sporadic and systematic land registration. In efforts to accelerate systematic land registration across Indonesia, the GoI issued a comprehensive Ministerial Regulation ATR/BPN No. 12/2017 that supports to accelerate implementation of the PTSL program, which forms the backbone for the project and establish the basis for the environmental and social risk management processes under the ESMF.

PTSL is intended to be a complete mapping exercise, leaving no land and parcel unmapped and unregistered. By doing so, future land disputes due to overlapping boundaries and erroneous titling are expected to be minimized. Through systematic identification of actual land use, occupation, and claims, including conflicts, PTSL can continue to be improved as an instrument to address land related issues, particularly in non-Forest Areas but also potentially for occupation near and within Forest Areas provided that other legal processes for forest boundary demarcation and tenure settlements led by MoEF take place. **Annex 1** sets out an analysis of the whole PTSL process as currently established and the ESMF through its management framework and code of practices aims to strengthen the PTSL process in mitigating potential environmental and social impacts.

Recent experiences gained from implementing PTSL program have shown that lack of clarity and overlapping boundaries of forest and non-Forest Areas, concessions (i.e., mining, plantations) have often prevented effective progress of land administration, particularly with regard to issuance of titles and creation of an unified cadaster in the long-run. Overlapping institutional mandates governing land administration as well as sectoral interests have continued to prevent systematic and complete mapping of land parcels, particularly in areas adjacent to or overlapping with Forest Areas (forest edge areas that may or may not be inhabited by communities). Such fragmented institutional arrangements have caused various legal disputes between ATR/BPN and MoEF and often resulted implicating ATR/BPN personnel for erroneous mapping or issuance of titles in Forest Areas.

Recent issuance of Presidential Instruction no. 2/2017 is likely to provide some level of high-level political support to bridge the current institutional divides by requiring closer collaboration between ATR/BPN and MoEF and spatial data sharing. The Instruction also requires MoEF to facilitate ATR/BPN in undertaking forest boundary delineation as well as land tenure settlements within Forest Areas. The decree also instructs the Head of the National Police Force and the Attorney General to resort to administrative dispute settlements instead of criminal proceedings. By bringing closer collaboration amongst key agencies, particularly the ATR/BPN and MoEF, the Presidential Instruction could serve as a risk mitigation measure to ensure coordinated action for mapping activities, including community engagement and participatory affirmation of parcel boundaries. In many cases, different processes of mapping led by different agencies and teams have often created confusion on the part of communities and in some cases, suspicion due to distorted information received.

II. MANAGEMENT OF DIRECT SOCIAL RISKS AND IMPACTS

Direct environmental and social risks are expected to be minimized by strengthening community participation and information dissemination to enhance support and improve legitimacy of PTSL processes. Such a process will also boost validity of physical and legal data gathered, which forms the basis for registration and issuance of titles at a later date. In order to mitigate risks, site-screening processes will be applied prior to the start of mapping. This site-screening and risk mapping work will ensure that areas likely to trigger disputes/conflicts are: i) identified; and ii) avoided until disputes/conflicts are settled and/or additional resources and risk mitigation measures are in place.

The PTSL cycle stresses the importance of community participation, including Indigenous Peoples and *Adat* communities, to ensure necessary resources and support from the target communities can be readily mobilized and that key milestones (i.e. registered land parcels and of which are certified) can be achieved within the set time-frame. Based on the previous land administration and participatory mapping lessons learned, on PTSL implementation experience, and on the wider risk analysis as summarized in **Annex 3**, a number of aspects of PTSL require strengthening, particularly with regard to environmental and social management.

In particular, PTSL has been developed as a method to address all land parcel-mapping needs, but lacks some mechanisms for communication, certain steps in socialization and clear links to dispute resolution processes. Inadequate support to households and communities regarding the process and benefits of PTSL and of the project more widely therefore has the potential to result in decisions that may have unintended consequences such as land sales or conversion of lands for unsustainable use. The key supplementary measures to be piloted as part of the PTSL process, with a view to mainstreaming in both practice and compliance with existing regulation or guidelines, include:

a. Environmental and Social Screening and Site-screening and risk mapping (also known as vulnerability Assessments);
b. Community Participation Framework and Indigenous Peoples Planning Framework; and
c. Gender mainstreaming.

Such supplemental measures and how they relate to the PTSL process are illustrated in **Figure 5** and are further described below:

A. ENVIRONMENTAL AND SOCIAL SITE SCREENING AND RISK MAPPING

Screening is included as a mandatory step in the PTSL process, however additional pre-screening steps would be required to more thoroughly identify and anticipate risks and impacts. The proposed site-screening and risk mapping will help local government and *Kantah* create a risk profile that covers all risks prevailing in a particular *kecamatan* (sub-district) i.e., Indigenous Peoples and *Adat* communities living in the area, prevalence of *Adat* claims, methods to map out extent and features of *Adat* claims in the area, potential for overlapping claims, areas with biodiversity values as well as forest and concession boundaries, etc. The screening should inform the project on selection of sites (based on a criteria), existing or potential risks, preferred types of engagement with the local community, and recommend risk mitigation and management efforts including on-site supervision or oversight needed for particular locations.

Based on the results of the site-screening and risk mapping, site-specific decision with regard to "site eligibility" or "no-go" to be made; the screening can also propose alternate sites or pre-implementation measures to be completed. The exercise of free, prior and informed consultations with affected communities will begin at this stage and communities may appeal to cancel the PTSL work under the project too. The site-screening per site will lay down a solid foundation for the development of a comprehensive risk mitigation and management measures and feeds into implementation plans prepared by the Field Teams.

To enhance the screening process, an indicative TOR for a Social and Environmental Site Screening and Risk Mapping has been prepared (see **Annex 5**). The assessment will be piloted then modified as needed, during the implementation of the project mapping activities (PTSL). The assessment will be the responsibility of *Kantah*, with supervision and support from the central PMU and PIM units at the provincial level. The main tasks related to the assessment include:

a. Development of a sub-district-wide risk and vulnerability profile with analysis of the current status with challenges and opportunities identified;
b. Enhancement of risk mitigation and management capabilities; and
c. Integration of risk mitigation measures into fieldwork plans and project decision-support systems.

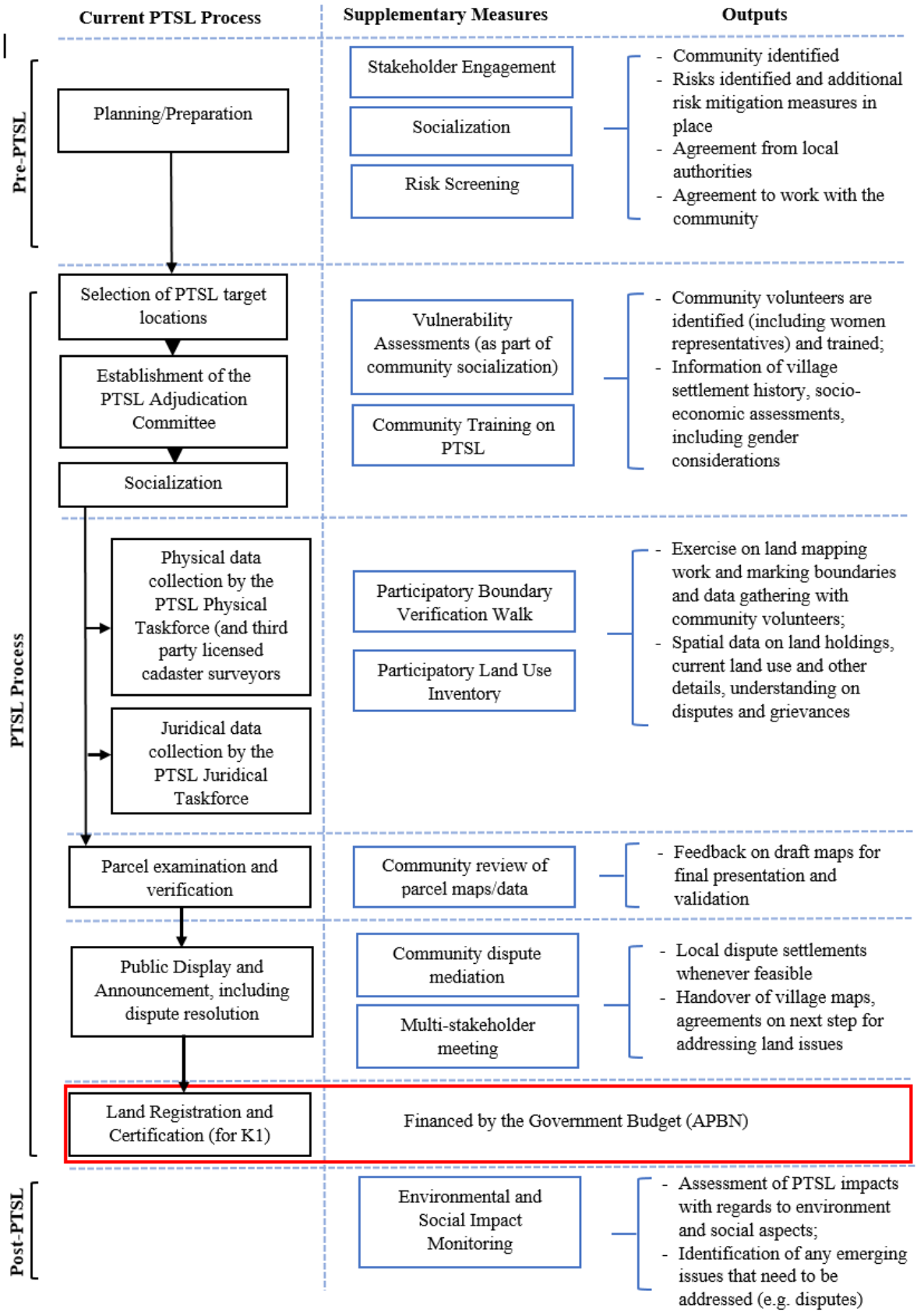
If during screening, PTSL taskforces identify areas with high-biodiversity values (e.g. peatlands, natural forests, etc.) that are subject to titling, coordination with relevant agencies will be made to ensure that facilitation and support for conservation measures can be mobilized. Similarly, if the PTSL taskforces identify Forest Areas with significant issues of encroachment, with people settled in or using the Forest Areas for agricultural production, then coordination with the relevant agencies (MoEF, Ministry of Public Works and Housing, Local government and village leaders) will be made to ensure the appropriate habitat and buffer zones are observed and notification is made to the potentially affected people, and the principles and processes set out in the RPF and PF **(Annex 6)** are followed.

B. COMMUNITY PARTICIPATION FRAMEWORKS AND CAPACITY BUILDING

The PTSL process naturally includes communication elements (socialization) and requires community participation for its success, however lessons learned from implementation to date highlight the need for more structured approach to community participation. Given this situation, a Community Participation Framework and Indigenous Peoples Planning Framework (CPF and IPPF – **Annex 4**) has been developed to strengthen some elements of community participation under PTSL. The CPF and IPPF also enables alignment with the World Bank safeguard policies related to social and environmental impacts of projects and the IPPF responds specifically to the World Bank Policy (OP 4.10) on Indigenous Peoples. The frameworks were developed to: ensure that local communities, including Indigenous Peoples and *Adat* communities, and other stakeholders

a. have complete understanding of the project impacts and receive a meaningful opportunity to participate in planning activities and decision making that affect them;
b. receive culturally and socially appropriate benefits according to their needs; and
c. are meaningfully engaged based on Free, Prior, and Informed Consultations to ensure that adverse impacts arising from the project are avoided and if inevitable, mitigation strategies or siting/design alternatives are informed by the relevant affected communities.

FIGURE 6. SUPPLEMENTARY MEASURES FOR THE PTSL PROCESS



From the outset, the CPF and IPPF acknowledge the importance of distinguishing potential project beneficiaries who have land holdings or other legal rights (including those who have customary rights recognized by the national law) and those who simply have established benefit streams from the resource. The framework recognizes the distinct circumstances that expose local communities to different types of risks and impacts from a land mapping and registration (or asset legalization) program. The main elements can be summarized as:

a. strengthening community engagement through more meaningful socialization and outreach;
b. meaningful engagement to inform design and mitigation measures;
c. mobilization of village facilitation teams to assist PTSL taskforces;
d. third-party licensed cadaster surveyors to collect and verify physical and legal data of land parcels;
e. community-based dispute settlements; and community oversight and monitoring post-PTSL processes and;
f. Engagement with CSOs/NGOs in the land sector, both at the national and sub-national levels, including Indigenous Peoples and *Adat* organizations.

Specific provisions made as part of the ESMF to address customary claims are summarized in the following sub-section and further detailed in the IPPF **(Annex 4).**

C. HANDLING OF CUSTOMARY TERRITORIES

The ESMF acknowledges that there are risks that PTSL may not have the incentives to support communal land rights, since the broader PTSL program's targets set by the GoI are expressed in the number of land parcels. Recognition of communal land rights, including those claimed by Indigenous Peoples and *Adat* communities but also other communities, will follow the prevailing GoI's regulations (see section 2.D. There are several possible avenues that Indigenous Peoples and *Adat* communities could pursue, including the *Adat* forest scheme, social forestry schemes, and communal land titles. Eligibility criteria are determined on the basis of communities' legal claims and the status of their recognition (legal personality), locations of customary territories claimed (forest versus non-Forest Areas), and status of the land claimed and whether or not the land in question is disputed, etc.

The ESMF endeavors to mainstream a pro-active approach to accommodate *Adat* land rights through the following measures:

a. Ensuring representation and participation of Indigenous Peoples and *Adat* communities in the overall PTSL implementation (e.g. community facilitators, monitoring and oversight functions);
b. PTSL taskforces will actively and carefully record Indigenous Peoples and *Adat* land claims during the screening and social mapping activities. The taskforce will classify *Adat* land claims based on their legal status and if parcels can be classified as K.1 (ready for titling), the PTSL taskforces will consult Indigenous Peoples and *Adat* communities with regards to their tenurial preferences (collective and/or individual) as guided by the IPPF (**see Annex 4**);
c. If the mapped parcels are classified as K.2 and K.3 (incomplete legal evidence, and/or under disputes/litigation), PTSL taskforces will engage the communities concerned with regards to the nature and legal status of their claims and inform alternative mechanisms and procedures that the communities may choose to secure their land tenure (e.g. *Hutan Adat,* TORA, social forestry schemes);
d. PTSL will actively engage community representatives, local CSOs/NGOs advocating on Indigenous Peoples and *Adat* rights in dispute resolution roles. Where possible, PTSL will include special training on mediation skills for Indigenous Peoples and *Adat* representatives as part of community capacity building;
e. The project will actively record *Adat* land rights that have been mapped under the PTSL process and identify the number that has been granted land titles;

f. The project will make a pro-active measure, such as engagement with other World Bank's active projects such as the DGMI[14], FIP-2[15] as well as the Social Forestry Program currently being prepared;

D. GENDER MAINSTREAMING

Most village-based participatory mapping in Indonesia has been dominated by men both in terms of mapping operations and community spokespersons with whom surveyors and mapping teams mostly interact and seek for information. In general, it is unusual for women to take active roles in mapping processes. This lack of women's participation is partly attributable to cultural factors and religious beliefs which do not expect women to be outspoken as well as care economy household burdens which often restricts mobility and participation.

The ESMF endeavors to overcome some of these gender constraints by mainstreaming the following measures in the PTSL processes through an affirmative action plan, including:

a. Encouraging better representation of women on the PTSL taskforces;
b. Encouraging better representation of women in village facilitation teams to assist PTSL taskforces in mobilizing communities, collecting physical and legal data, conducting outreach, etc;
c. Mobilization of women community facilitators to be part of the field teams (possibly drawn from local civil society organizations) to facilitate PTSL activities and outreach;

[14] DGM-I is developed to support participating indigenous people and local communities' (IPLCs) capacity to engage in tenure security processes and livelihood opportunities from sustainable management of forest and land. DGM-I is a demand driven delivery mechanism, designed by and for IPLC to channel funds effectively and efficiently to strengthen their visibility, and recognize and enhance their roles in the FIP, other REDD+ and related programs, and broader sustainable natural resource management at the local, national, and global levels.

[15] The project supports and strengthens the national effort to decentralize forest management through the operationalization of Forest Management Units (KPHs). Efforts will be mobilized to support forest tenure settlements and engagement with communities within the KPH areas.

d. Plan, convene and manage women-only sessions as part of project work (e.g., during consultations) and project-specific orientation sessions for women;
e. PTSL Taskforces will actively encourage the recording of women's ownership rights on land certificates, including parcels to be jointly owned by a husband and wife. This also includes protection of women's rights in the event of divorce (as per Chapter 26.4 of ATR/BPN Ministerial Regulation No. 12/2017)
f. PTSL will actively promote the protection of women's inheritance rights regarding land ownership;
g. PTSL will actively encourage women's participation in dispute resolution roles, including through local women networks. Where possible, PTSL will include special training on mediation skills for women as part of community capacity building; and
h. Gather and analyze gender-data on participation and outputs (participation in meetings or land holdings mapped per gender) to be recorded so that disaggregated summaries of participants and ownership can be collated and displayed.

III. MANAGEMENT OF ENVIRONMENTAL IMPACTS

Direct environmental impacts that could be potentially caused by small renovation works at the land offices (Component 1.4) are considered minor and mitigation of such impacts is governed by the Regulation No.5/2012. Potential risks would be improper disposal of construction wastes (e.g. asbestos materials) and injuries resulting from the lack of use of proper personal protection equipment (PPE). Most of those impacts will be addressed by Codes of Practice for Health, Safety and Environment that would be formulated during project preparation and embedded in renovation contracts (see **Annex 7**). If asbestos-containing materials were encountered during renovation work, handling and disposal would be in accordance with standard asbestos management measures that are included in **Annex 7**.

Other potential risks include erroneous mapping and registration of areas with high-conservation values (such as wetlands, peatlands, physical cultural sites, etc.). Management of such risks and impacts would be undertaken from the planning stage and during implementation stage through the use of a risk screening instrument and environmental and social monitoring/mapping activities. Screening processes would be applied prior to the start of mapping and land parcel registration to ensure that areas with high-conservation values will be avoided until additional resources and risk

mitigation measures are in place as well as coordination with relevant agencies managing conservation and protection. This would ensure that important objects or protected areas are properly mapped and are not inadvertently registered and titled which may expose to destruction or over exploitation.

If PTSL taskforces encountered this situation, the mapping activities would be suspended and coordination with relevant agencies (such as local environmental agency office and education and cultural agency) made to ensure that facilitation and support to conservation can be mobilized (for example to use an available open source software and tools[16] for conducting a rapid assessment or even to conduct a full environmental assessment). Further details with regards to the screening process and monitoring are elaborated in **Annex 5** (TOR for the Environmental and Social Screening and Risk Mapping). In the PTSL system this is categorized as K3 (see the explanation about PTSL in Annex 1). Further treatment and resolution for this situation could be achieved through community consultation and agreement with relevant parties but it might go beyond the project boundaries as additional resources and regulatory process might take place[17].

With regards to physical cultural resources, the existing PTSL system has a specific provision for 'important object' as one consideration during preparation and planning stage. One could consider this as equivalent to the physical cultural resources as per OP 4.11 definition. The ESMF has strengthened the current PTSL protocols through the Physical Cultural Resources (PCR) management framework (**Annex 8**) for the case of a chance find and by providing safeguards specialist at PMU at PIM level for consultation. ATR/BPN have also implemented good practices and proper registration of areas for lakes, dam, weirs and reservoirs[18] for public purposes. Prior training for the PMU and contractors will be undertaken as well as dissemination of good practices related to environmental impact management during planning and preparation phase.

Finally, during implementation stage, a risk monitoring/mapping (vulnerability assessment) for both environmental and social aspects will be undertaken to evaluate preventative measures are in place during land parcel registration process (for example land parcels were intentionally divided into smaller parcels without careful consideration of environmental aspects to meet the certification targets[19]).

IV. MANAGEMENT OF INDIRECT AND DOWNSTREAM IMPACTS

Under this ESMF, indirect and downstream impacts are defined as possible risks and impacts which are caused and/or associated by the project but emerge later in time or farther removed in distance than the direct impacts. Such risks may include several scenarios, include:

a. Potential future disputes due to erroneous mapping, registration or titling which may not be detected and/or identified during project implementation
b. Increased land speculation and presence of land speculators or influential dealers. Upon understanding of certification beneficiaries may be encouraged to use their certificates as collaterals or sell their lands for cash; and

[16] Global Forest Watch, an open source software to quickly identify forest status or IBAT software for area with high-biodiversity value.
[17] One palm oil concession had successfully conserved a portion of its concession area into a conservation area in cooperation and consultation with local communities surrounding the corporation.
[18] For further details, refer to *Kompas, 21 February 2018, klik.kompas.id/revsitu*
[19] Refer to Report on the PTSL Workshop held in Jakarta on December 9, 2017.

c. Potential tension with communities, including *Adat* Communities claiming areas and their ancestral territories located in or near Forest Areas due to forest boundary demarcation activities;
d. Reduced or loss of access to Forest Areas used for livelihood purposes, including potential removal or eviction of dwellings and crop lands currently located within conservation forest zones once boundaries are affirmed by work of Component 1; and
e. Potential eviction and/or access restrictions in both Forest and non-Forest Areas[20].

With regards to erroneous titling, the current PTSL process and supplemental measures proposed as part of the ESMF aim to enhance community participation and oversight to prevent wrong claims to be registered and titled. By including social mapping assessment as a pre-mapping exercise, and strengthening the current GRM as part of the project implementation and overall ATR/BPN's complaint handling system (**Section 4**), risk areas will be better known, and the target PTSL communities should be able to raise their concerns and grievances during and after PTSL implementation.

The additional measures are planned so that issues can be identified early, rather than at later stages of the project or after project completion.

Early identification of areas where forest boundary demarcation will indicate settlers within the forest boundary will trigger other social safeguard processes, as discussed further below.

With regards to the second concern (point b) on unlocking commercial values of land, the PTSL is situated in a bigger context of community development. The new Village Law No.6/2014 strengthens the legal status of villages, increases their authority, and responsibility as well as recognizes "*Adat*" traditional village governance arrangements. The law substantially increases direct fiscal transfers to villages, which are to be used for administration, development and administration, development and community empowerment. Oversight and facilitation functions of the village law implementation fall in the purview of MoHA and MoV, through the Village Empowerment Agency (DPMD) as their extended arm at the district level. PTSL activities aim to foster strengthened collaboration with village governments, particularly in the provision of parcel maps and village boundary data to enable villages to improve their spatial planning and land use, prevention of sales of lands for quick cash as well as curbing land mafias. During the socialization and facilitation of PTSL, engagement with relevant district agencies responsible for village development, particularly DPMD and sub-district governments will be fostered. The ESMF puts in place measures for post-PTSL environmental and social monitoring to identify if there are emerging risks which may require coordination with other agencies for mitigation.

With regards to forest tenure settlements within Forest Areas, the GoI has recently issued Presidential Regulation No. 88/2017 on Land Tenure Settlements in Forest Areas (PPTKH) which sets out legal processes for resolution of tenurial disputes within Forest Areas. However, he PPTKH process or any

[20] The risk in non-Forest Areas is considered low, but could stem from demarcation and registration of State Land (properties) that might host informal occupancy or other informal land use.

other activity inside the Forest Area is not part of this project's scope. This regulation replaced the previous joint regulation of three ministries (MoHA, MoV, and ATR/BPN)[21] on Procedures for Land Tenure Settlements within Forest Areas, which was perceived to have suffered from lack of political levers. Under this new Presidential Regulation, there are several possible options depending on the function of the forests, including land distribution (particularly for degraded production forests), social forestry schemes (for production and protection forests) and resettlement (for conservation forests). These initiatives are being implemented independently, with alternative support from the World Bank and others, with some coordination and collaborate envisaged, to maximize impact in the project implementation areas - priority provinces in Sumatra (Riau, Jambi and South Sumatra) and Kalimantan (East, Central, West and South).

While the project will not require land acquisition, which would result in direct involuntary resettlement, there are three possible scenarios where the project may have indirect downstream impacts resulting in involuntary resettlement in Forest Area and/or in State and Public Lands in non-Forest Area. Forest Area boundary demarcation and affirmation may lead to evictions and/or access restrictions, which would materialize, if MoEF and/or concession holders used the new affirmed boundaries to regularize informal tenure settlements in both Forest Area and in State Lands in non-Forest Areas. Possibilities include:

a. Community living deep inside the Forest Areas that are currently under Status Quo may face increased Government scrutiny to deny their tenure claim as a result of the affirmed boundary of the conservation and protection Forest Areas;
b. Communities living around unclear forest boundaries may find their land partially or fully lies within Forest Areas, hence requiring the change in their settlement and livelihood locations;
c. Informal settlers in the State Land and/or private concessions in non-Forest Areas may face increased pressures with regards to the legal status of their occupation, with possibilities of evictions if government agencies and/or concession holders seeks to reclaim land ownership.

Under the first scenario (point a), where the process is fully under the jurisdiction of MoEF, the project would support coordination and collaboration between ATR/BPN and MoEF in line with the Presidential Instruction 2/2018 (on Acceleration of PTSL), and in case of involuntary resettlement

[21] For details, refer to Regulations No. 79/2014, PB.3/Menhut-11/2014, 17/PRT/M/2014 and 8/SKB/X/2014.

resulting from the Forest Area boundary demarcation and affirmation process, the project's RPF and PF **(Annex 6)** would apply. The Presidential Regulation 88/2017 on PPTKH provides a guideline to assist the MoEF in early identification of community members living inside conservation forest with a view of informing and assisting them in the event of unavoidable resettlement. Under the Component C on policy and institutional development, the project would provide technical assistance to the MoEF (if eviction was indeed perceived) for developing a Resettlement Action Plan that meets the World Bank Policy (OP 4.12) requirements. The World Bank, through separate grant financing could also support the MoEF, upon request, in strengthening this policy and mechanism in line with World Bank Policy (OP 4.12).

In the case of the second scenario (point b), the project seeks to avoid induced impacts with consequences of livelihoods displacement or resettlement by creating an inventory of potentially affected community communities living and/or occupying land in the "grey zone" and/or unclear Forest Area boundaries as part of risk screening and social mapping. In order to avoid Forest Area demarcation in areas with identified risks of evictions and/or access restrictions, the RPF and PF (annex 6) would apply the following measures:

a. Villages adjacent to enacted Forest Area/State Forests classified as Conservation and Protection forests (which by PPTKH rules require resettlement if a land holding falls inside the Conservation and Protection forest) would not be included in the early year of the project to allow further operationalization of the framework and processes to manage involuntary resettlement in line with World Bank Policy (OP 4.12) by MoEF. If these areas were to be included, a joint agreement with relevant agencies notably MoEF should be put in place to restore the livelihoods of the affected people (e.g. compensation, alternative livelihoods programs, social forestry, etc.) as outlined in the RPF and PF and processes to ensure free, prior, and informed consultations to obtain broad community support among affected groups that meet World Bank Policies (OP 4.12 and 4.10); and
b. Community members whose lands fall in the 'grey zone' close to assumed Forest Area boundary would be properly informed about the possibility that their land may fall within the Forest Areas hence and could not be issued land certificates. Upon GoI's request, the project, or under an alternative World Bank financed project, technical support to a joint taskforce between ATR/BPN and MoEF could be provided to facilitate the selection of alternative tenure arrangements to allow continued use (i.e., no resettlement) under the Social Forestry scheme, including through titled forest (*Hutan Hak*).

Under the third scenario (point c), evictions of informal settlers from regular State Lands in non-Forest Areas are considered unlikely without a due process as the GoI is responsible to ensure that there is a due process to verify claims and compensate those who may be evicted. The prevailing GoI framework is concerned with land acquisition for public interests (Law No.2/2012), which applies to both Forest and non-Forest Areas. Settlements of tenure disputes between private properties, including HGUs are settled through direct negotiation between landholders and occupants based on consensus, and they do not fall under the World Bank Policy (OP 4.12).

Through early screening and social mapping exercise, as well as community engagement, the project would be responsible to inform the land claimants/occupants of the nature and legal status of their occupations to an extent known before implementing PTSL, as well as available mechanisms for tenure regularization (e.g. TORA). Physical and legal parcel data collected from these areas will inform the ATR/BPN's TORA mandates. For land parcels with legal encumbrances, conflicts and disputes, the database of parcel maps, as well as legal status collected would be shared with the district, provincial and central governments and/or other stakeholders where relevant for further follow-ups.

Access restriction and/or resettlement impacts would constitute downstream impacts due to the use of parcel maps and confirmed tenure status by other agencies and/or concession holders and

therefore, are outside the purview of ATR/BPN as the project implementation agency. Such risks anticipated in this framework are part of the broader government development programs as well as addressed through the RPF and PF (**Annex 6**).

The framework has been prepared noting that the processes and resources for handling of the different forest tenure cases in the current laws and regulations are expected to be developed further through project technical assistance (Component C), and recognizing that existing conflict and grievance handling mechanisms within the MoEF may require strengthening.

The institutional arrangements for applying the RPF and PF would be determined during the negotiations of the World Bank loan and detailed in the POM. The key mitigation approach for the cases of access restriction and resettlement from state Forest Areas would be the government's social forestry program as well as PPTKH that could potentially be supported through the existing World Bank support to GoI including such as the Forestry Investment Program (FIP-2), DGM-I as well as Social Forestry programs. All of these initiatives are being financed and strengthened through grant agreements with the MoEF and in cooperation with the World Bank Indonesia's Sustainable Landscapes Program.

Outside this project's scope, the World Bank supports the social forestry scheme has been increasingly regarded as a potential alternative to improve community access rights to the Forest Areas and at the same time, retain and/or return the allocated Forest Areas into their original functions. This scheme can be applied as a way to avoid resettlement from forests other than those stipulated for conservation. Currently, six schemes are in place, including:

a. Community forestry license (*Hutan Kemasyarakatan* - HKM) is a scheme to give forest access and capacity building tools to community groups so that they may manage state forests in a sustainable way. Production and protection forests that are not under license and that have potential uses (e.g., timber and non-timber forest products (NTFPs), environmental services (ecotourism, hydrology, carbon storage and sequestration), medicinal plants, agrofishery, and agrosilvopastoral) are targeted.
b. Village forestry (*Hutan Desa* - HD) provides forest access to villages for sustainable management. Target locations for the HD scheme are production and protection state forests

that are not under license. Potential uses of the HD scheme are similar to those of HKM.

c. Community forest plantations (*Hutan Tanaman Rakyat* - HTR) are state forests that are managed by individuals or cooperatives to increase quality and potency of forest products (timber and NTFPs). HTRs have a maximum area of about 15 hectares for each license holder or 700 hectares for cooperatives. Individual license holders can form community groups to request a single license; doing so can be faster. The target location for HTRs is in production forests.
d. Customary forests (*Hutan Adat* – HA) are managed by customary law communities (*Masyarakat Hukum Adat*) and can be located in production or protection forests, on private land or in state forests. Potential uses under this scheme include timber and NTFPs (using local customary practices) or designating land for protection purposes. Customary law communities are legally recognized through regional regulation (*Perda*).
e. Community forestry on Titled Forest (*Hutan Rakyat* – HR) is managed by community groups and cooperatives located on titled lands. HR-designated areas can be used for timber, NTFPs and environmental services.
f. Forestry partnership (*Kemitraan Kehutanan* - *Kemitraan*) are state forest lands managed by community groups or cooperatives to give access and direct benefit to local communities through capacity strengthening in cooperation with concession holders and forest management units (FMUs).[22] Target locations for *Kemitraan* are state forests under concession in production forest and in specific area (Wilayah Tertentu) based on FMU management planning. *Kemitraan* can include uses of timber and NTFPs, environment services, medicinal plants, silvo-fishery, agro-silvo-pasture, etc.

On *Adat* tenure, while some progress has been made over the past decade, the GoI is yet to formally agree to accept community land maps produced and recognize areas where indigenous or *Adat* communities reside. This is pending adoption of a Standard Operating Procedure for the community maps. In the absence of a standard procedure or regulation to reinforce its value, community maps can be ignored by the government in a broader sense and may prevent tenure claims from progressing. This would inevitably result not only waste of resources but also potential tensions between the government and civil society. During PTSL implementation, particularly the Forest Area boundary demarcation activities, efforts will be mobilized to ensure that *Adat* claims would be properly identified and registered in the database. Registration and titling of *Adat* territories would require additional measures, including the exercise of free, prior, and informed consultations to ensure that their views, aspirations and preferences are fully addressed. Results of this *Adat* land mapping and registration of claims will be used to inform broader policy development (Component C), involving relevant agencies/ministries and civil society groups, to enable

[22] Forest Management Units (FMUs, or KPHs as known in Bahasa Indonesia) decentralized forest areas managed by government, through MoEF. FMUs/KPHs were created in order to reduce deforestation, restore degraded forest landscapes, protect high conservation value forests and valuable ecosystem functions, for which GoI is promoting decentralized management of forests. In 1999, the Basic Forestry Law No. 41/1999 established decentralized units for forest landscape management - *Kesatuan Pengelolaan Hutan* (KPH). In 2007 GoI passed legislation that prioritized KPHs and the safeguarding of the public function of forest areas. This resulted in the overlaying of 600 nominal KPHs over the whole Forest Area.

joint-coordination and agreements for dispute settlements. The project would be committed to support all legitimate *Adat* land rights regularization in the project target areas.

V. MANAGEMENT OF RISKS AND IMPACTS ASSOCIATED WITH POLICY DEVELOPMENT (COMPONENT C)

The proposed activities under the sub-component of policy development will only involve technical and analytical assistance, advisory services, and building capacities of the ATR/BPN and other government entities to consult, draft and roll-out policies and programmatic instruments needed to support implementation. However, the policies, guidelines and procedures that would be developed under the sub-component and project may in the long-term indirectly lead to changes in land administration and management arrangements and land-use. The guidelines and procedures for their administration and management prepared under the sub-component will be consistent with the principles embodied in the GoI and World Bank safeguard policies which will mitigate indirect social and environmental safeguard risks that may arise in the long-term. The results of the proposed site-screening and social mapping assessments would also provide inputs on the social issues and inform the conduct of various project activities and anticipate any potential negative impacts and risks.

The sub-component would also improve stakeholder and community participation in policy development by supporting the community-level dialogue and consultations policies and legal instruments, building the capacity of the land agency (at national and provincial levels) to address safeguards' aspects and developing the operational procedures and guidelines for the future implementation of a tenure security program. The proposed social mapping assessments will also identify potential risks that may exclude the poor and communities in remote areas from any policy dialogue. To address this, the project would undertake targeted activities to reach out and ensure participation of/consultation with Indigenous Peoples and *Adat* communities, women and vulnerable groups such as poorer communities, rural owners, urban poor, and displaced communities.

If technical assistance and inputs are provided to regulations and laws, the drafted amendments will be vetted by ATR/BPN and other relevant government entities, which serves as a platform for discussion and consultation with the key stakeholders from the forest sector. The PMU in Jakarta should ensure that the discussions on draft amendments to laws, regulations and on proposed standard operating procedures are based on evidence and information. Where necessary the PMU

should mobilize and obtain the support of experts to prepare supplemental field assessments that examines potential social issues and to ensure that the proposed instruments take these issues into account. In addition, proposed amendments will be posted in the ATR/BPN and project website to solicit public comments. The TORs, scope and depth and other relevant aspects of the above-mentioned social assessments and other policy studies will be accord with the magnitude of the proposed changes in policies, laws, regulations and standard operating procedures, and will be approved by the Bank.

Where Technical Assistance and inputs would be provided for regulations that potentially have widespread environmental and social implications, the PMU, in consultation with the relevant specialists, will determine if an impact assessment is necessary and will confirm the decision with the Bank safeguards team. When such an assessment is deemed necessary, it will be carried out by a qualified independent expert or institution, will include recommendations for measures to minimize negative impacts, and the findings will be presented to stakeholders via the project public communication and consultation platforms. All documents (e.g. terms of reference, draft reports) for stakeholder feedback shall be sent in advance of the proposed public consultation in order to allow proper review and consultation – in no case documents shall reach recipients within less than 15 working days of any decisions on the aforementioned documents. The PMU will use the ATR/BPN and project platforms, at national and subnational levels, to organize public consultations and hearings, and will ensure participation of Indigenous People, *Adat* communities and vulnerable and/or marginalized groups. The record of respective public consultations will be posted in the ATR/BPN and project websites.

Drafts of proposed amendments related to PTSL program or land administration and management and other relevant laws and policies that would be supported by **Component 3** will be submitted to the World Bank for review and suggestions.

CHAPTER 4: INSTITUTIONAL ARRANGEMENTS

This section of the ESMF sets out an assessment of the capacity of key institutions to implement the activities under the ESMF.

I. IMPLEMENTATION ARRANGEMENTS FOR ESMF

Unlike other sectoral ministries with decentralized structures at the sub-national levels, ATR/BPN is a vertical organization with representation at the provincial and district levels. Key tasks performed by ATR/BPN through its land offices include: a) executing land survey, measuring and mapping, b) administering land ownership rights, land registration, and people empowerment, c) administering land reform, d) facilitating land acquisition, e) administering land use control and handling land conflicts/disputes. By mandates, most of the activities supported by the project will be implemented by the *Kantah* with technical oversight from Provincial Land Offices (*Kanwil*) and Central Level (ATR/BPN). The ESMF implementation will mirror this arrangement and will be nested in the overall project institutional arrangements.

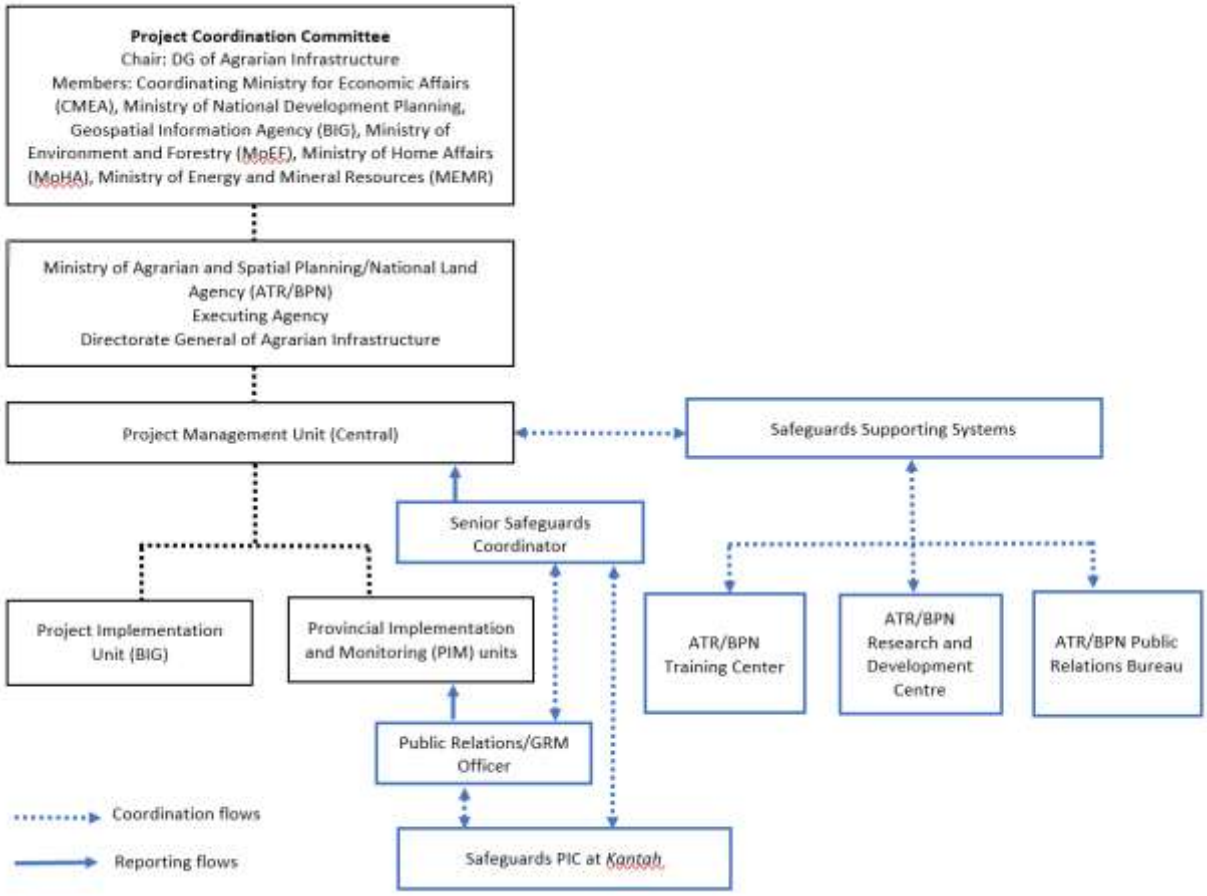
ATR/BPN as the Executing Agency would host the PMU, assisted with PIM units at the provincial level. PMU and PIM units take on the overall management and coordination responsibility for the project, as well as directly manage the implementation of the Project **Components 1 and 3**. In addition, the BIG would establish a PIU for managing activities of the **Component 2**. PMU located at ATR/BPN will support the work of multiple layers of project oversight, planning, implementation and management.

At the policy level, an inter-agency Project Coordination Committee (PCC) - established at the national level, co-chaired by ATR/BPN and BIG with members from the various stakeholder agencies including MoHA, MoEF, MoEMR, Bappenas and CMEA, to facilitate inter-agency coordination and cooperation of project activities.

Implementation of environmental and social safeguards will be nested within the PMU at the central level and PIM at the provincial level (see **Figure 6**). A safeguard team will be established in the PMU and will lead day-to-day management, oversight and facilitate capacity building to program

implementing entities (i.e. staff at district land offices and third-party licensed surveyors). At the provincial level, the PIM will be staffed with additional technical advisors who is responsible for the program's public relations (i.e. managing inquiries from the public and CSOs/NGOs) as well as oversee environmental and social risks as they emerge. These advisors will report to the PIM coordinator. Overall public relations and grievance redress management will be handled by the Public Relations Bureau of ATR/BPN which will be part of the PMU. Overall management, including training and supervision of environmental and social vulnerability mapping and monitoring will be managed by the ATR/BPN Training Department and Research and Development Centre respectively. The TORs for these positions would be reviewed and approved by the Bank.

FIGURE 7. INSTITUTIONAL ARRANGEMENTS FOR IMPLEMENTATION OF SAFEGUARDS



II. INSTITUTIONAL CAPACITY

ATR/BPN's approach to environmental and social impact and risk management (including engagement with civil society) is based on the country system (i.e. Indonesian regulations and guidelines on the subject-matter) as elaborated in Chapter 3 on Management of Potential Risks and Impacts.

The GoI, through ATR/BPN, has long years of experience in conducting participatory community mapping and land titling programs across Indonesia. In addition, its own programs, ATR/BPN had engagement with the Bank's Safeguards policies implementing different land administration projects since mid-1990s (LAP-1 and 2; LMPDP, and RALAS) and has gained considerable familiarity with Bank's safeguard' policies, experience in implementing them - and built up capacities in environmental and

social safeguards management and other pertinent policies, procedures and instruments. It has an in-house unit to develop public awareness raising and engagement on land administration programs and complaints handling too. Reflecting such capacities, over a period of time, the agency has mainstreamed procedures and guidelines to screen sites and map out risks in an orderly manner, propose and implement site-specific mitigation measures, and carry out due diligence assessment. Such knowledge and experiences are documented not only in reports prepared by independent assessments but also upgrading of ATR/BPN's expanding capacities in citizen engagement (e.g., LARASITA program) and training courses prepared and delivered by its training center (Diklat). In sum, it is important to note that over a period of time, GoI has put in place several new measures and regulations on managing environmental and social risks that may be triggered with regard to land administration and management in Indonesia.

In designing the PTSL process since 2016, concerns on social and environmental risks along with ATR/BPN's institutional capacities to deliver such ambitious targets and related governance risks which may cause problems in the future (i.e., erroneous mapping or titling, inaccurate or overlapping marking of land boundaries, etc) were raised and steps were taken to address them in an orderly manner. In the past, adoption of such new measures and guidelines were always accompanied by training and orientation to concerned national and field staff on their implementation. A similar approach was adopted when PTSL was put in place in 2016-17 period with ATR/BPN conducting several training courses (through its Training Center – *Diklat*) on safeguards and governance. Since the adoption of PTSL methodology, ATR/BPN has prepared and delivered several short-term orientation and training courses to its staff on risk management and land governance (as part of PTSL development). The introduction of additional safeguard policies and measures through this project will only reinforce these priorities and training programs already being delivered.

Despite some weaknesses identified, there is an awareness and willingness – and importantly institutional commitment - to foster public participation and disseminate information to strengthen public confidence in the land administration system put in place by the government through PTSL work. ATR/BPN has been engaging with local communities including indigenous peoples, and civil society groups and serving in an advisory role, when requested, for land administration and village boundary mapping tasks. The project, with added support for environmental and social management processes,

will contribute to longer term improvements in the existing systems. The approach strengthens country systems for safeguards, intended to lead to more sustainable practices as a result of the project.

Specifically, for the project implementation, the ESMF team would be led by a specialist at the PMU at the central ATR/BPN, along with focal points in each target province. ATR/BPN is committed to strengthen work of those engaged in safeguards and community engagement work in the near future. The project would help ATR/BPN continue to deepen its understanding and ability to apply and comply with the WB's safeguard policies. Similarly, collaboration would be fostered with MoEF on forest demarcation and any follow up activities related to the status and options for people (and villages, towns or other parties) identified, through the land use mapping and demarcation activities, as having that have physical presence and/or economic activities within the Forest Area. Processes for handling these cases, including resettlement would be provided support to ensure that the community could find the most favorable option to retain and improve their settlement and livelihood, with resettlement as the very last resort.

ATR/BPN would also train and assign personnel to work on Safeguards (focal points) at provincial level to oversee implementation too. The safeguard focal points will supervise the implementation of ESMF and also will train the PMU, PIM and PIU staff to manage the environmental and social concerns from both the managerial and technical perspectives. However, to ensure sustain the capacity development, PMU/PIU will develop methods and procedures, consistent with the ESMF, to continuously improve the handling of the specific issues like grievances redressal or dispute resolution more efficiently and effectively.

III. CAPACITY REQUIREMENTS

Institutions involved in project planning, implementation and management include ATR/BPN and Information and Geospatial Agency (BIG) as primary agencies while local departments of MoEF, MOHA, CMEA and Bappenas will be engaged in particular stages of the work (e.g. with regards to the responsibilities of MoEF concerning implementation of the RPF and PF). The capacity assessment presented in the ESMF focuses on their respective functions, roles and responsibilities along with capacities with regard to ESMF are summarized below.

TABLE 5. ESMF CAPACITY REQUIREMENTS

UNIT	ROLES AND RESPONSIBILITIES	CAPACITY ASSESSMENT
Central PMU (ATR/BPN)	- Strategic policy directions, planning, budgeting and setting overall targets; - Human resource allocation and procurement of third-party services; - Technical oversight and support - Handling of disputes and management of grievances	Some understanding of the World Bank Safeguards policies due to involvement in the ESMF development. Understanding of the country systems on environmental and social management with varying capacities to implement. Requires training on the key provisions in the ESMF as well as additional human resources to support overall safeguards coordination, technical support and oversight.

UNIT	ROLES AND RESPONSIBILITIES	CAPACITY ASSESSMENT
Provincial PIM (*Kanwil*)	- Extended functions of the central ATR/BPN; - Monitoring and technical support for PTSL; - Handling of disputes and management of grievances	Limited understanding of the World Bank Safeguards policies and requirements. Varying understanding of the country systems on environmental and social management, but capacity to implement varies. Requires training on the key provisions in the ESMF as well as additional human resources to support field safeguards coordination, oversight and grievance handling.
District Land Offices (***Kantah***)	- Overall implementation of site-level PTSL processes; - Establish the Adjudication Committees and PTSL Taskforces; - Provide hands-on support to the field teams, including troubleshooting; - Manage grievances and dispute resolution; - Facilitate coordination with relevant agencies/offices, and civil society groups	Limited understanding of the World Bank Safeguards policies and requirements. Varying understanding of the country systems on environmental and social management, but capacity to implement varies. Requires training on the key provisions in the ESMF and assignment of a safeguards Person-in-Charge (PIC) to monitor risks and impacts as they emerge from PTSL implementation.
Field teams, including third-party surveyors	- Conduct site-screening; - Convene periodic community meetings; - Provide on-site advice on PTSL process to land holders and stakeholders; - Liaise with local communities and stakeholders on a regular basis; - Coordinate with land offices/PPMU to respond to complaints and grievance; - Facilitate the implementation process and become an intermediary if conflict arises between the beneficiaries and the surrounding community (for example: with the mapping or surveying processes)	Limited understanding of the World Bank Safeguards policies and requirements. Varying understanding of the country systems on environmental and social management, but capacity to implement varies. Requires adequate training on the key provisions in the ESMF and mentorship support to ensure that risks are adequately assessed and impact mitigation measures are implemented in accordance with the ESMF.
Provincial and District Governments	- Assist during project implementation in terms of identifying project sites, address risks and coordination with line	Limited understanding of World Bank Safeguards policies and requirements.

UNIT	ROLES AND RESPONSIBILITIES	CAPACITY ASSESSMENT
	departments and agencies; - Coordinate with sub-district/village government during project implementation.	Requires capacity building related to environmental and social aspects (through orientation workshops, brochures and other publications) and technical assistance for localized land dispute settlements.
Sub-district and Village Governments	- Support the work of field teams in conducting socialization, site screening and addressing grievances, as necessary; - Assist in data mobilization and completion of documentation; - Support local mediation efforts, in case of disputes, as required; - Coordinate with field teams/land offices to respond to complaints and grievances - Facilitate the implementation process and become an intermediary if conflict arises between the beneficiaries and the surrounding community (for example: with the mapping or surveying processes)	Limited understanding of World Bank Safeguards policies and requirements Requires capacity building related to environmental and social aspects (through orientation programs, dissemination of brochures and other publications), strengthening inter-village coordination for PTSL implementation, dispute settlements, and village-level facilitation to the overall processes and beyond (i.e. community development, natural resource management, livelihoods, etc.)

Based on the analysis on risks and existing capacities, ESMF has identified a set of areas where investments are needed to improve and strengthen the awareness, understanding, knowledge, and skills for stakeholders (at national and subnational levels, communities, civil society and field teams). Capacity building is the training program that will be conducted on a regular basis and can be divided into two categories, as follows:

a. **Basic Training on Environmental and Social Awareness.** Basic training is mandatory training for project personnel, central government, local government, the PMU/PIM offices/PIU, field teams (including third-party surveyors), and project sites communities. Training material consists of a common material on environmental and social aspects related to land tenure, mapping, surveying, knowledge of the Agrarian Reform and OMP concepts, design, and descriptions, the role of stakeholders, special approaches to ensure inclusion (awareness of gender, Indigenous Peoples and vulnerable groups) and knowledge and a fundamental understanding of the potential environmental and social impacts in relation to the World Bank Safeguard Policies. Basic training is done regularly at least twice a year.
b. **Technical Training.** Technical Training consists of various thematic materials. The curriculum and training materials for each of the thematic training will depend on the participants identified for specific courses. Target for participants for the technical training are: local land office personnel, representatives from various line agencies from the project target areas, field teams, civil society and consultants involved in the TA. Training materials can include a series of regular trainings planned by PMU/PIU. Trainees will be provided with materials as determined by ESMF, including procedures for conducting community meetings, grievances redress mechanisms, site-screening, monitoring and reporting on safeguards, as well as a reference framework to be considered in the context of land/resource administration and management. PMU is responsible for periodically reviewing training programs planned,

delivered and managed and for proposing future programs in a work plan.

With regard to information dissemination workshops, two broad types have been identified and included in the ESMF.

a. **Public workshops** will be organized for a wider group of stakeholders, consisting of participants from the national level, media, researchers, public forums, Indigenous Peoples Organizations, etc. Basic information about the framework for environmental and social management in relation to the World Bank Safeguard Policies in the ESMF will be part of the workshop materials.
b. **Thematic workshops** will be implemented based on the needs assessment. Thematic workshops for each project component ranging from the national to the community level. Workshop themes may include, for example, discussion on common obstacles faced by PMU/PIM/PIU at the regional level in the implementation of project components, and identification of proposed solutions. Thematic workshops will be conducted to ensure that the program implementation will be in accordance with the ESMF.

IV. CAPACITY BUILDING AND TRAINING STRATEGY

The project design includes capacity building for safeguards in participatory mapping, PTSL process, and support for better land governance. Based on ESMF recommendations and periodic field studies, the project will also provide capacity that is not currently within ATR/BPN, BIG or other participating stakeholders at national and subnational levels, including local facilitation to mobilize and engage with local communities. The project will also assist with strengthening project's supervisory and project management skills, including trainings on managing consultant's outputs (products generated by third party surveyors).

Project will need to bolster the staffing resources for ESMF implementation and management by one full-time person, based at PMU in Jakarta, to duly coordinate all safeguards requirements with the target provinces for the duration of the project. A technical assistance team to support the Public Relations and GRM management at the sub-national level will also be created to strengthen the project's risk management, particularly social risks. In addition, the capacity gaps will also be filled by a consultant, both at national and subnational levels, who could undertake specific tasks and support timely implementation.

Significant safeguards tasks, such as detailed screening of sites and preparation of field reports on participation will be done by qualified and experienced consultant teams in cooperation with the Field Teams and respective provincial offices. However, in the very near future ATR/BPN will assign more staff to gradually mainstream this responsibility in the institution by existing staff.

Staff and consultants working on the project will take part in ESMF training events at the beginning of project implementation (after loan effectiveness) to ensure that all parties understand their roles and obtain the required knowledge and skills. It will cover the PTSL cycle and the milestones for safeguards tasks, supervision, communication and reporting expectations, clear assignment of roles and responsibilities, and where gaps may require filling through assignment of additional staff or consultants. Safeguards trainings will cover not only field staff but also those engaged in project management and leaders. Proposed pilots in project year 1 will also provide inputs for further fine-tuning safeguards work.

Training topics will include:

a. Social and environmental issues linked to land administration and management in Indonesia. Indigenous peoples' identity, livelihoods and tenure systems, as well as gender awareness, will be included in this package.
b. Indonesian governance framework and legal requirements as applicable to the land mapping and administration projects.
c. Environment and social safeguards and management for the project. This includes operationalization of ESMF comprising assessment processes such as on-site screening (for risk mapping) integrated into PTSL business cycle through case studies (screening, identifying legal and field support requirements, impact assessment, identifying mitigation measures, categorization).
d. Project's operational details, Project Results Framework, M&E guidelines, and reporting methods and formats.
e. Monitoring of projects – what to monitor/measure, why and how often.
f. Impact assessment of projects (environmental and social).
g. Internal and external audit (objectives, protocol, reporting, corrective actions).
h. Document management (update to ESMF policy and procedures based on external and internal changes, revisions in formats for reporting/recording information).

The training development, including module development will be led by the Training Department of ATR/BPN with technical assistance and inputs from relevant departments under the project.

The implementation of ESMF and safeguards will be reviewed at least twice a year as part of project in-house monitoring. This six-monthly review will share operational experiences, discuss and update PMU, PIU and other agencies on progress made, external changes, if any, and communicate revisions to be carried out to improve performance and impact of ESMF. Project's PMU and PIU are responsible for maintaining records of such reviews, training courses delivered and revisions made to ESMF and respective work plans.

CHAPTER 5: FEEDBACK AND GRIEVANCE REDRESS MECHANISMS

This section of the ESMF sets out the approach to handling grievances that arise from the project activities, as well as the wider handling of grievances related to land administration by the ATR/BPN. The GoI, through both ATR/BPN and BIG, has existing systems established for grievance handling, and the project builds on these systems, to clarify and strengthen the options and effectiveness of grievance redress processes. The section sets out existing options for dispute resolution related to mapping and land registration, then focuses on the classification of cases under the PTSL system and its approach to case handling. Additional measures proposed as part of the project are then presented.

At present, there are three ways by which disputing parties can seek resolution: a) administrative mechanisms (ATR/BPN or by seeking assistance from the National Human Rights Commission (*Komnas HAM*); b) mediation (community-based approaches or through ATR/BPN); and c) recourse legal mechanisms such as submitting a petition to the Court. Each is described below, followed by more specific analysis and planning related to cases and grievances within the PTSL implementation processes.

Settlement and land use, as well as conflicts, within the forest boundary areas as well as non-Forest Areas are not the direct result or scope of the project, but may nevertheless be indirectly associated with the PTSL activities. As such, the ESMF focuses on strengthening grievance handling under PTSL, as well as monitoring and addressing potential involuntary resettlement. Upon request, the project could allocate resources for strengthening collaboration with MoEF on processes to address tenurial conflict issues within Forest Areas. Presently, the MoEF has mandated its Directorate of Conflict, Tenurial, and *Adat* Forest Management (*Direktorat Penanganan Konflik, Tenurial dan Hutan Adat*) with activities that include conflict mapping (type and source of conflict, methodology), negotiation, conflict mediation, horizontal and structural tenurial cases. When a conflict has legal consequences then the mandate is transferred to the Directorate General of Law Enforcement. The Project's RPF and PF **(Annex 6)** will detail the steps agreed with MoEF for strengthening their processes and the interface with ATR/BPN as well as with PTSL specifically.

I. ADMINISTRATIVE GRM PROCESSES WITHIN ATR/BPN

Generally, complaints related to lands are received from various sources and through various channels within and outside ATR/BPN. In the context of PTSL implementation, complaint, grievances, protests and criticisms will have to be lodged with the Law and Public Relations Bureau of the ATR/BPN (see **Table 6** on typology of complaints and grievances). Upon receipt of the complaint/enquiry, the Unit registers and reviews the contents and forwards it to relevant departments within ATR/BPN for further investigation and resolution. A division of responsibilities exists within BPN with regards to

management of public inquiries, complaints and land disputes/conflicts. Technical issues are dealt by specific Directorate Generals[23], but in the context of PTSL three main departments are involved:

a. Legal Affairs and Public Relations Bureau with responsibilities to address general inquiries, complaints related to BPN's services, administrative procedures and overall coordination processes with specific departments for resolution and settlements. Complaints/inquiries could come from various channels, including internal ATR/BPN's mechanisms i.e. ATR/BPN's websites (hotline: 021-7228901/humas@atrbpn.go.id), letter correspondence (Persuratan), social media or outside ATR/BPN's channels such as www.lapor.go.id administered by the Office of Presidential Staff, Human Rights Commission (*KOMNASHAM*), Ombudsman Office or CSOs/NGOs;
b. Inspectorate general, with responsibilities to address complaints implicating BPN personnel (e.g. frauds, corruption);
c. DG of Land Disputes, Conflicts and Lawsuit with responsibilities to address land disputes and conflicts, typically involving litigation/court cases[24]. Complainants may submit complaints directly through the DG or through Provincial and/or District Land Offices (*Kanwi*l and *Kantah*). There are three directorates (directorate for Region 1, directorate for Region 2, directorate for land conflicts with the latter being responsible to manage litigation and court cases.

Within ATR/BPN, Complaints Handling Unit (CHU) is housed as part of Legal Affairs and Public Information Department (reporting to Secretary General), which will liaise with Directorate General of Land Disputes, Conflicts and Law Suits if cases involve land-related disputes or legal cases.

TABLE 6. ATR/BPN'S CURRENT TYPOLOGY OF GRIEVANCES

TYPOLOGY	NATURE OF THE ISSUES RAISED	REMARKS
General enquiries	How to get a work done? Information seeking procedures.	Close to 35% of those received fall into this category. The contact is generally limited to one time.
Grievances, criticisms	Dissatisfaction with the process. Time-delays experienced. Lack of information.	Close to 20% of those received fall into this category. Complaint Handling Unit (CHU) generally forwards the letter to respective department and also communicates to respective provincial or district land office. The PIU follow up is limited.
Complaints	Very specific issues raised such as wrong measurement, identity problems, time delays that lead to additional expenses on the part of the land holder. Some minor land acquisition and compensation issues also come up here.	Close to 15% of those received fall into this category. CHU generally follows up till satisfactory closure of the complaint till resolution by respective department or office.

[23] Under ATR/BPN, there are seven Directorate Generals including: DG Agrarian Infrastructure, DG Land Acquisition, DG Land Control, DG Spatial Planning, DG Agrarian Legal Relations, DG Agrarian Land Management (Ditjen 4), DG Land Dispute, Conflict and Lawsuit (Ditjen 7)

[24] Since July 2017, around 4000 complaints have been submitted, of which around 500 are land disputes/conflicts

TYPOLOGY	NATURE OF THE ISSUES RAISED	REMARKS
Disputes	Invariably relate to boundary demarcation and contesting claims between neighbors, overlapping ownership claims and demands seeking higher compensation in case of acquisition. Several family disputes also fall into this category.	Close to 10% of those received fall into this category. PIU generally forwards the letter to respective department and also communicates to respective provincial or district land office. The CHU follow up is limited.
Conflicts	A group of land owners (or community) stake claims over a large part of land area and invariably the issues is against a private investor or State in case of *Adat* or resettlement claims). Most cases involve eviction of land holders and compensation for land taken over.	Close to 5% of those received fall into this category. CHU generally forwards the letter to respective department and also communicates to respective provincial or district land office. Invariably, such cases are handled by local governments or municipalities rather than BPN per se. The PIU follow up is limited.
Advisory services	Frequent enquiries seeking information and advice till completion of the process.	Close to 15% of those received fall into this category. Such land holders frequently contact BPN for guidance.

Reference: Discussions with ATR/BPN-Public Information Unit (2017) and World Bank (2014).

Since the start of 2018, ATR/BPN is currently reforming its institutional arrangements in place to receive, register, and resolve grievances and complaints. The work is also guided by Ministerial regulation no. 11 of 2016 (in case of disputes) and ATR/BPN regulation no. 2 of 2010 (in case of complaints handling). Improvements are currently being sought to address current issues in managing complaints in a more responsive manner particularly in the following areas:

a. expansion of responsibilities for managing land disputes which were previously restricted to District Land Offices (*Kantah*) for settlements or resolution. The new ministerial regulation will enable relevant departments to provide interventions as necessary;
b. inclusion of litigation as a mechanism to settle land conflicts. This mechanism is currently non-existent in the regulation as there are only two channels allowed: internal case resolution (i.e. administrative procedures) within ATR/BPN and mediation;
c. revival of examination teams consisting of relevant high-level officers within ATR/BPN with authority to cancel titles based on administrative grounds – which is still considered a bottleneck at present since cases are often handled at the court.

In this case, complainants shall bear the costs for administrative and legal processes, although disputes are caused by erroneous administrative processing. This has been considered as a bottleneck and will be addressed as part of policy discussion activities under Project Component 3.2.

II. GRIEVANCE REDRESS UNDER PTSL

PTSL has an in-built mechanism to identify various land claims, right ownership, including conflicts and screen out areas with overlapping claims, litigation, disputes or those situated in forest and concession areas from further titling processes until such issues are resolved. **Table 7** outlines different parcel

classifications used by (and resulting from) PTSL processes. The basis of such classification includes existence of legal data (i.e. valid or recognized evidence of land claims, signatures of neighboring landholders and/or witnesses), as well as physical data (i.e. measurement surveys, boundary demarcation, land sizes).

TABLE 7. PTSL PARCEL CLASSIFICATION

(ATR/BPN Ministerial Regulation No. 12/2017)

Parcel Classification Category	CRITERIA
K1	Land parcels whose physical data and juridical data are eligible for the issuance of the Land Rights Certificate
K2	Land parcels equipped with complete physical and legal data but currently under litigation Not eligible for certification
K3	Land parcels with incomplete legal data/evidence of claims (e.g. unidentified owners, under disputes, overlapping boundaries, etc.) due to: - The land owner/holder is unknown/unwilling/a foreigner/a business entity - Incomplete proof of land holding or the land forms customary land; - The land parcel does not meet the criteria, such as absentee case, nationalized land, etc. K3 is not eligible for certification unless the above issues are cleared.
K4	Land Parcels whose objects and subjects are registered and certificates were previously issued but improperly located and/or mapped.

Both physical and legal data of each land parcel in question are displayed for public verification and inquiries for a period of 14 days. Landholders may challenge the mapping results during this period. In the case of administrative errors, necessary correction or rectification will be made by the PTSL taskforce/ In the case of legal disputes, the land parcel in question will not be eligible for certification, so as to prevent further disputes or escalation of conflicts. These cases are subsequently classified as K2 or K3, requiring further legal processes beyond PTSL for resolution.

Risk management at the implementation level is mostly handled directly by PTSL Taskforces, who report to the Adjudication Committee, led by the Head of District Land Offices or his/her delegated officer. Public inquiries and complaints are managed on a case-by-case basis (further described in the following Section 3 on Grievance Handling.

As per the current regulation, communities and their representatives have the right to participate or decline to engage in the PTSL process. Past PTSL work experiences show that limited understanding of the benefits and slow progress in completing the certification (issuance of titles) has impacted on public trust n PTSL and consequently their willingness to readily participate in the project. Field reports also suggest that community resistance has also been caused by land tax obligations and transaction costs that may be incurred following certification. In some other cases, particularly amongst *Adat* communities, registration and certification may be understood differently and perceived to be unacceptable especially around understanding of splitting customary or family properties into smaller parcels. Currently, the PTSL process does not have a standardized procedure for the exercise of free, prior, and informed consultations and such processes usually take place on an ad-hoc basis.

Under the PTSL approach all land parcels in a village would be mapped and registered with the land office and relevant data entered into the electronic database (KKP) and title certificates will be issued for land parcels previously not certified and free of encumbrances (i.e. no competing claims, no overlaps with Forest Areas, concessions and other land parcels). This approach not only focuses on building public confidence in land administration through a participatory process but also invests in technological upgrades and adoption of appropriate policies and guidelines to support operations. The PTSL process also reinforces the importance of decentralized land administration and management models and good practices in governance of resources.

In the context of PTSL, the ESMF seeks to enhance ATR/BPN's current grievance redress mechanisms in three ways:

a. by strengthening coordination and local ATR/BPN's capacity in preventing and managing disputes through enhanced community participation and transparency (this was discussed in an earlier section on the CPF and further elaborated in the **Annex 4)**;
b. by bolstering availability of personnel and financial resources (**see Figure 7**). This will be discussed in this section; and
c. strengthening community-level dispute resolution mechanisms and mediation.

The ESMF differentiates between 'cases' arising during the implementation process and 'grievances' reported after or separately to field level implementation. The ESMF does not attempt to add another layer of feedback and grievance redress reporting but aims to strengthen in-house capacity in preventing complaints by investing in more meaningful community engagement and participation. Investments in capacity building for dispute mediation will be sought.

A. CASE MANAGEMENT DURING PTSL IMPLEMENTATION

In some cases, community resistance or tension may occur during PTSL implementation, often during the physical and legal data collection. In this case, the following steps as illustrated in the following diagram will be followed (see **Figure 7**):

a. Upon identification of potential resistance from communities or other stakeholders with interest, PTSL taskforces and third-party licensed surveyors mobilized to the field will report to the Adjudication Committee;

b. Community engagement will be revisited and necessary meetings or consultations will be conducted. This may involve village heads, community mediators and/or PTSL village facilitation teams to facilitate the discussion;
c. Formal agreements whether PTSL activities should continue or not will be made between PTSL taskforces and the communities/landowners aggrieved;
d. Necessary improvement measures for PTSL implementation will be agreed by the Adjudication Committee and the communities if the decision is to continue to activities;
e. A written agreement and handover document (*Berita Acara*) will be signed by the Adjudication Committee and the communities if the decision is to stop the activities. Copies of data obtained, including maps produced will be handed over to the village government for their perusal;
f. A new location for PTSL will be identified and the processes will be repeated.

B. GRIEVANCE REDRESS HANDLING

The project is putting in place a three-tier mechanism for resolving complaints:

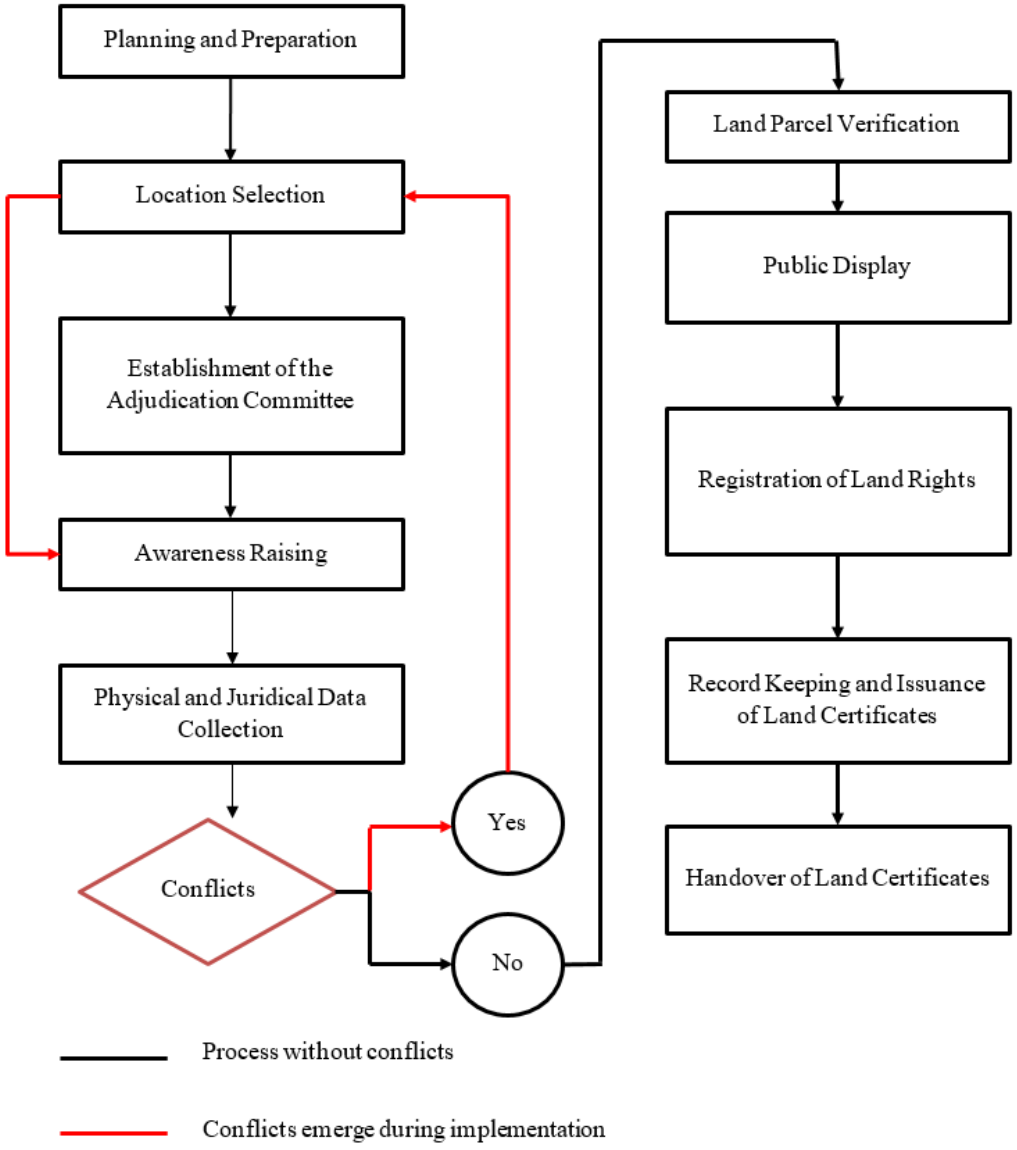
a. The first tier will be local committees (village chief or community leaders). These are invariably oral and no written minutes/agreements anticipated on resolution of complaints but field teams will maintain a Record Book and describe the conclusions.

b. The second tier will be quasi-formal submissions to the Field Teams (or local land offices). For this purpose, the Field Team will maintain a register and record following details as First Information Received (FIR) including:
   - Date and mode of receipt of the complaint.
   - Name of the person submitting the complaint.
   - Details of the complaint (including land parcel location, etc).
   - Specific issues to be addressed by the Field Team.
   - Proposed next steps by the Field Team (in consultation with land office).

Generally, a complaint submitted to the Field Team will be followed with a field investigation by the concerned officers and a back-to-office will be submitted to the Land Office with details on field observations and recommendations. The field investigations and enquiries with the complaint (and

the other parties) with continue until a resolution is accomplished. When the complaint is amicably resolved, the Field Team will record the final results and close the file. On the other hand, if the complaint could not be resolved, then the investigation officer will prepare a note and submit to the Land Office for further action.

FIGURE 8. DISPUTE CASE MANAGEMENT



c. The third-tier functions under the PMU/PIM unit leadership. When the complaint is not resolved at the local level, then it is referred to PIM or PMU for consideration. The PMU Complaints' Handling Committee will comprise of three members (i.e., senior officials). According to the nature of the complaint, the PPMU will ensure that parties to the complaint are properly represented and a field investigation is completed. Based on the details gathered, it would deliver its conclusions to the parties. In doing so, the PMU's Committee will also consider as to whether the respective Field Team complied with due procedures and performed its duties in accordance with the guidelines.

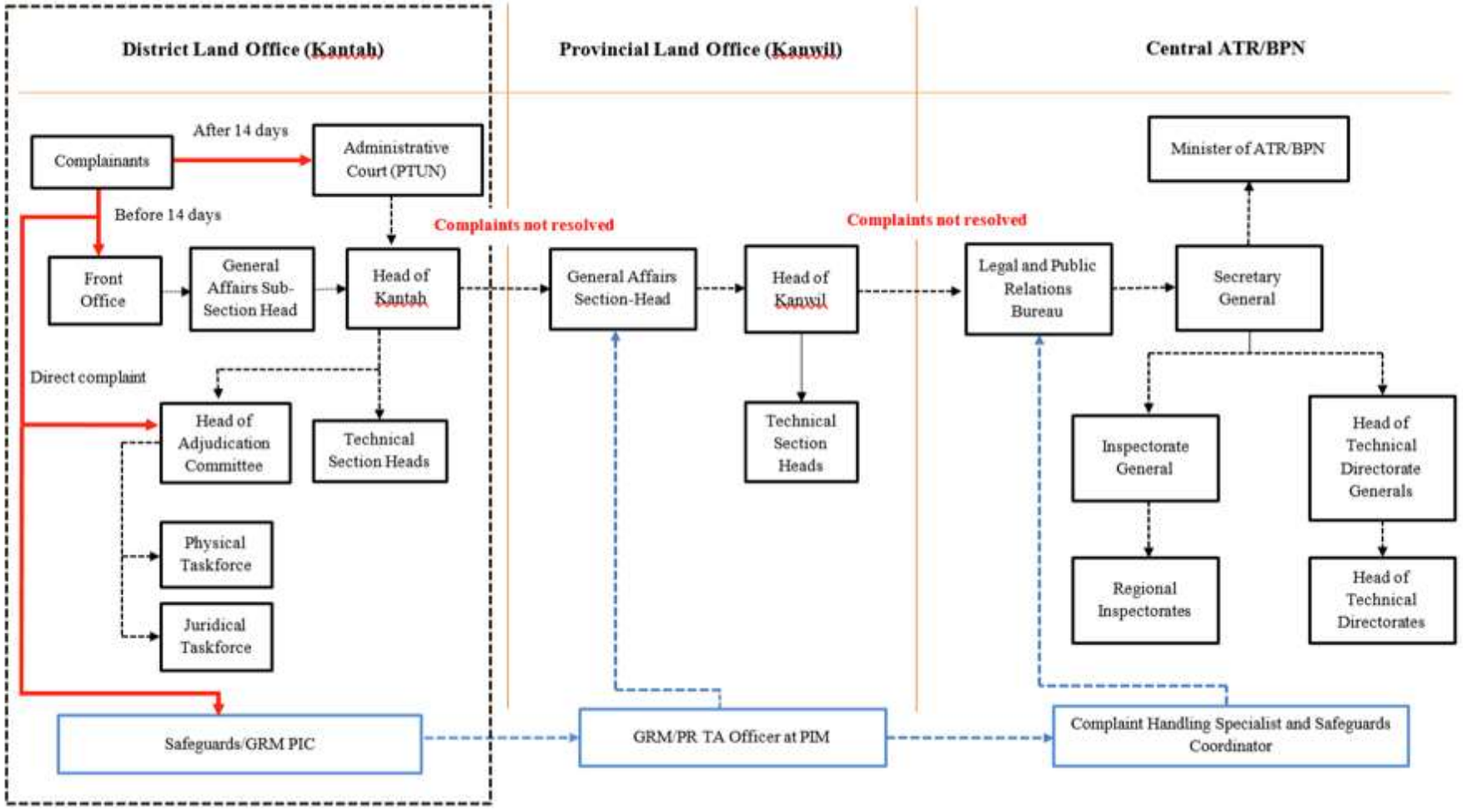
The Field Teams will produce monthly reports on complaints received, investigated and resolved and a summary of this will be part of the PPMU's quarterly narrative reports submitted to PMU.

Figure 8 portrays the existing ATR/BPN grievance redress processes and the proposed additional measures, with the later presented with blue lines. In terms of human resources for the additional measures for grievance handling under the ESMF, the following is proposed:

a. Appointment of a dedicated safeguards/FGRM Person-in-Charge (PIC) at each *Kantah*. The appointed PIC can be recruited from existing staff or recruited locally as additional personnel. He/she will be trained and responsible for day-to-day safeguards and GRM oversight, including receiving complaints from PTSL beneficiaries, managing coordination and liaison aspects with PTSL Taskforces and the Adjudication Committee. He/she will also document GRM status and any pending complaints that will require coordination with higher level departments within ATR/BPN and/or other sectoral agencies;
b. At the provincial level, an additional full-time Public Relations/FGRM officer will be recruited. He/She will be responsible to support coordination functions of respective sections at the *Kanwil*, provide oversight of district and provincial FGRM processes, including documenting the status for settlements and any pending actions. He/She will also be responsible to support PR functions at both *Kantah* and *Kanwil* levels to ensure information is properly disseminated and outreach activities target vulnerable groups. He/She will report to the PIM coordinator and head of Legal Affairs and Public Relations at Central ATR/BPN;
c. At the central level, a senior FGRM and Safeguards coordinator will be recruited to assist the day-to-day tasks of the PMU in terms of safeguards oversight, management of FGRM, especially for complaints and inquiries submitted at the central level. He/She will provide overall oversight at the central, provincial and district levels and be responsible to support coordination roles of the Legal Bureau and Public Relations Department of ATR/BPN in ensuring that complaints are received by appropriate departments within ATR/BPN in a timely fashion and document status of settlements and any pending actions. The TOR for this position would be reviewed by the Bank.

Critically, disputes and grievances arising from PTSL processes are expected to be resolved locally at the *Kantah* level and therefore, strengthening the current ATR/BPN's capacity in handling of disputes will be critical as part of the operationalization of the ESMF. In addition, community-based dispute mediation will also be sought as an alternative (see **Sub-section III**) below.

FIGURE 9. ATR/BPN GRIEVANCE REDRESSAL PROCESSES



-------- Coordination flows

Complaint flows

III. COMMUNITY -LEVEL DISPUTE SETTLEMENTS AND MEDIATION

As per Law no. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (ADR), encourages out of court settlement of disputes over land and property claims and authorizes local mediation. According to article 6 paragraph 3, Law Number 30 of 1999, "in the case of dispute or difference of opinion as meant in paragraph (2) (in direct meeting) unresolved, then based on the written agreement between parties, the dispute or difference of opinion can be settled through the assistance of one or more experts or through a mediator."

In line with 1999 regulation, ATR/BPN is mandated to resolve land disputes through its meditation or via regional governments or civil society. Often times, the court also appoints a judge as a mediator to resolve large-scale land disputes. However, experience shows that poor implementation of ADR can also fail to generate solutions to conflict. Qualified mediators, who fully understand and apply their mediation skills, are lacking both within regional governments and at ATR/BPN. Mediators from NGO backgrounds often find themselves entangled in the dilemma of opting for advocacy or mediation. Government agencies acting as mediators may not be aware of the type or function of mediation appropriate for each case of conflict.[25] As a result, the application of the principles and stages of mediation remains weak. On the other hand, experience has shown that large proportion of disputes could be resolved through community-mediation at village level through a process of dialogue and consultation.

Generally, households (land holders) report disputes over land to village heads (or community representatives, as a first stop) and such matters are considered as civil issues. However, instances of land grabbing are often reported to police or parties directly engage in some sort of discussion; occasionally such instances lead to violence resulting in criminality of some sort registered by local police officials too. Field studies have found that several of land disputes/conflicts stem from increased pressure on access to productive resources or boundary disputes.[26] They can also involve questions of access rights or ownership or use of privately-owned land, state owned land or *Adat* controlled communally-held land.[27] Family disputes over land invariably involved inheritance or divorce issues. There may be some overlaps in categories, since these conflicts may involve disputes concerning ownership or division of property or assets.

[25] The principle most often overlooked is that of the neutrality of the mediator. The mediator must be a person who can be trusted, one that has been agreed to and appointed by both parties in dispute. The abandonment of the principle of neutrality inevitably leads to poor conflict resolution, or sometimes even the worsening of conflict.

[26] Yasmi, Guernier, and Colfer, 2009.

[27] World Bank, 2010;

ATR/BPN's analysis of the cases of successful application of ADR in case of land disputes show that the forces that drive the success of mediation stem from the appointment of a mediator who is chosen by and acceptable to both parties. Information about certified mediators and the support of the Indonesian National Human Rights Commission (Komnas HAM) has not been well communicated to the parties in dispute/conflict. Furthermore, the involvement of authorities such as the government and the judiciary in ADR processes are not always seen as open and transparent. Questions relating to the validity of ADR-produced agreements confirm the importance of more systematic efforts to provide support for mediation (by government and NGOs) without the risk that such agreements cannot be verified or guaranteed.

A number of lessons-learnt from ATR/BPN's decades of experiences in land administration shows that:

a. Land disputes are the most challenging to resolve through formal processes;
b. Village heads, community and *Adat* leaders and local police are the main people to whom local households often turn for assistance. Court-based adjudication and lawyers can sometimes be irrelevant;
c. Women and poorer groups are under-represented in local mediation mechanisms. There are almost no women in decision-making roles in village institutions. Dispute resolution is often headed by middle-aged or old men. In *Adat* communities, decisions may be dominated by elite groups, which may prevent effective and fair resolutions to all parties involved, particularly the poor;
d. People who understand their rights are more likely to use and trust the formal legal system, opening up options and shifting power imbalances in their favor. In such a situation, land disputes can pose risky conditions;
e. The nature of both disputes and resolution patterns tend vary across different parts of the country. A strategy to engage with and strengthen community-based mechanisms is a must, therefore, to be tailored to local conditions;
f. The lack of clear procedures and norms for community mediation exercise - and absence of downward or upward accountability mean the weak and marginalized are poorly served with little recourse to alternatives;

Understanding of the above constraints will be critically important to ensure that the rights of all parties are respected. In successful cases, the mediation process is managed by local community representatives who are considered legitimate by parties in conflict. Recent times, based on lessons learned from ADR work, ATR/BPN has been gradually exploring ways and means to build on existing social capital of trust amongst community members to strengthen local mediation approaches and mainstream it as part of PTSL processes. While the availability of alternative mechanisms outside the court has the potential to position both parties in dispute as active agents of dispute resolution, working towards a "win-win" outcome. However, the mechanism of community-based or alternative dispute resolution (ADR) outside the court is not yet fully understood, has not been applied systematically, and is not yet available as an institutionalized form of mediation to resolve complaints or disputes over land and property matters.

Community-based mediation dispute resolution will be a voluntary mechanism and relevant procedures will remain as flexible, but usually comprise a process of fact- finding, deliberation and either mediation or "light" arbitration. Some general elements of community mediation that will be mainstreamed through PTSL

processes are summarized in **Table 8 below.** In target PTSL areas where land disputes are foreseen, training and mentorship will be provided to potential community mediators and champions, possibly involving existing networks of local mediators (under Component 3). As noted at the start of this Chapter, collaboration with MoEF to strengthen handling of cases of (re)settlement, livelihood restrictions and conflicts within forest boundary areas will be developed as part of the project technical assistance (see Annex 6 for the relevant framework on the handling of access restrictions and involuntary resettlement). Developing conflict resolution capacities, as well as strengthening social forestry implementation, are key mitigations for such cases.

TABLE 8. ELEMENTS OF COMMUNITY-BASED DISPUTE MEDIATION

ELEMENTS	POSSIBLE ACTIVITIES
Complaint received	- Details are received from disputing parties. Resolution (or mediation) group is established; - A public announcement is made regarding process for the proposed mediation approach.
Fact-finding: ***Adat*** functionaries, witnesses and disputants.	- Preparation of briefing on the issue. Subsequently, details are classified and witnesses called to ascertain evidence. Later, disputing parties are also invited to ascertain facts from each side; - Additional objections or information or evidence are received and recorded.
Deliberation/Mediation/Light arbitration	- A general meeting of all members of the resolution group along with disputing parties is convened; - Evidence/details presented are discussed; - Right to hear and to be heard: parties are free to represent themselves and participate actively in the mediation process.
Conclusions and recommendations drafted	- Dispute resolution group's leader drafts a "judgment" and draws up a letter of agreement.
Acceptance/restoration of rights	- The proposed resolution and agreement are read in public and disputing parties are allowed to contest or agree to the decision. Once confirmed, the judgment is deemed as final. - At the end of the session, the agreement is signed between the parties with community members witnessing.
Enforcement	The nature of some dispute mediation processes will generally add an element of social sanction. Fear of revenge or formal legal action also often supports enforcement.

CHAPTER 6: ROAD MAP TO ESMF IMPLEMENTATION

The overall objective of this Roadmap is to provide the project (and PMU, PIM offices and PIU) with clear directions on how to cost-effectively deal with environmental and social safeguards in mapping and PTSL processes, so as to ensure both access to various sources of information and encourage broader consideration of environmental and social performance in the land and land-use sectors. The Roadmap aims to achieve the following:

a. Key deliverables for ESMF preparation and roll-out;
b. Capacity Building and Training; and
c. Resources needed for effective implementation of the ESMF

This roadmap for the project's ESMF implementation support has been developed based on the nature of its current risk profile with the following elements of the risk considered to be critical:

a. Government's Land Sector Strategies and Policies;
b. Technical Design and Procedures for PTSL Processes,
c. Institutional Capacity for ESMF Implementation - and in particular ATR/BPN's outreach programs and GRM – and their Sustainability; Governance Mechanisms at all levels,
d. Fiduciary. The risks emanate from the complexity of land issues and the level of capacities demanded for project implementation in an efficient and effective manner.

I. ESMF IMPLEMENTATION PREPARATION

Upon establishment of PMU, key milestones that need to be achieved between appraisal completion and loan effectives would include:

a. Assign a competent official to work full-time at PMU on safeguards along with those mandated to manage outreach activities and GRM;
b. A work plan, terms of reference and other documentation for the Environmental and Social Screening and Risk Mapping (to be financed under the Trust Fund) will be prepared, including necessary procurement and contracting documentation of additional support consultants;
c. Introductory training curricula and materials will be developed and training on safeguards to personnel assigned to work at pilot sites (year 1) delivered; and
d. A monitoring and reporting system in place for overseeing ESMF work at pilot sites will be put in place and progress tracked.

TABLE 9. INDICATIVE PERSONNEL REQUIRED FOR ESMF IMPLEMENTATION

SKILLS/EXPERTISE NEEDED	NUMBER OF PERSONNEL	DUTY STATION
Safeguards Coordinator	1	PMU (full time)
Communication and Outreach Specialist (PR officer)	1	PMU (Full time for 1st year)
Grievance and Complaint Handling Specialist	1	PMU (full time)
Provincial Safeguards Focal Point and FGRM officer (one per-target province)	7	PIM Offices (Kanwil) – full time
Safeguards PICs at Kantah Level (existing ATR/BPN staff)	TBD	District Land Offices (Kantah) – part time

II. ESMF ROLL OUT

The project implementation support grant (INIS - TF for Indonesia Infrastructure Support) will support the establishment of the project PMU and safeguards preparatory work, including preliminary risk screening in pilot districts, ESMF training and awareness raising, and recruitment of a technical assistance (TA) team for the ESMF roll-out.

During pilot phase of the project implementation, PMU will undertake quarterly monitoring visits to all pilot/project sites in order to proactively provide provinces/local land offices/field teams with technical guidance on safeguards and to monitor quality of the project implementation and supervision. These Safeguards field missions would also provide oversight to facilitate project implementation and efficient use of resources in addressing ESMF issues such as enhanced participation, GRM and social monitoring. PMU will work also with the concerned departments and agencies of ATR/BPN (at national and subnational levels) and other relevant agencies such as MoEF,

MoHA, Bappeda, and civil society groups on safeguards issues. Environmental and social safeguards will also be followed up to ensure the preparation, approval and implementation of commitments such as gender mainstreaming and pre-implementation site screening are implemented in a transparent and inclusive manner, TORs prepared by the PMU for policy development studies or pilots, and community consultations conducted by the project take government's and Bank's safeguard polices into account as they are developed.

Where necessary, additional staff will be mobilized to provide a regular implementation and monitoring in support to ESMF work all through project period.

After the first 12 months of implementation, a progress report would be prepared on accomplishments and challenges – following which ESMF and relevant safeguards' work plans will be fine-tuned – and additional support to ESMF by PMU and project – and follow-up missions would be fielded throughout the project period dependent on implementation progress and technical support required.

Project MTR will take place 24 months from the date of effectiveness, preceded by a comprehensive and independent assessment of the ESMF implementation and socio-economic and environment risks confronted and addressed.

In parallel, fiduciary and safeguards training courses would be carried out during the earliest implementation period (after loan effectiveness) for the PMU, PPMUs and other concerned project implementing agencies to ensure full understanding of the government's and Bank's governing guidelines and operational policies, especially in safeguards area. The Bank will also review and confirm that adequate qualified staff and consultants are in place for project management, safeguards management, and social and technical aspects.

In order to provide timely implementation support and on-demand guidance, the majority of the Safeguards' personnel will be based in the target provinces. Key deliverables for the ESMF roll-out is summarized in the following (**Table 10**) and will be revisited during project appraisal.

TABLE 10. SAFEGUARDS WORK-PLAN (TENTATIVE)

Aspects	No.	Activities	Pilot Phase												Full Implementation			
			2018									2019						
			Apr	Ma	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	2019	2020	2021	2022
Process	1.	Development of the Project Operational Manual (with additional SOPs e.g. FGRM, participatory mapping, safeguards oversight, etc.)																
	2.	Development of communication and outreach strategy for the project and risk management	Prepare strategy for the pilots			Monitor pilots and summarize lessons learnt. Incorporate revisions in the POM and updated strategy. Maintain the manual/strategy as dynamic to respond to changing contexts and demands.						Enforce the Strategy and Manual. Convene Annual "Lessons learnt workshops" and incorporate changes.						
Human Resource	3.	Recruitment of Safeguards/Gender Coordinator (PMU) ATR/BPN						Full-time basis										
	4.	Recruitment of a communication and outreach officer (PMU) ATR/BPN						Full-time for Year 1 (pilot) to develop and pilot project communication strategy							Part-time basis depending on needs			
	5.	Recruitment of FGRM Specialist (PMU) ATR/BPN						Full-time for Year 1 (pilot) to develop and pilot project communication strategy							Part-time basis depending on needs			
	6.	Recruitment of PR and FGRM officer at the *Kanwil* (PIM)						Full-time basis										
	7.	Assignment of Safeguards PIC at the Kantah level (assigning existing staff)						Part-time basis										

Aspects	No.	Activities	Pilot Phase												Full Implementation			
			2018									2019						
			Apr	Ma	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	2019	2020	2021	2022
ESMF training	8.	Internal ESMF team within the project and ATR/BPN and BIG.							Periodic Refreshers									
	9.	ESMF training involving *Kanwil* and *Kantah* officers in target provinces and districts							Periodic Refreshers									
Stakeholder Engagement	10.	Workshops of the project design and ESMF with external stakeholders (including MoEF, MoHA, MoV, and other relevant agencies)							Every 6-month follow up meetings/workshops with key stakeholders on "lessons learnt"									
	11.	CSO/NGO engagement and information dissemination with regards to progress	On a periodic basis, at least every 6-month (can be combined with # 10)															
On-site screening & monitoring	12.	Finalize TOR for pilot sites, and SOPs to be produced																
	14	On-site screening and risk mapping					On-going before PTSL implementation following project effectiveness											
	15.	Periodic beneficiary assessments and participatory environmental and social monitoring (in sample locations)					On a periodic basis following PTSL completion											
	16.	Safeguards Monitoring by PMU and PIM					On a periodic basis and based on needs											

III. STAKEHOLDER ENGAGEMENT PLAN

The PTSL process involves several key stakeholders, including landholders, local authorities at the village and sub-district levels, line departments representing various ministries and agencies (e.g. Provincial Forestry Offices, Forest Management Units, District Village Empowerment Agencies, local police force, the Office of District Secretary and District Heads, local parliaments, etc.). At the implementation level, stakeholder engagement, through community consultations, participatory mapping, joint-monitoring, etc. is integral to the overall PTSL process proposed under the ESMF. The main objective is to create effective, constructive, and regular communication with local communities, various line departments, local organizations and civil society. Strengthened multi-sectoral collaboration is expected to minimize administrative and bureaucracy hurdles and by doing so, reduce potential disputes and/or complaints stemming from dissatisfaction of results and prolonged dispute settlements.

Under the guidance of the ESMF, the project plans:

1) **For village-level engagement**: to describe ways and means for land holders, local communities and authorities, as well as civil society to participate in the process, as well as how disputes will be managed and coordinated with relevant agencies with relevant authorities for dispute settlements;
2) **For multi-stakeholder engagement for ESMF dissemination**: to create a strategy and timeline for information disclosure at relevant stages of the project implementation, including workshops and coordination meetings with relevant stakeholders, including CSOs/NGOs. The PMU should ensure that resources are available and definition of responsibilities across levels within the PMU, PIU, PIM, and *Kantah* is clearly elaborated.

A. VILLAGE-LEVEL ENGAGEMENT

The current PTSL process has set guidelines as to when (or which stage of the process) public/stakeholder engagement is required (see **Figure 9**). These include minimum engagement in five different stages during the process as below:

1) Start up and orientation meeting with key community representatives (socialization and awareness raising with community leaders and representatives) on procedures, community participation, community contact points, and further meeting appointment;
2) Technical meeting to explain guidelines and procedures before “village land walks” and participatory boundary delineation at RT/RW (neighborhood clusters) levels. This may be followed by community training on the use of mapping technology as well as processes. A select pool of community volunteers who will participate in this training will be identified at this stage;
3) Joint field work between PTSL taskforces (including third-party licensed cadaster surveyors) and community volunteers and village authorities. Such field work may consist of physical boundary markings (with woods, pillars) and contradictory delimitation to affirm parcel boundaries;

4) Gathering of legal evidence and other land holding details (managed by community members at the RT/RW level. This should be completed ideally before the public display.
5) Meeting to collect complaints or objections, if any, on maps produced (public display). While this meeting is optional, invariably a meeting at the time of public display is needed to be provided on-the-spot clarifications and additional information.
6) Meeting to validate and confirm the products.

FIGURE 10. VILLAGE-LEVEL ENGAGEMENT IN THE PTSL CYCLE

The measures proposed include steps to strengthen community participation are being sought. These include: strengthening community engagement through more meaningful socialization and outreach, mobilization of village facilitation teams to assist PTSL taskforces and third-party licensed cadaster surveyors to collect and verify physical and legal data of land parcels, community-based dispute settlements and community oversight and monitoring post-PTSL processes.

Awareness raising and information dissemination to the target communities on their legal rights with regards to and use of particular land parcels constitutes important steps in the overall PTSL processes. Several campaigns on public awareness raising and legal education for village communities have been undertaken in the past both by the District Land Offices (*Kantah*) as well as civil society groups. The stakeholder engagement strategy to be developed during the implementation of the project should aim to strengthen synergy and coordination with other organizations in the land sector.

B. Multi-Stakeholder Engagement for ESMF Dissemination

Local communities, civil society and other line agencies are the target audiences for public awareness raising as well as risk management aspects of the PTSL as captured in the ESMF. In an effort to build mutual understanding of the risk mitigation measures proposed in the ESMF which is in turn expected to foster collaboration in dealing with issues on the ground, multi-stakeholder engagement consists of a staged approach as proposed in **Table 11**.

TABLE 11. KEY ASPECTS OF MULTI-STAKEHOLDER ENGAGEMENT FOR THE ESMF

LEVEL	KEY THEMES	TIMELINE
National Level (MoEF, Local Environmental Agencies, including CSOs/NGOs)	- Encourage issuance of guidelines and regulations to support stakeholder engagement with training and resources; - Establish Community Facilitation as integral to land administration and management strategies; - Promote community mediation to resolve land related disputes.	Prior to the start of implementation; refresher may be needed on a periodic basis
Provincial/District Levels (including local CSOs/NGOs)	- Establish and implement guidelines (consistent with local traditions and practices in land administration) that enshrine constitutional standards ensuring right of appeal, humane sanctions and representation for women, Indigenous Peoples and *Adat* communities and poorer groups; - Build upward accountability by supporting civil society and government monitoring and oversight of community-based mediation.	Prior to the start of implementation; refresher may be needed on a periodic basis
Village Institutions (including on community mediation	- Build the skills and capacity of village officials to engage in information dissemination and resolve grievances in accordance with social norms and professional manner. - Support clarification of structures and norms; - Support inclusion and representation for women, Indigenous Peoples and *Adat* communities in village institutions and in project related work groups and committees.	Prior to the start of implementation, and on-going on the basis of needs
Grassroots/ Community	- Convene specific FGDs to empower women, Indigenous Peoples and *Adat* communities and poorer groups regular information dissemination activities and build rights awareness; - Orient and make community representatives accountable to households and members; - Provide information and open up access to the district and provincial level institutions (e.g., formal court system); - Build up capacities for community mediation through legal literacy and judiciary strengthening programs (through orientation new formal laws and guidelines); - Support social mobilization and advisory assistance to address inter-village or trans-communal disputes.	Prior to the start of implementation and on-going on the basis of needs

IV. ENVIRONMENTAL AND SOCIAL SAFEGUARDS MONITORING

PMU and PIM offices, as well as assigned PICs at *Kantah* will be responsible for the monitoring and reporting on the compliance of ESMF compliance, including challenges that may emerge during implementation. It will be part of an overall project monitoring and reporting system outlined in the Project Operations Manual. Safeguards monitoring will include:

Respective officers at PMU, with assistance from PIM and *Kantah* will undertake periodic monitoring of the implementation of the ESMF as part of collecting and analyzing "on-site screening and risks mapping and follow up" work for quarterly project reporting. This includes analyzing and following-up the effectiveness of screening and other tools in the safeguards' frameworks, types and number of issues/risks identified and mitigation measures taken, type and number of training/contact events convened and people met/trained, GRM and complaints management, management of quality and timeliness of deliverables from field teams, consultants, availability of resources (staff, budget) to undertake ESMF tasks, compliance/non-compliance with the frameworks, World Bank safeguards' policies and procedures, Indonesian laws and regulations.

Project will engage an independent monitoring consultant team to review and audit participation of land holders, communities and stakeholders in "on-site screening" and PTSL processes and compliance with the ESMF and other procedures. Recommendations for improvements will be documented in the project progress reports.

PMU will engage an independent consultant team to carry out beneficiary assessment, as provided in the project document, and that will include environmental and social audits of the project. This will be done once prior to mid-term review and project closing. The scope of such assessments will include a review of the implementation and compliance with the participation frameworks. This would review the structure of the frameworks, content and coverage of potential activities, impacts and mitigation measures, interpretation of the frameworks into the Project Operations Manual and other project management tools. Interviews and observations on the efficacy of organizational structures, training, and the capacity and ability of team members to undertake their responsibilities. Site visits will also be carried out to review the effectiveness of environmental and social mitigation measures outlined in safeguards documents.

Each project site (sub-district/*kecamatan* level) will follow tailored risk management measures developed as the results of preliminary screening assessments and will continue to be revisited throughout project implementation. Implementation of specific risk management will be followed up during the course of implementation and as part of project monitoring and/or thematic safeguards supervisions. This information will contribute to the framework monitoring and reporting. Specific attention will be given to social inclusion of women, vulnerable groups and Indigenous Peoples and *Adat* communities to understand their perceptions, perceived impacts and concerns, as well as possible opportunities for enhancement of environmental and social outcomes from the project and broader GoI's Agrarian Reform Program.

The following table (**Table 12**) provides a guideline for ESMF monitoring checklist for PMU.

TABLE 12. ESMF MONITORING AND REPORTING GUIDELINE

1.	Updating of the ESMF, including development of site-specific community engagement plans, communication and community participation strategies Drafting Section on ESMF for the Project Operations Manual (and updates when occasion arises)	SG PMU	Head of PMU	Periodic	Additional SOPs will be needed to provide further clarifications
2.	Dissemination of ESMF (include preparatory meetings)	SG PMU and ATR/BPN Training Dept.	Head of PMU	First 3 months following project start, with periodic refreshers	In collaboration with ATR/BPN PR Bureau
3.	Training on ESMF - Identifying needs on a site-by-site basis; - Preparation of a training plan and budget; - Plan, deliver and manage the training courses; - Follow-up	ATR/BPN Training Dept. and SG PMU	Head of PMU	First 3 months following project start, with periodic refreshers	
4.	Staff is mobilized and trained for ESMF implementation	ATR/BPN Training Dept. and SG PMU	Head of PMU, PIM Coordinator	After first 6-months of implementation, staff needs will be reviewed and suggestions addressed.	
5.	Pre-implementation On-site screening and risk mapping. a. Field preparation b. Reports post-screening c. Progress and follow-up work d. End-of project work report on risk management	SG PMU and FGRM PIM Head of Adj. Comm.	Head of Adjudication Committee	Prior to PTSL implement-tation	
6.	Periodic monitoring and reporting on Grievances	SG PIC *Kantah,* FGRM PIM	Head of Adjudication Committee	Periodic	

	Redressal Mechanisms (GRM) and complaints handling		SG PMU and FGRM PIM		
7.	Reporting unexpected incidents or non-compliance	SG PIC *Kantah,* FGRM PIM	Head of Adjudication Committee SG PMU and FGRM PIM	Periodic	
8.	Preparation and submission of quarterly and annual reports on safeguards	SG PMU	Head of PMU, WB	Periodic	

V. INDICATIVE BUDGET AND RESOURCES

Indicative budget requirements for safeguards implementation are outlined in the **table 13** and will be revisited during appraisal.

VI. NEXT STEPS

Critical steps to be undertaken following project effectiveness to ensure adequate level of buy-in for ESMF and understanding would include:

a. **Socialization:** As part of preparing for the pilots, ATR/BPN's Training Center (Diklat) to be tasked with preparation of curricula and materials, delivery of orientation courses to select personnel at national and subnational levels. This should include gender mainstreaming, protection and recognition of smallholder and *Adat* rights, understanding of physical cultural resources and high-conservation value area (Q4 2018);
b. **Disseminate good practices:** During pilot phase (2018), PMU along with Training Center will establish a platform (on line and offline) for orienting and disseminating good practices in participatory mapping and tenure security to project personnel (Diklat and Q4 2018).
c. **Strengthening Understanding of Risks and Mitigation Measures:** PMU will plan and undertake three structured diagnostic reviews to build knowledge and support safeguards mainstreaming in project implementation (PMU in cooperation with key units of BPN and BIG and other stakeholders).
d. **Support local community mediation measures:** Project should engage with actors leading community resolution methods that are realistic and legally enforceable.
e. **Benchmarking indicators for monitoring:** Field assess and prioritize indicators for project monitoring of risks and mitigation measures. This should include indicators crucial to tracking progress in implementing the land-governance agenda and achieving the country's priority development goals (PMU; April to October 2018).
f. **Public Awareness:** Support further incorporation of mechanisms to enhance public awareness, community participation and community monitoring, and must include functional, complaint- and dispute-resolution mechanisms.

TABLE 13. INDICATIVE ESMF BUDGET

No.	Description	Unit	Unit Cost	Year 1	Year 2	Year 3	Year 4	Year 5	Sub-total
	Personnel								
1.	Senior Safeguards Coordinator at PMU	Month	2000	24000	24000	24000	24000	24000	120000
2.	Senior Public Relations/ Grievance Redress Mechanism (FGRM) Specialist	Month	2000	24000	24000	24000	24000	24000	120000
3.	PR/Communication Specialist at PMU (could be part time in year 2 – 4)	Month	1500	18000	9000	9000	9000	9000	54000
3.	Provincial FRGM coordinator (7 persons)	Month	1000	84000	84000	84000	84000	84000	438000
	Awareness Raising								
4.	Production and Delivery of PTSL public information materials (print, video and other means of communication)	Lump-sum	20000	20000		20000			40000
5.	District/Sub-district socialization/sensitization of PTSL Year 1: 7 districts x 2 sessions per-district Year 2 – 5: 74 districts x 2 sessions per-districts Note: These training courses can be merged with other workshops where possible and costs shared.	Session	1000	14000	37000	37000	37000	37000	162000
6.	Mass-media campaigns (Average $ 3000/province/year). Year 1 cost may be slightly higher to meet preparatory training etc.)	Lump-sum	21000	21000		21000			42000
	Training								
7.	National project design (POM) and ESMF training (PMU, PIU, PIMs) + refresher (every year). Plan: 2 courses/year – using DIKLAT facilities	Session	2500	4000	4000	4000	4000	4000	20000

No.	Description	Unit	Unit Cost	Year 1	Year 2	Year 3	Year 4	Year 5	Sub-total
8.	District-level project design (POM) and ESMF training (PTSL Taskforces + licensed cadaster surveyors) + refresher (every year) 2 workshops per year + refresher. Plan 2 courses/year using Kantah facilities Year 1: 7 districts x 2 courses Year 2: 74 districts x 2 courses Note: These training courses can be merged with other workshops where possible and costs shared.	Session	1500	21000	55500	55500	55500	55500	243000
9.	Community training for PTSL and community dispute resolution (could be held at the sub-district level). Additional lump-sum budget for PTSL implementation to *Kantah* Year 1: 7 districts x 5000 USD Year 2 – 5: 74 districts x 5000 (average) Note: community training can be financed as part of village contributions and therefore can reduce the budget	Package/district	5000	35000	92500	92500	92500	92500	405000
	Community Participation (to be revisited together with parcel costing)								
	TOTAL (Est)								**1644000**

ANNEXES

ANNEX 1: ANALYSIS OF PTSL PROCESS

The following figure represents the PTSL flows, followed by the analysis of its processes (**Table 14**)

FIGURE 11. PTSL BUSINESS CYCLE

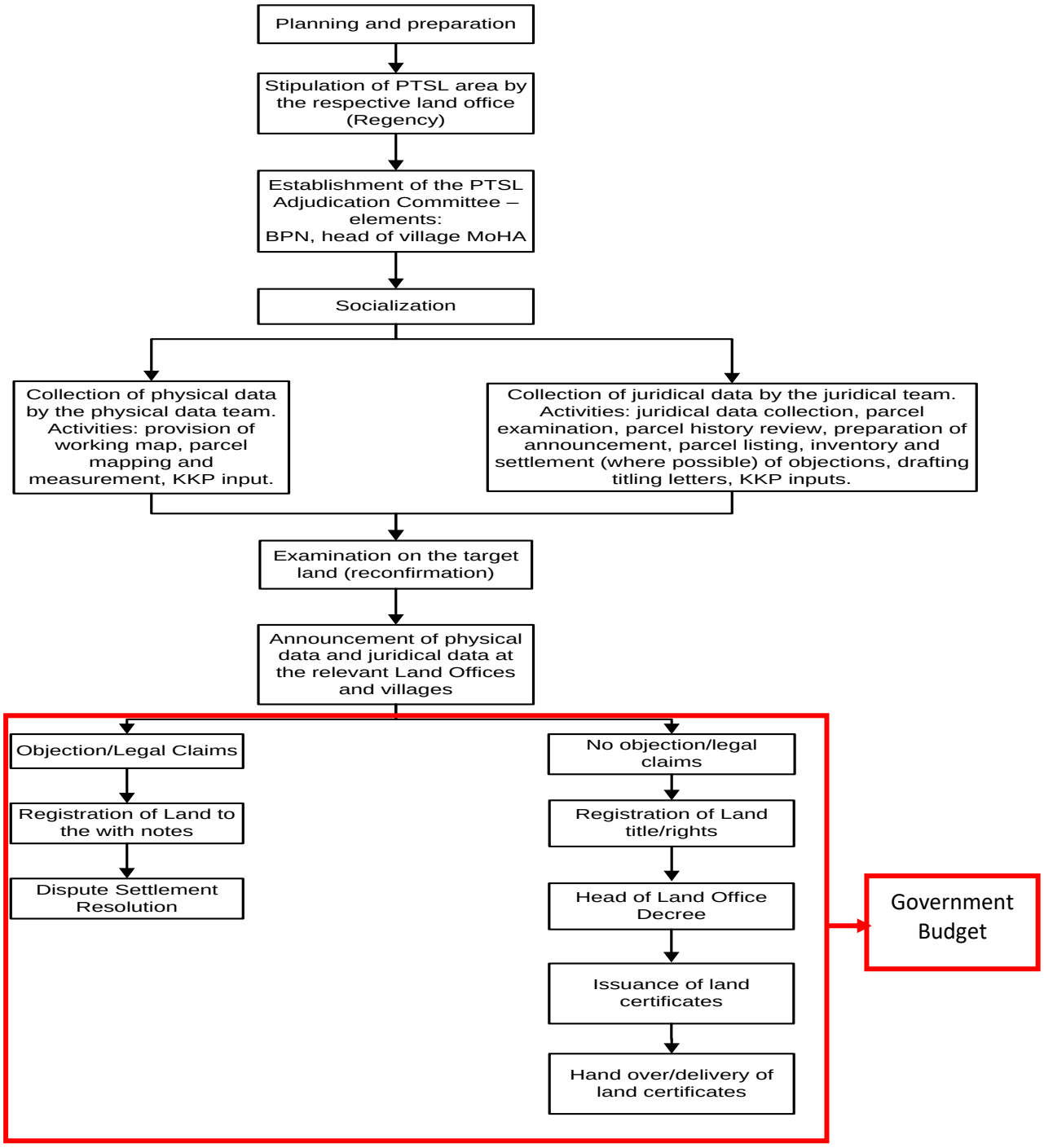


TABLE 14. ANALYSIS OF PTSL PROCESS

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
1.	**Preparation**			
a.	Screening processes	Identification of boundaries (forests, concessions, administrative jurisdictions), potential K1 (parcels to be certified), identification of existing and potential conflicts. The screening results inform identification of locations as well as decisions of "no-go" and alternative siting.	The Adjudication Committee, with the assistance of PTSL Taskforces (Judicial and Physical) will consult village-level stakeholders (village/ward heads, RT and RW[28]) and community representatives	Limited time and financial resources to ensure that screening is fully participatory. Screening is usually used to avoid risks (e.g. overlaps with forest boundaries/estates and concessions) and therefore areas with such overlaps are excluded from PTSL process. **This stage is currently not defined in the current PTSL manuals.**
b.	Preparation and printing of working maps (*peta kerja*)	Working maps by the physical taskforce	**Note:** working maps are defined as maps that generally present the natural and manmade features on land surface projected on a flat sphere at a certain scale and in terms of a map projection in such a way that it can be used in land parcel identification as well as other activities to do with land affairs.	Occasionally base maps are not available, not accurate (low resolutions, different base maps, outdated) and therefore require extra efforts to produce working maps. Inaccurate working maps may affect accuracy of boundary delineation which may trigger potential disputes in the future once certificates are issued.
c.	Plotting of registered land parcels	Registered land parcel distribution on working maps.	Led by the physical taskforce.	Administered mostly in house to generate working maps. No risks are anticipated.
d.	Location designation	Decree on PTSL location signed by Land Office Head	Location designation takes into considerations 1) availability of cadaster base maps, 2) locations where there are minimal registered land parcels, 3) known areas in a village/ward where there is on-going survey and mapping, 4) in-house BPN capacity, 5) potential risks and disputes, 6) areas outside Forest Areas (*Kawasan Hutan*) The current manual does not explicitly mention community participation and define what participation means and entails.	Areas with potential conflicts and low community acceptance tend to be avoided. However, since the project pilot is envisioned to also map out forest boundaries (including those not gazetted), some risks are anticipated. Such risks include community expectations for certification, suspicion, possibly low acceptance levels of forestry/plantation officers, concession holders, and other stakeholders, including communities to support PTSL. Areas with forest and concessions overlaps will be automatically classified as K3 (not eligible for certification) and therefore, prior

[28] RT and RW (neighborhood watch) are the smallest units of village-level organization and they assist village governments in community organization and mobilization.

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
				socialization and awareness raising represent a critical component of risk prevention.
e.	Establishment and official appointment (SK) of Adjudication Committee, Physical and Juridical Taskforces (Chapter 8, verse 2)	Decree on P3D PTSL issued by Land Office Head	The overall oversight of PTSL is under the Adjudication Committee… The juridical taskforce should consist between 2 – 4 officials who are responsible to collect data (and membership can be sought from both government and non-government apparatus e.g. community representatives, or individuals who are considered to have knowledge about land holding/ownership e.g. Kamtibmas or Babinsa). The composition of the physical task force may include: - BPN/Agraria officers - Third party/contractors – from the Office for the Services of Licensed Cadaster Surveyor (KJSKB – *Kantor Jasa Surveyor Kadaster Berlisensi*) - Licensed Cadastral Surveyors (SKB) recruited by BPN As the manuals currently sit, community involvement is being sought to support the Juridical Taskforce. No explicit explanation with regards to community involvement (whether or not it is solicited) to support the physical taskforce. Both manuals do not specify requirements for women representation. The adjudication committee is comprised of four BPN officers, with one representative from the village/ward and the size is adjusted based on needs.	
f.	Socialization (Chapter 2)	Minutes of socialization Adjudication Committee, Physical and Juridical Taskforces	The socialization is conducted by the land office and PTSL adjudication committee (together with Physical and Juridical Taskforces) as well as the third party. This socialization may also However, the manual may benefit from further clarity with regards to: - Specific stakeholders that need to be present (i.e. there is a generic mention of	Formal workshops, usually led by municipal governments – target participants usually consist of village/ward officials Possible mechanisms: LARASITA, visual media/aids, national media, SMS (bursts) Tailoring approaches to local contexts and momentum (e.g. election) – success of socialization may rest upon the quality/level of

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
			landowners, but parties who act on behalf of the landowners in their absence is not mentioned) - Methods for consultations are not explained – or further SOPs may need to be developed; - Minimum standards for consultations are also not elaborated; and - Requirements for documentation, as well as flows of information (e.g. in cases of contestation) are not made explicit. In the manual for budget allocation, there is a substantial reduction for the unit costs for socialization per-parcel from the previous 60,000 IDR down to 10,000 IDR per-parcel, so it will be useful to understand how this has worked out. The socialization budget is to be re-allocated to the survey budget and physical data collection (to verify registered parcels and synchronization of maps).	lobbying). However, this can be hijacked for political purposes which may escalate conflicts. Public Relations/engagement at the Kantah level (PR training) to improve BPN and community relations. Assessments of working loads to understand stress levels of employees which may affect community relations.
2.	**Physical and Legal Data Collection**			
a.	Collection of juridical data (KTP/KK/previous land records)	Copies of KTP (identity cards) and KK (family cards)	P3DF (Field team; Juridical Taskforce)	Level of skills amongst surveyors may vary, and therefore needs strengthening
b.	Collection of legal data	Copies of land holding/land ownership evidence (SPPT, PBB)	P3DY reporting to Legal Taskforce	Same as above. Community participation is low in some areas
c.	Identification and delineation of parcel boundaries	Survey drawing (GU) signed by the land holder/right owner	This work is undertaken by the Physical Taskforce, reporting to the Physical Taskforce or by the Adjudication Committee The manual has a mention of community involvement in this activity and to speed up the process, boundary staking and preparation of the affidavit supporting ownership claims can be undertaken prior to the field survey. The Manual reads: *"Staking boundary corners and showing the land parcel boundaries is undertaken by the land owner/right holder with a village/ward officer/or the head of neighborhood/community (RT/RW) who have a reliable and respected knowledge of parcel boundaries within their respective locality."*	The GU is signed by village/ward officer (acknowledging boundaries shown in GU are generally accepted by those living in the village/neighborhood) and the ATR/BPN surveyor/licensed surveyor

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
d.	Investigation of land history (how parcels were acquired)	Record of land holding/ownership evidence (alas hak)	Adjudication committee supported by juridical and physical taskforces Key considerations: - Certification can only be made if land parcels are classified as K 1. Meaning that sufficient and recognized evidence of land holding/ownership/utilization exists and the respective parcel is ready for titling. - For *Tanah Adat** (any land not classified as state lands) such evidence may be in the form of tax receipts (PBB) or other forms of recognition of ownership (e.g. *Girik, Pipil, Verponding*, or other terms). Claimants must also be recognized by their immediate neighbors and village apparatus. - For state lands, evidence of land utilization is required (and supported by a statement letter signed by witnesses or any written agreements if lands are being leased to other parties). Lands in questions are not located within Forest Areas (*kawasan hutan*) - Joint ownership will be maintained if splitting has not yet occurred. - Lands in dispute cannot be certified (classified as K.2) or lands whose owners cannot be identified, foreigners or customary lands (Tanah Ulayat) or any lands whose claimants refuse to make a statement of land utilization (classified as K.3)	Mostly as an administrative exercise The manual for Juridical data requires specific information about land dispute (annex 1.a on the inventory and identification of PTSL participants, annex 8b on legal data inventory and boundary delineation). However, both forms require open-ended responses and therefore, may not provide the same consistency of information with regards to conflict typology for further management of land disputes). *the use of the term *Adat* may create confusion as this seems to be that any land not originally classified as state lands would constitute *Tanah Adat* (by origin). The terminology closest to Indigenous territories is Tanah Ulayat
e.	Recording of physical and legal documents	Inventory of physical data corresponds with legal data	Responsibilities of PTSL taskforces (physical and juridical)	
f.	Digitalization of physical and legal documents	Scanned and/or photographed physical and legal data	Responsibilities of PTSL taskforces (physical and juridical)	
3.	**Verification of Physical and Legal Data**			
a.	Verification of physical data and completeness of information in the GU		To be led by the Physical Taskforce. Verification consists of: - Upon acceptance, issuance of NIB for each land parcel (to be confirmed)	Further clarity is required with regards to the following aspects as they are currently not specified in the manual: - Does it involve another round of field work? If so, whether this is carried out on a

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
			- Within two days of submission of data to be verified, the land office determines whether the process can continue or needs to be corrected	sampling basis and what are the considerations for the sample selection? - Who gets involved if field verification is required? Side note: Verification is the phase of the physical and juridical data taskforces ensure that the outputs of land parcel survey and mapping activities fulfill technical requirements.
b.	Verification of the position of mapped and registered land parcels (when online with KKP)		Led by the physical taskforce	Mostly as an administrative exercise
c.	Administrative check (to ensure completeness and consistency of information captured in the GU with physical data);		Led by the physical taskforce	Mostly as an administrative exercise
d.	Verification/validation of legal data and inventory of land holding/ownership evidence		Led by the juridical taskforce (and/or the Adjudication committee) .	It seems that this verification requires some field assessment to ensure that the data corresponds to realities on the ground through which land parcels can be classified to be key categories: K1, K2, K3, and K4. Nevertheless, the PTSL manual at present does not specify how community gets involved and to what extent. Such details are provided elsewhere. In addition, the existing manual also does not make explicit whether the verification carried out by the juridical team should be simultaneous with the physical team's work
4.	**Printing of Cadastral Survey Plan (PBT)** To be conducted through KKP application			
a.	Plotting of verified land parcels on KKP and assignment of NIB (for the purpose of printing of PBT)	Plotted land parcels in KKB and assignment of NIB	PTSL Taskforces	N/A
b.	Printing of PBT	Cadastral Survey Plan	PTSL Taskforces	N/A
c.	Signing of PBT	Signed PBT by the head of physical taskforce	PTSL Taskforces	N/A
5.	**Announcement/PTSL Public display**		Public display is led by Physical and Juridical Taskforces, as well as P3D PTSL. The	Landholders and/or community members can state acceptance or rejection of the map

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
			announcement is made at the information boards at BPN Office and/or village/ward office, or RT/RW Secretariat for 14 calendar days	description and owner details presented at PTSL public display. However, no further explanation with regards to access to complaints or GRM that exists (apart from a rather formal procedure stipulated in the other manual on physical data collection)
6.	**Re-verification, investigation and resolution of disputes/objections (i.e. revision of PBT)**		Led by the adjudication committee (headed by Kantah head, but can be delegated) Explanations in the manual (physical data): "Objections may stem from disagreements over: stated areas, land parcel positions, land parcel shapes and boundaries, subjects (landowner/right holder) and other recorded details. The processes include: - Objections shall be made in writing, by the landowner/right holder or his/her representative and filed with the adjudication committee; - Upon submission, objections will be investigated by the Adjudication Committee; - Any revisions on the subject name, stated area or NIB, will be made manually by annotating the PBT, then initialed by the head of adjudication committees and dated; - If correction is needed for the shape or position of a land parcel, the land parcel map should be re-printed once corrected.	If litigation is pursued, handling of issues is being taken care by sub-section V (Land Disputes and Conflicts) at the *Kantah* level. Complaints can be lodged within 14 days during the public display. Beyond the period, administrative court processes to cancel certificates will prevail.
7.	**Printing of Survey Record (Surat Ukur/SU)**	SU documents, describing a single land parcel that contains information regarding the physical aspects of specific land parcels in the form of map and description.	Led by the physical taskforce and final outputs printed through the KKP application.	This may not follow the manuals, printing of PBT and SU may take place simultaneously but administrative corrections can be made in the event of errors or changes
8.	**Issuance of decrees on recognition of land rights**	SK (decrees) issued by the adjudication committee on the confirmation and recognition of land holding/ownership rights	Led by the Adjudication Committee	This phase takes place when all the processes and screening of eligibility have been undertaken and subsequently, clean and clear status of land parcels has been obtained. Subject to securing exemption letters, recipients of PTSL could be exempted from BPHTB responsibilities (Acquisition

No	Stages	Output	Procedural Analysis (including gaps)	Implementation
				Levy of Rights to Lands and Buildings) or deferral of PPh (income tax) for the acquisition of lands
9.	**Book-keeping of land rights, followed by printing and handover of certificates**	Land certificates	Led by the Adjudication committee	Mostly as an administrative exercise
10.	**Document handover to Land Office, Reporting**		Led by the Physical and Juridical Taskforces and Adjudication committee	Mostly as an administrative exercise

ANNEX 2: ASSESSMENT OF WB'S SAFEGUARDS POLICIES AND GOI'S REGULATIONS

TABLE 15. ASSESSMENT OF GOVERNING POLICY AND REGULATORY FRAMEWORKS AGAINST THE WB'S SAFEGUARDS REQUIREMENTS

WB'S SAFEGUARD REQUIREMENTS	GOI'S REQUIREMENTS	ADDITIONAL MEASURES
OP 4.01 Environmental Assessment - Screening and assessment of potential risks and impacts	In the context of PTSL, there is requirement for an environmental and social screening (e.g., identification of areas with high-biodiversity values, potential risks and conflicts, PCRs, etc.). At present, PTSL's preliminary feasibility assessment intends to identify potential land parcels that can be mapped and registered in order to meet specified targets. However, the parcel classification per PTSL criteria has a default provision to exclude areas with potential conflicts and/overlapping claims with regard to parcels to be titled. Minor impacts are expected from small renovation works at the land offices. Regulation of Ministry of the Environment No. 5/2012 is the umbrella legal instrument for impact assessments as well as necessary environmental permits.	It is mandatory to screen all proposed project (PTSL) sites beforehand for assessing potential impact and environmental and social risks with regard to environmental protection; impact on vulnerable and disadvantaged groups or Indigenous Peoples and *Adat* communities; and better land governance. The screening process will identify sites with potential risks so that mitigation measures are prepared for implementation prior to start of project work. Where screening indicates that an environmental or social impact may occur, the level of risk must be assessed and rated immediately thereafter. If any negative environmental or social impact is identified, a proportional environmental and social impact assessment for each site must be undertaken and completed, including "no-go alternatives". Following the completion of the PTSL, there will be a small technical assistance component (under Component 3) to carry out environmental and social monitoring in select areas/districts.
OP 4.36 Forests - Promote environmentally sustainable development by supporting the protection, conservation, maintenance and rehabilitation of natural habitats and their function	The project does not finance commercial logging or activities that could lead to degr*Adat*ion and/or conversion of critical Forest Areas or other natural habitats. The project activities are expected to trigger positive improvements in land and natural resource management over the long term, including Forest Areas.	Risk screening and overall mapping activities will inform actual Forest Areas, including possibility for existence of natural habitats in areas where the project will be implemented. Forest management is the responsibility of MoEF and the project will contribute to strengthening inter-sectoral coordination as well as data sharing for the purpose of land and NRM protection and conservation.
OP 4.11 Physical Cultural Resources	The GoI's regulations cover protection for cultural property and national heritage, including any chance-find-procedures, including Law No.5/1992 on Cultural Property	Site-screening process will include use of a chance-find-procedure for PCR during PTSL implementation. Capacity building for PTSL taskforces and

WB'S SAFEGUARD REQUIREMENTS	GOI'S REQUIREMENTS	ADDITIONAL MEASURES
- Assist in preserving PCR and avoiding their destruction or damage. PCR includes resources of archeological, paleontological, historical, architectural, religious, aesthetic or other cultural significance.	(*Benda Cagar Budaya*), Law No. 11/2010 on National Heritage (*Undang-Undang Cagar Budaya*). At present, there are no chance-find-procedures under the PTSL processes nor a mechanism to record information such as important cultural heritage and archeological sites or natural reserves during land registration activities.	third-party licensed cadaster surveyors will also include modules for building up their understanding on chance-find-procedures.
World Bank Policy (OP 4.10) Indigenous Peoples - Screening of Indigenous Peoples based on WB's Safeguards Policy on Indigenous Peoples - Requirements for free, prior and informed consultations	The overarching GoI's regulations acknowledges the presence of *Adat* Communities and their rights, provided that: - The groups meet eligibility requirements as set out in MoHA's regulations no. 52/2014. These criteria include: a) Indonesian citizens and still maintain unique characteristics and live in harmony based on their traditions and values, b) collective attachments to ancestral territories and distinct habitats, and to lands and natural resources in their territories; c) adherence to customary values that guide economic, political, social, cultural, legal institutions; d) utilize and occupy customary territories over generations; and - The existence of the *Adat* groups must be legally recognized (through district regulations and/or decree from district heads) before their claims and rights can be processed for further legal recognition, including land claims. At present, there is no standardized protocol for free, prior and informed consultations under the PTSL processes, nor screening requirements of Indigenous Peoples.	As per the Indigenous Peoples Planning Framework (IPPF), District land offices (*Kantah*) and respective field teams are responsible for site screening to determine whether Indigenous Peoples and *Adat* communities are present in, or have collective attachment to, the areas proposed for implementation of PTSL. Site-screening process ims to identify: a) presence of Indigenous Peoples and recording of their socio-cultural characteristics, including traditional governance of land and natural resources, b) level of acceptance to the project, c) potential risks and impacts, d) entry points for community engagement, and e) necessary measures to be taken to foster community participation and engagement. The ESMF requires multi-stakeholder PTSL taskforces to consult *Adat* communities concerned pertaining to their tenurial preferences (i.e. collective or individual titles) if their claims are categorized as K1. *Adat* land claims in target PTSL areas, including areas near or within forest borders will be identified and registered in the land electronic registration system (KKP). Prior and during project implementation, the social mapping exercise will include assessment of *Adat* land claims, land tenure preferences, and if there are particular challenges affecting *Adat* women and youth with regards to access to land and resource rights. Key findings of these social mapping assessment will inform the engagement and facilitation

WB'S SAFEGUARD REQUIREMENTS	GOI'S REQUIREMENTS	ADDITIONAL MEASURES
	In terms of protection of Indigenous Peoples' rights, the project does not discriminate or favor certain groups over the other. Necessary measures are in place to ensure land claims are valid and legitimate and those groups and/or individuals. Recognition of barriers faced by Indigenous Peoples is nevertheless important, to ensure that guidance is provided to avoid negative impacts and increase inclusion and other benefits.	approach, as well as mechanisms under PTSL to address *Adat* tenure outside forest and forest border areas. Upon identification of existing *Adat* claims, necessary coordination with relevant agencies will be pursued by the implementation teams (PMU and PIMs and field teams) to ensure compliance with guidelines under Free, Prior and Informed consultations in culturally appropriate ways and support for necessary legal processes for tenure settlements for *Adat* communities (i.e., *Adat* forest recognition and/or social forestry).
World Bank Policy (OP 4.12) on Involuntary Resettlement	Although the project does not acquire any land and displace people or their resources, it triggers World Bank Policy (OP 4.12) on Involuntary Resettlement due to the resettlement risk associated with the Forest Boundary reconstruction and affirmation by the project. The risk would be materialized, if MoEF or a Forest Concession owner used the new affirmed Forest Area boundary to force resettlement over people residing within the affirmed Forest Area boundary inside the Forest Area. In such a case, the GoI would need to carry out the settlement according to the principles and processes of the World Bank Policy (OP 4.12). For these reasons, the World Bank Policy (OP 4.12) is triggered to provide an instrument to avoid and minimize such risks.	Guided by the ESMF developed by ATR/BPN, the following measures will be adhered to: a. Not to include villages adjacent to enacted conservation and protection forest zones in the early years of the project implementation (to allow more mature development of a possibly mutually agreed process on parcel mapping within MoEF and ATR/BPN to develop); b. WBG to facilitate coordination and provide technical assistance to MoEF (at their consent, request or through other financing) in the identification and inventory of forest occupation and support alternative mechanisms other than resettlement to allow continued use and access to resources under the social forestry and/or TORA schemes; c. strengthen community engagement, awareness rising and local dispute mechanisms particularly for community members in forest borders/buffer zones, including community facilitation for alternative tenure arrangements; The PMU at ATR/BPN is required ensure that institutional commitments and capacity to handle risks associated with forest boundary demarcation are in place before the activities commence. Under the ESMF, erroneous land claim registration which may lead to wrong titling and future disputes is considered a project governance risk to be addressed through strengthened community participation and oversight.

WB'S SAFEGUARD REQUIREMENTS	GOI'S REQUIREMENTS	ADDITIONAL MEASURES
Other considerations: - Gender - Community participation - Transparency and Information Disclosure	**Gender:** The GoI's policies and legal frameworks are gender neutral. Under existing laws, women have equal access to land and property ownership and hold inheritance rights. PTSL socialization encourages women's participation and provides information on access to inheritance and property rights. However, affirmative action to enable such participation is not explicitly mainstreamed in the overall PTSL implementation nor sufficiently resourced. **Community participation**: Community participation is central to PTSL implementation at different stages of the project. Information dissemination and socialization are usually conducted in a cascaded manner, involving village government officers and/or respected community figures and households. In line with the Field Manual, community meetings will follow a step-by-step approach. Similarly, physical and legal data collection also encourages community participation to a varying degree. **Transparency and information disclosure:** Project procedures ensure that information concerning activities is made publicly available. In particular, communities and land holders and other stakeholders are able to access information pertaining to the project plan, activities in general and particular to their area (work plan, for example) – and with regard to their land parcels during mapping, public display processes. There will be a dedicated window not only for information dissemination but also for enquiries, raising their concerns and grievances, if along with procedures and mechanisms available for addressing such issues.	**Gender:** The ESMF strives to ensure that all women have the adequate opportunities and space to participate in project-relate discussions and decision-making and with regard to access to and control over land and natural resources. These measures will be reinforced through inclusive and meaningful consultative PTSL processes and procedures that emphasis on women-only meetings and for women's participation in planning, data collection, engagement during public display of maps produced, including women-specific guidelines with regard to support and advisory services in inheritance rights and dispute resolution. The project also aims to strengthen field facilitation support to be provided by District Land Offices (*Kantah*) to enhance women's participation in the overall PTSL process. Steps will be taken to ensure that sufficient number of women facilitators are trained and assigned to work as part of the field teams, with interpretation and translation into local languages as needed and whenever feasible. **Transparency and information disclosure:** The ESMF calls for enhancement in the current ATR/BPN capacity and process to disseminate information through community engagement at different stages of the project as well as feedback and grievance mechanisms. Prior to the project implementation, target communities will be fully informed about the project implementation processes, their roles and responsibilities, access to grievance redress mechanisms as well as inquiries. Detailed steps and procedures are detailed in **Chapter 5**. **Community Participation:** The ESMF seeks to enhance community participation through improved access to information about the program, social group (or site specific) tailored consultations with local communities and vulnerable groups, including women and youth. The Field Manual will prescribe specific modules and steps to engage with those specific groups too.

WB'S SAFEGUARD REQUIREMENTS	GOI'S REQUIREMENTS	ADDITIONAL MEASURES
	Under the PTSL process, grievances, concerns or complaints, if any, will have to be addressed through existing administrative processes if such complaints are lodged within 14 days since the announcement or through court cancellation if complaints are lodged at a later stage. In addition, field teams will be trained (along with follow-up refresher workshops) to respond to requests for information as promptly as possible. PMU/PPMUs/local governments website will also be equipped to provide information and updates on such issues.	In addition, the ESMF calls for a bolstered communication strategy to ensure that the project work is widely disseminated across stakeholder groups. By doing so, the process is expected to support coordination and cross-facilitation of efforts amongst line departments and local civil society, especially with regard to issues that cannot be dealt with ATR/BPN. An additional measure for participatory environmental and social monitoring will also be implemented in select locations following the completion of the PTSL.

ANNEX 3: RISK ANALYSIS AND REQUIRED MITIGATION MEASURES

TABLE 16. RISK ANALYSIS OF PROPOSED PROJECT ACTIVITIES

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
Component 1: Participatory Mapping and Agrarian Reform							
Sub-component 1.1: Fit-for-Purpose Cadastral Mapping	Community mobilization and socialization	Inadequate participation due to various reasons, including: - elite capture and lack of accessibility and means to participate (including significant opportunity costs for participation); - lack of prior information, exclusion of certain groups in the village structures, the mapping process does not take into account availability of certain groups when the mapping process takes place; - pressures to complete the process and deliver outputs may also reduce incentives to invest in meaningful consultations. - Standard consultation processes may not be sufficient to address the requirements of certain groups, particularly in areas with high illiteracy levels, pockets of culturally and socially distinct communities	High/ Moderate	Socialization is conducted prior to location designation in a cascaded manner, starting from village officials and community figures. In some instances, due to low participation, members of PTSL taskforces would go door-to-door to meet community members and collect necessary data and information, particularly in villages and/or wards with leadership issues.	PTSL Taskforces (Juridical and Physical), coordinated by the Adjudication Committee	Socialization is often only conducted at the beginning and limited to key village and/or ward officials and community figures. In addition, it is reported to be under-resourced. Socialization is often framed as community mobilization to expedite physical and juridical data collection, and therefore not necessarily expanded to fostering awareness and understanding of benefits of PTSL and responsibilities that entail. Socialization and outreach were reported to be challenging in remote areas and/or communities with distinct characteristics (e.g. high illiteracy levels, high mobility, limited incentives to participate and low trust levels). Such barriers may limit the ability of PTSL Taskforces to address and	Strengthening socialization and outreach before and during PTSL implementation, as well as expanding access to information. This can be done by: - Ensuring that financial resources and personnel are available, especially when working in remote areas or communities with limited incentives to participate and/support the process; - Tailoring engagement and communication based on local characteristics and people's availability; - Use of public campaigns to improve people's awareness of the project and its benefits; - Strengthening engagement with CSOs/CBOs in land sector; - Land taxes (BPHTB) exemption for first-time registration; The measures above are outlined in the Community Participation Framework (Annex 3)

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		(including Indigenous Peoples and *Adat* communities), ability to understand and respond to local traditions and practices, limited access to services and information;				accommodate local traditions and practices, which may undermine access to services and information. In addition, socialization is often under-resourced	
	Community mobilization and socialization	Lack of willingness to participate in the project due to: - existing practices of village-level titling which favors land holders (e.g. quicker administrative procedures and cheaper land transactions) and village governments (e.g. retributions); - land tax obligations and implications for the holder, if parcels are formally certified (PBB); - limited access to correct information and understanding of project benefits may also result in distorted information and misunderstanding across levels (e.g. weak community buy-in).	Medium/ Moderate	Currently in some districts, village and ward governments still issue village-level land documents/letters, as a form of localized land documentation system (*alas hak*) despite this practice has been outlawed by the central government[29]. By regulation, copies of these documents should be handed over to ATR/BPN, but in practice, landowners often forego the institutions' involvement to limit transaction costs.	PTSL Taskforces (Juridical and Physical), coordinated by the Adjudication Committee	Measurement sizes in village-level land documentation vary and are often inaccurate (e.g. missing coordinates, overlaps with other parcels). Certification from ATR/BPN would require re-measurement to identify discrepancies. Such differences often lead to inquiries and at times dissatisfaction from the part of claimants/landholders. BPHTB exemption remains district head/mayors' discretion and only few districts have issued such exemption.	Areas with potential resistance by certain stakeholders (e.g. village/ward apparatus, community representatives, etc.) due to Same as above with strengthened facilitation and oversight from the Adjudication Committee and PTSL Taskforces and engagement with local CSOs/CBOs to support community engagement and mobilization. In addition, application of village readiness criteria as part of screening will assist in developing additional measures for community participation and risk management.

[29] In legal terms, ATR/BPN is authorized as the primary provider of land administration services and has the sole authority over surveying of non-forest land areas and granting of land titles. However, across Indonesia, localized land documentation systems exist. These can be in the forms of letters acknowledging the physical control and customary ownership when land is sold or inherited, or when parcels are divided. Such documents are usually prepared by village and/or ward heads or the sub-district head and witnessed by representatives of the parties involved.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		- negative community perception of the project (e.g. suspicion of frauds due to misguided perception of required community contributions being perceived as extra-charges) Overall lack of community participation and willingness to participate can affect the overall mapping process and data collection (physical and legal data of land claims). Such issues compromise the quality and legitimacy of maps and certificates produced, which may consequently result in future land disputes;		Consequently, a large number of localized land documents exists but are not recorded by ATR/BPN. As per-SKB 3 Menteri (joint agreement of three ministers of *MoV, MoHA, and MoATR/BPN*), MoHA is required to instruct district heads and mayors to exempt beneficiaries of PTSL land certification from paying BPHTB taxes or make rate deduction.			
	Participatory Mapping (physical and legal data collection, verification)	Land owners/claimants are not present at the time juridical and physical data are collected and may consequently risk their claims being reflected inaccurately and/or claimed by other parties. Inadequate community consultation and project drivers to maximize village level participatory mapping coverage and the number of parcels mapped may result not only in customary (*Adat)* interests not being	High/High	If overlapping claims are identified during PTSL implementation, lands in question will be classified as K3 (not eligible for certification) and further resolution will be conditional for certification. However, there are potential instances where competing claims could not be identified/ascertained during PTSL	Verification of land claims is led by the Juridical Taskforce. In the event of disputes during PTSL implementation, the Juridical and Physical Taskforces would be responsible to verify data/information disputed and make necessary	Large targets within a short timeline may undermine the processes to verify legitimate owners/claimants of the lands in question and neighboring owners/claimants to ascertain legitimacy of the land claims. In the event that disputes arise following land certification, the Land Dispute and Conflict section (Ditjend 7) at the ATR/BPN Land Office	Strengthening community participation processes to ensure that wide participation and more complete information of land claims can be secured. This includes that required witnesses attesting land claims are present to prevent false claims or competing claims from being classified as K1 (ready for titling) This process should also be accompanied by strengthening administrative procedures for correction/rectification of

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
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		identified but that competing claims by the current occupants may get strengthened at the expense of customary community's interests.		implementation and consequently, the land in question is classified as K1 (eligible for certification). This presents risks for future conflicts. Claims for land parcels with prerequisite statement letter submitted by the person (Pasal 20 Permen 12/2017 ttg PTSL)	corrections in the land documentation (*warkah*) prior to certification.	(*Kantah*) will be responsible to address such disputes. Complaints are also often reported to the central level. The DG Land Dispute and Conflicts will be responsible to mediate and process the cases for resolution and/or closures. If complaints cannot be resolved through administrative processes, resolution rests upon court decisions through litigation.	claims when needs arise to prevent litigation and/or court disputes. Strengthening the current grievance redress procedures as well as improving their accessibility will serve as an early warning system before disputes emerge and/or escalate. Preliminary screening should identify potential customary land interests. If there are competing claims, the areas claimed by *Adat* communities may be classified as high-risk and further measures, including settlements of disputes, need to be conducted by relevant agencies prior to the start of the mapping. The PTSL guideline can be improved to accommodate mapping and recording of customary interests. This process is suggested in the CPF of this ESMF.
	Participatory Mapping (physical and legal data collection, verification)	Lack of thoroughness and details resulting in inaccurate parcel boundary delineation and registration of ownership may hide future potential conflicts/disputes (often not identified during PTSL implementation). Possible factors include:	Medium /High	In some areas, base maps were not available and if available, such maps were often inaccurate and obsolete. Various sources of base maps to create PTSL working maps, including spatial plan	PTSL Physical Taskforce	In cases where owners of immediate neighboring parcels (*sempadan*) are absent, certification may still proceed without their testimony. Provisional boundary demarcation will be drawn in the survey certificates (*Surat Ukur/SU*) for the	Similar to the above, strengthening socialization, outreach, GRM as well as facilitation by PTSL taskforces remains a critical component in the overall risk management. Issues around inaccurate parcel delineation could be partly addressed through

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		- Absence and/or low-quality base maps (i.e. low resolution, outdated, not rectified, etc.); - Incomplete/absence juridical data and proofs of land claims (*alas hak*) and testimony of witnesses; - Presence of unidentifiable landowners, such as abandoned parcels in transmigration areas with possibilities of incorrect assignment of land claims		reference maps (RTRW), satellite imagery, manual photogrammetric delineation, etc. The lack of accurate base maps does not only result in higher overall costs for parcel boundary delineation, but also lower levels of inaccuracy.		section(s) where neighboring owners/claimants cannot be ascertained.	strengthening of technical implementation (i.e. provisions of high-resolution base maps, enabling equipment and infrastructure, human resources, etc.).
	Participatory Mapping (physical and legal data collection, verification)	Risks stemming from poor coordination and communication with village governments could manifest in: - Low-level of institutional trust; - Community mobilization issues; - Potential misunderstanding and misinterpretation of PTSL processes, often at the expense of the poor (e.g. community contribution requirements)	Medium/ Moderate	As per-joint-decree of three ministries (ATR/BPN, MOHA, and MoV), district governments are instructed to mobilize additional resources to support PTSL currently not covered by ATR/BPN (i.e. purchase of boundary demarcation posts, operational costs for village/ward officials, and photocopies). The decree is not explicit with regards to financing sources although indicative amounts by region are specified. Community members who are interested to certify	Village/ward governments	Implementation gaps and possible misinterpretation of this regulation were identified. Although by regulation, community members are encouraged to contribute to support PTSL, there is no set amount that each land owner is mandated to pay. The regulation is also ambiguous with regards to the financing sources and reads generally that the district governments are expected to support PTSL operational costs not covered by ATR/BPN.	Strengthening socialization and outreach, particularly for the following aspects: - Rights and responsibilities of PTSL participants; - Access to public inquires; - Beneficiary selection (requirements and entitlements) Risks could also be addressed by revisiting the prevailing regulation on community contributions and strengthening district oversight of PTSL implementation.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
				their lands are requested to pool their contributions to designated village/ward committees. In some cases, community members who are unable to contribute may be excluded from participation although their land parcels qualify for certification.			
		Potential areas that have cultural heritage, archeological values or natural reserves such as wetlands, mangrove areas and etc. may not be properly identified and mapped.	Low/ Moderate	The current PTSL process does not include areas classified as Forest Areas (*Kawasan Hutan*) and it is excluded in the project regardless the actual forest covers or the lack thereof.	The PTSL taskforces and third party licensed cadaster surveyors	The PTSL process does not record information such as important cultural heritage sites, archeological potential or natural reserves. The Bank OP4.11 requires a Physical Cultural Resource (PCR) management plan when an investment may affect PCR – i.e., resources of archaeological, paleontological, historical, architectural and religious (including graveyards and burial sites), aesthetic or other cultural significance.	The ESMF will require the preparation of environmental risk screening and chance find protocols or PCR management.
	Pubic Display and Dispute Settlements	Limited community participation and understanding of the	Medium/ High	Public display of village-level parcel maps is often held in village halls for a	The PTSL Taskforces with oversight from	Lack of community participation during the public display is often reported particularly in	Facilitating public display at the hamlet level or places convenient to the communities. Mobilization of

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		grievance redress protocols in the case of disputes.		period of 14 working days. Community may raise their objections in the case of discrepancies, unidentified claims, or any errors. In the case of administrative errors, the PTSL taskforces will make necessary corrections to the land parcel documentation in question (e.g. re-measurement, verification of legal data). In the case of disputes due to competing claims, the land parcel in question will be classified as K3 and therefore, will not certified until legal disputes are settled by parties involved. Previous land administration experiences have shown that disputes often do not emerge at the time of registration and/or public display but may be filed at a later time.	the Adjudication Committee (include the section in *Kantah)*	remote areas. Information about the announced parcel maps often does not reach landowners. If the 14-day period expires, the land parcel maps produced will be considered valid and processed to the next stage i.e. registration and certification.	village facilitation teams to support outreach and information dissemination of the public display process. Ensuring that information and SOPs for dispute handling at the village level are available and accessible. This may involve training community facilitators and mediators to facilitate dispute handling.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
Sub-Component 1.3 Forest Boundary Demarcation	Affirmation of state forest boundaries by a joint taskforce	Potential escalation of community claims particularly in Forest Areas due to mapping activities which may heighten existing tension. Demarcation of forest boundaries, potentially with installation of visible markers/posts may increase or create community tension with mapping teams and/or agencies involved. The project may also raise community expectations for recognition of claims especially in Forest Areas or concessions.	Medium/ High	Locations with forest boundary and concession overlaps tend to be avoided in anticipation of potential disputes and further legal complications. The problem becomes acute when the provincial and district spatial plans have not yet been finalized and decisions on mapping are often taken on an ad-hoc basis depending on the availability of spatial data, often referencing outdated spatial plans in the case of Riau Province. As a consequence, PTSL remains incomplete and areas with potential overlaps with Forest Areas and concessions remain unmapped and unregistered.	The Adjudication Committee and possibly a multi-sectoral taskforce involving relevant agencies for forest boundary demarcation (ATR/BPN, MoEF, MOHA)	Access to information about PTSL and location selection criteria is often limited to communities living near or within Forest Areas, causing information distortion and misguided expectations for tenure security.	Strengthening community engagement and outreach, as well as access to information and GRM, targeting communities living near or within Forest Areas or concessions. Using a risk screening exercise, PTSL taskforces need to ensure that potential risks are detected early on before the implementation of the mapping activities start. Prioritize participatory mapping of forest zones boundaries to those where there is on-the-ground agreement by all significant stakeholders. Target project participatory mapping work on villages without known disputes regarding village boundaries or forest zone boundaries. Joint-facilitation and mapping exercise with key government agencies, particularly MoEF during the socialization and fieldwork
	Affirmation of state forest boundaries by a joint taskforce	Reputational risks and heightened political tension with civil society due to un-met public expectations that the program will deliver tenure security in disputed areas and address land claims within state	Medium/ Moderate	Resolution of tenure in areas classified as state forests is outside ATR/BPN's mandates and is currently being dealt with other programs executed by	The Adjudication Committee and possibly a multi-sectoral taskforce involving relevant agencies for	Coordination with relevant agencies particularly MoEF and District Forestry Offices in joint-collaboration for forest boundary demarcation remains	Strengthening joint-collaboration with relevant agencies as instructed in the Presidential Instruction No.2/2018 on cross-agency facilitation and data sharing for forest boundary demarcation.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		forests (*Kawasan Hutan*), private concessions and/or classified as government assets.		MoEF, notably social forestry and TORA	forest boundary demarcation (ATR/BPN, MoEF, MOHA)	limited. Data sharing was also reported to be	Strengthening engagement with CSOs/NGOs in the land sector and ensure that information about the project, including progress and updates, is publicly available.
Sub-component 1.2 Land Registration	Land registration and certification	Inaccurate physical and juridical data may produce inaccurate land certificates which may be contested by other claimants. Various possible scenarios include: - Land owners opt to not disclose prior land certification to evade taxes and transaction costs. Consequently, the same land parcels could be certified under multiple names and may trigger disputes in the future; - Presence of "flying parcels" (formal certificates exist but their coordinates not identified); and - Inherited lands claimed by multiple heirs and not yet legally transferred - Uncertified lands being abandoned for future investments and currently occupied by other parties (e.g. transmigration areas).	Medium /High	PTSL has an in-built screening mechanism to screen out potentially disputed land parcels to be excluded from certification (K2 and K3) classification. Land parcels without prior written proofs of ownership/occupation (*alas hak*) may still qualify for certification (K1), provided that claimants sign a written statement before two witnesses testifying the legitimacy of the claims. To anticipate potential future competing claims, the letter contains a disclaimer that the claims can be cancelled through administrative processes.	PTSL Taskforces and Adjudication Committee	Adequate measures under land registration administration are in place to ensure that land certificates issued are legitimate and free of encumbrances (e.g. contesting claims, overlapping boundaries, etc.). However, the quality and process of physical and legal data collection varies and so does the accuracy and legitimacy of certificates issued due to various factors as explained in the above (e.g. lack of base maps, limited community participation, etc.).	The current ambitious PTSL targets for certification within a short timeframe may create program governance risks, which may require strengthening of oversight and capacity building for field implementation teams.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			
				Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
	Land registration and certification	Risks associated with community and wider stakeholders' perceptions and expectations of what the program is expected to deliver (e.g. tenure security in Forest Areas and/or areas under concessions and prior occupation) which may manifest in: - Individual and/or communal efforts to strengthen land holding/ownership claims regardless of the locations (forest or non-Forest Areas); - Land speculation due to the unlocking of potential commercial values of land parcels; - Escalation of land dispute in areas with pre-existing conflicts due to erroneous titling or other reasons.	Medium/ Moderate	Risks at this stage are generally lower since certification is the final stage under the PTSL cycle since this process has undergone various screening and verification with regards to legal status of land claims and occupation.	PTSL Adjudication Committee	In the current PTSL cycle which rewards K.1 (parcel ready for titling) as performance indicators may create perverse incentives for local land offices (Kantah) to classify land parcels as K.1 although not all required information and/or consensus has been obtained.	Strengthening community facilitation and outreach, through various communication, channels to inform PTSL processes, entitlements and responsibilities. Standard Operating Procedures (SOPs) needs to be developed with specific provisions of tailored methodology and approaches for outreach activities amongst vulnerable groups, including Indigenous Peoples and *Adat* communities. This also includes capacity building for mapping teams in community engagement and risk management. In addition, the project should also seek to ensure sustained facilitation support in the overall PTSL process, by mobilizing community champions to act as an extended arm of PTSL taskforces and liaise with ATR/BPN to inform emerging risks
	Land registration and certification (issuance of titles)	Potential for misunderstanding and tension on the recipients' side due to: - Lack of relevant and correct information pertaining to certification processes and eligibility, rights and responsibilities	Medium/ Moderate	Socialization and information dissemination mostly take place in the beginning of the process. Community engagement and facilitation is often under-resourced and	PTSL Taskforces with oversight from the Adjudication Committee	There are issues in ensuring adequate information coverage for the target communities when village governments show resistance or low buy-in to the project. PTSL is often perceived to reduce	Key strategies include: - Bolstering the current community engagement and public relations strategy to expand access to information and enable responsive mechanisms to public inquires and grievances;

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		(i.e. paying land taxes), required community contributions to support PTSL, etc.; - Limited access to credible grievance redress mechanisms and public inquiries; - Suspicion that lands will be taken away due to various interests (i.e. regional development, commercial purposes, etc.) There could also be potential tension due to unmet expectations of land owners for parcels classified as K.2 (parcels under litigation) or K 3 (parcels under disputes or with forest and concession boundary overlaps and incomplete information). Such tension often occurs if information with regards of reasons for such classification is not clear or verifiable.		with large targets to achieve, balancing such engagement with other technical aspects have been challenging for the field teams.		the authority of village or sub-district governments in issuing village-level land letters.	- Revitalizing the functions of the community empowerment sub-section at the District Land Offices (*Kantah*) to lead community facilitation aspects of the PTSL - Community empowerment programs in collaboration with sectoral agencies i.e. MoV, MoHA, MoEF
	Land registration and certification	Erroneous titles are issued in Forest Areas (*Kawasan Hutan*) and/or areas under concessions due to unclear and/or legally established boundaries and different map scales. In areas where there are villages or same villages	Low/ Moderate	Areas with forest and concession overlaps tend to be avoided due to potential legal implications. In areas where forest boundaries are not yet gazetted (SK) or where there could be	PTSL Adjudication Committee	Lack of legalized spatial data (both provincial and district RTRW) and forest boundaries has created challenges for the PTSL Taskforces to delineate forest and non-forest boundaries.	Strengthening coordination and joint-facilitation with relevant agencies, particularly MoEF. Ensuring that proper information dissemination reaches communities. *Adat* claims in PTSL target areas, will be registered and if

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
		located in non-forest and Forest Areas, potential tension amongst land claimants in the Forest Areas and/or buffer areas may emerge since their lands are excluded and not-eligible for certification.		potential overlaps, non-forest zone buffers (usually 100 meters from the indicative forest boundaries) will be established and mapping activities are avoided within the buffers.			such claims are located in non-Forest Areas, options for titling will be provided, based on their collective decisions.
Sub-component 1.4 Strengthen-ing Local Land Offices	Office renovation	Minor renovation works will have low risks/impacts. The potential negative impacts could include improper disposal of construction waste (e.g. asbestos materials) from renovation work (if any) and injuries sustained from not using proper personal protection equipment (PPE)	Medium/ Low	N/A	District Land Offices	No gaps in regulations. Enforcement varies	The ESMF is equipped with an Environmental Code of Practice (ECOP) for the contractors.
Component 2: Geospatial Data Infrastructure							
	Support includes densification of the Continuously Operating Reference Stations (CORS) network	This component would require minor installation works and the risk of installation is considered minor. The installation of the CORS stations require minimal installation works and space as they will be installed on the rooftops of public buildings. There will be no use of dish antenna but use of the internet protocol as mode of communication or receiver.	Low/Low	N/A	BIG	N/A	Use of ECOP as part of the ESMF.

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation Current Implementation	Implementation Arrangement	Gaps	Mitigation Measures
Cross-cutting Issues and Potential Downstream Impacts							
	Post-PTSL	Growth of land-speculation and presence of land mafias. Upon understanding of certification, beneficiaries may be encouraged to use their certificates as collaterals or sell their lands for cash.	Medium /Moderate	Under the current PTSL cycle, land certification is considered as a final stage in the process. Landowners' property rights are protected by the law, including their rights to sell their land. There were reports where beneficiaries sell their lands or use the certificates as collaterals. In some occasion, such transactions took place before the land titling process in anticipation of certification.	Multi-sectoral agencies involved in village development, including MoV, MoHA, ATR/BPN, MoEF	Certification is considered final and further interventions regarding community development following certification is beyond ATR/BPN mandates. There is a sub-section at each District Land Offices (Kantah) with community empowerment responsibilities. However, the sub-section is focused on land-related matters and is often under-resourced.	Strengthening collaboration with sectoral agencies on village community development (e.g. social forestry, village fund implementation, and other social protection programs. Lessons-learnt from the PTSL implementation will feed into Component 3.2 on Strengthening Policy, Legal and Institutional Framework
	Post-PTSL	Potential land use changes/conversions due to erroneous classification and subsequent titling of lands with high-conservation values and natural habitats.	Medium/ Moderate	Currently, PTSL implementation is risk-averse, with areas classified as Forest Areas (*Kawasan Hutan*) are excluded from the program regardless the actual forest covers or the lack thereof. Land use and spatial plans (RTRW) in the target districts remain incomplete or not	The Adjudication Committee;	Environmental screening processes are not available in the current PTSL business cycles. The preliminary screening prior to location designation focuses on legal and social/conflict aspects. In respect to conservation efforts, collaboration with respective local authorities (spatial plan department, forestry	Mainstreaming environmental screening processes in the PTSL manuals and ensuring that land parcels with significant high-conservation values, biodiversity, and/or physical cultural resources are accurately mapped and appropriately registered for conservation purposes/protection/

Project Components	Stages/Outputs	Potential Risks and Impacts	Likelihood/ Impact	Analysis of the GoI's Systems and Implementation			Mitigation Measures
				Current Implementation	Implementation Arrangement	Gaps	
				final and this has prevented PTSL Taskforce's ability to correctly identify lands under conservation purposes.		offices) is limited and information on spatial plans and land uses is often not available and/or accessible.	

ANNEX 4: COMMUNITY PARTICIPATION AND INDIGENOUS PEOPLES PLANNING FRAMEWORKS (INCLUDING GENDER CONSIDERATIONS)

This framework consists of two inter-related areas governing community participation (Section A) and Indigenous Peoples (Section B). Both areas have been brought together for a holistic treatment to address different groups that make up a community while still ensuring World Bank requirements are met for Indigenous Peoples. The framework reflects the nature of systematic and complete land administration that the project seeks to promote and therefore, targets all landholders and claims within specific jurisdictional areas. Special measures have been installed in the ESMF to ensure that the rights of Indigenous Peoples and *Adat* communities' claims are protected and the principles of free, prior and informed consultations to obtain broad community support are applicable under the project.

The Community Participation (CPF) and Indigenous Peoples Planning (IPPF) Frameworks are planned to complement existing PTSL processes including the supplementary site-screening process which includes an On-site Risk Screening and Risk Mapping (refer **to Annex 5 for the TOR**), and therefore the application of both frameworks need to be treated comprehensively where relevant. The Community Participation and Indigenous Peoples Frameworks have been specifically prepared to provide guidance on policy requirements, principles and procedures to be followed during the preparation and implementation of project/ activities under the PTSL cycle, related to participation, engagement, consultation and consent.

The frameworks were developed to: ensure that local communities, including Indigenous Peoples and *Adat* communities, and other stakeholders

a. have complete understanding of the project impacts and receive a meaningful opportunity to participate in planning activities and decision making that affect them;
b. receive culturally and socially appropriate benefits according to their needs; and
c. are properly meaningfully engaged based on Free, Prior, and Informed Consultations to ensure that adverse impacts arising from the project are avoided and if inevitable, mitigation strategies or siting/design alternatives are informed by the relevant affected communities.

The CPF further addresses gender, with special considerations to ensure participation and voices of women are heard in the PTSL cycle.

The IPPF is focused on Indigenous Peoples and *Adat* communities, including to safeguard the rights of those holding land claims under *Adat* and other forms of customary tenure consistent with the World Bank Safeguard Policy on Indigenous Peoples (OP 4.10).

A. COMMUNITY PARTICIPATION FRAMEWORK (CPF)

1. Background and Principles

The CPF takes into account circumstances of local communities and broader stakeholder engagement as well as potential risks and impacts from the project. In conjunction to the CPF, minimum requirements for PTSL implementation include:

a. Site-screening prior to the start of implementation to assess risks and put in place mitigation measures;
b. Meaningful engagement with local communities and stakeholders;
c. Development of measures to avoid adverse impacts and provisions of culturally and socially appropriate benefits; including "no-go" alternatives;
d. Communication mechanisms, including socialization of the Grievance Redress Mechanism or complaint handling process

From the outset, the CPF acknowledges the importance of distinguishing potential project beneficiaries who have land holdings or other legal rights (including those who have customary rights recognized by the national law) and those who simply have established benefit streams from the resource. The framework recognizes the distinct circumstances that expose local communities to different types of risks and impacts from a land mapping and registration (or asset legalization) program. The objectives of this framework are as follows:

a. To ensure that local communities and other stakeholders have complete understanding of the project impacts and receive a meaningful opportunity to participate in planning activities and decision making that affect them;
b. To ensure that local communities and other stakeholders receive culturally and socially appropriate benefits according to their needs; and
c. To ensure that adverse impacts arising from the project are avoided and if inevitable, mitigation strategies or siting/design alternatives are properly consulted based on Free, Prior, and Informed Consultations with the affected communities.

Through the CPF, measures to strengthen community participation will be pursued. These measures include: more meaningful socialization and outreach activities (e.g., site screening and risk mapping; women only meetings, outreach for vulnerable groups, mobilization of village facilitation teams to assist PTSL field teams, and third-party licensed cadaster surveyors to collect and verify physical and legal data of land parcels, community-based dispute mediation, and community oversight and monitoring post-PTSL processes.

The PTSL process recognizes the importance of empowering local communities and their potential contributions in better managing land and resources. In turn, land mapping and registration cycle has included measures to strive for social inclusion of communities and stakeholders through participation framework. Since there is a wide diversity among communities, the application of this framework is made mandatory during implementation. This way the project places importance to the needs and preferences of local communities and stakeholders who may have been experiencing: (i) social exclusion in decision making related to land and land-related resources and (ii) poverty due to the lack of access to land and livelihood opportunities. The project aims to ensure a sustained increase the welfare of these communities through enhancing tenure security and legalization of land assets.

2. Approach to Community Participation

It is essential that PTSL continues the participatory approach that has been a feature of previous successful communal land mapping in Indonesia. At the village level, the CPF needs to include stakeholder engagement with various community stakeholders involved. This should start with preliminary consultations/general meetings with respective communities and other community members to disseminate project objectives, requirements and processes, project benefits as well as possible consequences, as well as options not to participate. Stakeholder engagement activities of CPF is outlined in the following table:

TABLE 17. STAKEHOLDER ENGAGEMENT ACTIVITIES FOR CPF

Stage	Activities
Preparation Stage	- Meetings with head of village, customary leaders, religious leaders, community members, including women and youth to inform the program, how they could participate and how disputes and objections and concerns will be dealt with; - If required, separate meetings with women groups and other disadvantaged groups in the village (e.g. the poor, landless, Indigenous Peoples and/or other social groups distinct from the large communities) or people who are not available or unwilling to participate in formal meetings (e.g. youth) could be held with the same purposes. The choice of facilitators will be important to ensure that the consultations are inclusive, culturally and socially appropriate; and - Training of community members who will take on PTSL implementation roles (covering topics such as the use of hand-held GPS, mobile mapping applications).
Implementation Stage (fieldwork)	- Village meetings are convened at the time of key PTSL milestones (such as the start of fieldwork, start of public display, issuing certificates) to explain specific PTSL processes that require community participation; - Interactions between PTSL taskforces and third party licensed surveyors during PTSL fieldwork; and - Series of meetings (ad-hoc) with community members to discuss any issues and/or concerns that emerge.
Post-implementation stage	- Public display of the maps of parcel and village boundaries for comment and correction; - Closing meeting, including the handing over a copy of the completed village maps to village heads (*Berita Acara*); - Presentation of various opportunities of the PTSL offers in the context of the GoI Agrarian Reform Program, including certification, village community development, etc; and - Participatory environmental and social monitoring on a periodic basis post-PTSL.

3. Community Participation Processes

There are three main phases of the proposed CPF under the ESMF

Phase 1: Planning and Preparation Work
This phase includes the following processes:

a. Information Dissemination and Community Sensitization
This preliminary process is led jointly by members of PTSL judicial and physical taskforces, with oversight from the Adjudication Committee and facilitated by village governments in respective villages.

Key information that needs to be disclosed at this stage include:

- A general overview of PTSL work and criteria for village selection for land mapping and registration, as well as eligibility criteria for certification, roles and responsibilities
- Requirements for involvement of village leaders, local residents, community representatives and other relevant agencies in mapping, identification of parcel and village boundaries, existing claims as well as conflicts;
- PTSL cycle (mapping, data gathering, public notification/display of maps, including physical and legal data, registration, certification, etc.)
- Explanation of feedback and grievance redress mechanisms

During this meeting, any concerns and grievances as well as potential resistance from respective communities and other stakeholders should be captured. Depending on how well the communities receive the project, information dissemination may continue throughout. Key considerations for information dissemination would include: people's availability to attend meetings, power hierarchy at the village levels as well as socio-cultural dynamics and economic status and other factors which may prevent certain groups, including women, *Adat* communities and other groups from participating.

b. Community mobilization and establishment of a village facilitation team
The first step is the establishment of a village facilitation teams through a democratic process. Key champions from target villages will be identified at this stage. The facilitation team may consist of village heads, community representatives, including women and youth, respected figures, etc. The facilitation team has the task to carry out preliminary delineation and demarcation of village and hamlet boundaries, initial land use identification and implement public awareness campaign and outreach to other community members.

c. Community Training
Community training is essential in ensuring effective and constructive community participation. Members of village facilitation teams should be able to have sufficient knowledge to be able to explain to other community members about PTSL processes and benefits, roles and responsibilities, as well as eligibility requirements for certification. The training will also cover basic skills in parcel mapping as well as basic skills in recording or verifying the parcel details, including land use ownership, interests/claims, customary territories, inter and intra-community and households' relationships with land, disputed lands, women's rights. In situations where community members will take on some roles in mapping and recording, the training needs to incorporate data collection processes as well as the use of mapping technology including mobile devices and mapping software applications.

d. Pre-implementation site-screening to assess potential risks and opportunities
Once a village is included for PTSL work under the project, a preliminary screening of project sites will be undertaken jointly between PTSL taskforces and community facilitators/representative. Relevant information about basic social, economic and cultural profiles of the target areas,

including risk and conflict potentials that could be exacerbated by the project will be obtained and documented through this site-screening process. The level of detail of the site-screening work depends on the preliminary results on risks identified and their impacts on local communities. If the risks are manageable by the field teams and local land offices (*Kantah*), then project will follow general guidelines and procedures provided. In case of larger or more complex risks or issues identified, specific mitigation measures will be put in place by the project and field teams trained to implement them. In such instances, community and project monitoring and reporting will also be adequately enhanced. If risks are considered not manageable or the project may exacerbate existing conflicts, the PTSL taskforces in coordination with the Adjudication Committee will postpone and/or cancel the activities. Such decisions need to be documented in writing and forwarded to the PMI Safeguards/GRM Officer who will then inform the PMU Coordinator.

Phase 2: Field Survey

Building on the initial community engagement, mobilization and risk screening earlier, the second phase includes the following processes:

a. Village Technical Meeting

Village technical meetings should be held on a regular basis to update progress, identify concerns and risks as they emerge from the implementation and to ensure that PTSL activities are properly coordinated with village stakeholders. These meetings are also expected to foster community participation over the course of PTSL processes.

b. Field Data Collection

Field data collection should result in accurate and comprehensive land information, including details describing parcel and other interests as well as agreed boundaries. Community involvement in the field data collection, under oversight and guidance from PTSL taskforces, will help promote community acceptance, ownership and hence legitimacy of the village maps produced. This process is also to ensure that any competing claims and conflicts are properly identified early on and land parcels could be appropriately classified. Any devices and software used in the field data collection must be robust and simple to use in order to maximize community participation.

c. Joint review

Following completion of data collection, the PTSL taskforces and village facilitation teams will jointly verify all draft boundaries and land use maps, including identifying any discrepancies and errors as much as possible before public display.

Phase 3: Post-mapping implementation

a. Village Public Display

A series of public display meetings will be conducted by the PTSL Taskforces and village facilitation teams to allow participating communities to verify the parcel maps (PBT) and also raise their objections. Through these meetings, public display processes, including how corrections and any disputes concerning parcel maps and recorded claims will be dealt with. According to the current PTSL manual, the public display is conducted for 14 days. However, some discretion for extension will apply under special circumstances, for instance in remote and inaccessible villages or areas with limited community participation.

In PTSL, any disputes will be recorded. Corrective actions and re-measurement will be made if such disputes are caused by administrative procedures or errors. If disputes stem from competing claims or other conflicts, settlements will be sought through existing legal mechanisms, including

legal/court proceedings and/or mediation processes. For disputes concerning village administrative boundaries, Ministerial Regulation of Home Affairs No. 45/2016 on village boundary settlements will prevail (Chapter VI, Article 18). Dispute settlements for parcel and village boundaries through legal proceedings are outside the scope of the project's support.

b. Village Presentation of Village Parcel Maps
Following the public display, the PTSL Taskforces with assistance from village facilitation teams will present the verified and revised parcel maps (PBT) to clarify additional concerns and questions from participating communities, including village boundaries, forest and non-forest boundaries, and any pending disputes. Copies of the village maps will be handed over to the village governments and a written handover document (*Berita Acara*) will be signed by the village heads and with respect of village boundaries, witnessed by the heads of adjacent villages.

c. Environmental and Social Monitoring
Upon completion of the PTSL processes, including certification of undisputed parcels, a periodic environmental and social monitoring will be conducted in joint coordination between the safeguards and M&E teams at the central PMU and Safeguards/GRM Officer at the provincial level and staff at the District Land Agencies. This environmental and social monitoring is aimed to identify emerging risks and impacts following the PTSL processes, including indirect risks that may be associated with the project. Depending on the types of issues identified through this exercise, the monitoring results will be addressed to the head of District Land Agencies and/or other relevant agencies if they fall outside ATR/BPN's responsibilities and mandates to resolve. Lessons-learnt from this monitoring process will feed into the broader policy development under Component 3.2 Resources for this activity will be financed under 3.3 on Capacity Development, Outreach and Social Monitoring.

4. Lessons-learnt

Previous experiences with regards to community participation in land administration suggest that:

a. Any land tenure support, including community mapping and land demarcation needs to begin with a careful review of the different rights and interests in the land being mapped, to serve as an early analysis of claims and conflicts;
b. Secure tenure for communities also protects rights of their future generations by enabling communities to protect access to land and limit the intrusion of others who reap most of the benefits from the exploitation of natural resources;
c. To improve legitimacy and avoid conflict over land tenure processes, broad consultations based on free, prior, and informed consultations with key stakeholders with interests in the land in question is important to enable some consensus;
d. Information on options for tenure must be communicated to the community with accessible mechanisms on follow-on steps and procedures the communities could opt for in regularizing their land claims;
e. The role of civil society is important to strengthen the voices of marginalized communities through civil society networks and has historically played a strong role in advocating for reforms to land laws and regulations;
f. Community mapping often takes place outside the government's system and therefore is not optimally useful in processes related to formal tenure. Possible tension may occur if the same activities are repeated but no further resolution and/or mechanisms to process land claims;
g. Previous community mapping work has shown that youth can be actively involved in land tenure processes including mapping exercises provided that they are equipped with knowledge, access to appropriate tools and technology, capacity building and guidance

5. Principles of Affirmative Community Engagement

Under the CPF, the following principles should inform the approach of community engagement and codes of conduct

a. **Know where project will be going.** Project should have a clear understanding of what it should be doing so that it is much easier to explain proposed work-cycle to households, stakeholders, civil society, and others. Invest the time up front to learn deeply about local needs and create a logical set of goals.
b. **Talk *with* the target community, not *at*** Engaging community members or key partners in the learning and planning about project activities in a free and transparent manner is always a best practice. It allows project team to build a shared set of expectations instead of field teams seen as dictating to a community what they expect them to do;
c. **Commit to continuous learning.** Telling target community and households from the start that field teams (or project) don't have all the answers with regard to risks - and will be learning (along with them) as work progresses is perfectly okay. While project (or ATR/BPN) may have resources, but they likely have knowledge and experience that project will need to use those resources most effectively;
d. **Acknowledge that change takes time.** The challenges community faces with regard to access to and use of land and land-related resources probably did not spring up overnight. The solutions project may offer may not be sufficient either. Be prepared to talk about the long-term nature of confirming tenure security without apology. On the other hand, be clear about the length of ATR/BPN's and project's commitment;
e. **Understand the difference between aspiration and expectation.** Project may have an overall vision of creating better tenure security and land governance in Indonesia, but the reality may be that project can only be the starting point for that aspiration. It's okay to promote a grand vision, as long as project personnel are trained to convey the clear message about the current reality, what it can confidently achieve, and the need to create further strategies to fill the gap. Doing so not only helps manage current expectations, but can also rally others to the cause in ways that will eventually exceed those current expectations;
f. **Spell out the limits of the project's capacity.** The more information the project can share about the amount of funding, duration of funding, types of organizations that can receive funding, and kinds of funding (e.g. program grants, general operating support, technical assistance, etc.), the better. The project can also be up front about the needs and where others can be of assistance. For example, partnership with subject matter experts, or advocacy groups, or government agencies and/or seeking community contributions may be sought;
g. **Call upon the power of leverage.** Project should be clear from the start (internally and externally) that it cannot implement planned activities or work alone. Collaboration with others (e.g., local authorities, line agencies, provincial and national institutions, civil society and other stakeholders) is essential to leverage one another's strengths and identify potential weaknesses that in the methodology. It also means that other organizations in each community are equally invested in the success of project work and accountable to community expectations.
h. **Communicate early and often.** There is no way project can over-communicate about its activities and work. However, there is most certainly the possibility of under-communicating. It is important to share intent openly to prevent community members and stakeholders drawing their own assumptions. Instead, share project messages consistently and engage them in ongoing conversation at every step.

B. INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)

The Indigenous Peoples Planning Framework (IPPF) has been prepared to ensure Indigenous Peoples and *Adat* communities have a voice, and an opportunity to benefit from the program.

The primary objectives of the IPPF are to ensure that Indigenous Peoples and *Adat* communities:

a. are afforded meaningful opportunities to participate in planning that affects them;
b. opportunities to provide such groups with culturally appropriate benefits are considered based on a free, prior and informed consultation process;
c. are meaningfully engaged based on Free, Prior, and Informed Consultations to obtain broad community support and to ensure that adverse impacts arising from the project are avoided and if inevitable, mitigation strategies or siting/design alternatives are informed by the relevant affected communities.

This is in line with the national objective of empowering indigenous communities (*Adat Communities*) and the spirit of the Agrarian Reform Policy which aims to recognize these communities and their rights to customary claims and resources. Existing government programs, specifically targeted to *Adat* Communities, and other remote traditional communities, which have now gained momentum under the Village Law No.6/2014, grant autonomy to village communities to determine their own needs and development aspirations through participatory processes. Various development activity programs have been made available within their location and their necessity through protection, reinforcement, development, consultancy and advocating to improve their social prosperity level.

1. Definition

ATR/BPN defines Indigenous Communities as "a group of people bound by their customary law arrangements as members of a group allied by their place of residence or hereditary base." In addition to this, there a range of criteria in the national legislative framework that governs identification of *Adat* communities. The national legislation, Presidential Decree No. 111/1999 sets the criteria of Isolated *Adat* Communities (also known as KAT) as follows: a) in form of small, closed and homogenous community; b) social infrastructure supported by familial relationship; c) in general geographically remote and relatively difficult to reach; d) in general live with sub-system economy; e) its Government of Indonesia equipment and technology is simple; f) dependency to local environment and natural resources are relatively high; g) limited access of social, economic, and political service. The forestry law No. 44/1999 also sets out similar, but broader criteria in comparison to KAT. Such criteria include: a) *Adat* communities, as defined in the law, are still in the form of associations (*paguyuban/ rechsgemeenschap*); b) there are institutions in the form of customary law institution; c) clearly encompassed in the jurisdiction of customary law; d) there is an institution and apparatus of law, specifically customary law courts, that are still adhere to; e) forestry levies are still conducted in the surrounding forest areas to their daily sustenance. These communities would need to be legally recognized by the district governments before other rights, particularly customary rights over land, can be granted under national legislation.

The terms "indigenous peoples", "indigenous ethnic minorities" and "tribal groups", describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process. For the purposes here, "indigenous people and *Adat* communities" is the term that is used to refer to these groups.

Indigenous Peoples and *Adat* communities are commonly among the poorest segments of a population. According to the World Bank Policy, the term "Indigenous Peoples" is used in generic sense

to refer to a distinct, vulnerable, social and cultural group processing the following characteristics in varying degrees: a) a close attachment to ancestral territories and to the natural resources in these areas; b) self-identification and identification by others as members of a distinct cultural group; c) n indigenous language, often different from the national language; and d) presence of customary cultural, economic, social or political institutions.

For the purpose of this Framework, the definition of Indigenous Peoples and *Adat* communities will follow both the criteria of the Bank and the national legislation to encompass all social groups that fall under both or either one of these definitions.

2. Pilot Activities

For the first-year pilots, the project would be implemented in 7 pilot districts and 100 villages across seven priority provinces. The precise village locations would be determined during the pilot implementation. The pilot will serve as a platform to test the ESMF, including the screening and social mapping exercise prior to further scale up in the total 74 districts for the rest of project implementation.

Some of the target villages under this project will have customary claims by Indigenous Peoples and *Adat* communities. It should be noted that the country's population of about 260 million includes 700 to 750 different ethno-linguistic groups and, depending on how indigeneity is defined, between 50 and 70 million Indigenous Peoples. About 20 percent of the Indonesian population self-identify as Indigenous Peoples or Masyarakat *Adat* as claimed by CSOs/NGOs. While they are found on all of Indonesia's islands throughout the archipelago and increasingly in urban fringes, the highest concentrations of indigenous groups are currently in the non-urban areas of Maluku, Kalimantan, Papua, West Papua and East Nusa Tenggara (NTT).

Pilot Areas (Year 1)

Province	District	No. of Villages (tentative)	No of Parcels
Jambi	Muaro Jambi	20	7,000
West Kalimantan	Sambas	10	7,000
South Kalimantan	Banjar	10	7,000
Central Kalimantan	Kota Palangkaraya	10	7,000
East Kalimantan	Kutain Kartanegara	10	7,000
Riau	Kampar	20	7,000
South Sumatra	Musi Banyuasin (Musi Rawas)	20	8,000
TOTAL		100	50,000

Years 2 – 5

Province	District	No of Parcels
Jambi	10	440,000
West Kalimantan	12	1,170,000
South Kalimantan	11	480,000
Central Kalimantan	13	500,000
East Kalimantan	7	460,000
Riau	7	330,000
South Sumatra	14	900,000
TOTAL	74	4,280,000

The precise locations, land-holding types and characteristics of the communities concerned as well as associated risks with regards to land disputes and conflicts will only become known once the villages have been identified, which will occur during project implementation. As such it is not possible nor appropriate to identify and present profiles of affected groups in as part of the IPPF. The IPPF, therefore, serves as a guiding framework for community engagement, handling of customary claims, and addressing other particular issues or concerns of Indigenous Peoples and *Adat* communities in the project areas.

3. Procedures for Free, Prior and Informed Consultations

PTSL Taskforces has undertaken and will continue to undertake a process of free, prior, and informed consultations with the affected Indigenous Peoples and *Adat* communities during project preparation and implementation to inform them about the project, to fully identify their views, to obtain their broad community support to the project, and to develop necessary measures to protect their rights and address their concerns.

The extent, frequency and degree of engagement required by the consultation process will be commensurate with the identified potential risks and concerns raised by Indigenous Peoples and *Adat* communities.

Free, prior, and informed consultations:

a. are built on mutually accepted process by community representatives and their legitimate leaders and serve at least two purposes:
   - Provide a platform to undertake a process of consultations in good faith and in a manner that provides affected communities with opportunities to express their concerns, views on PTSL benefits, risks, impacts, and mitigation measures and explore ways to ensure project implementation is culturally and socially acceptable;
   - Enable decision-making processes based on local/customary mechanisms.

b. should be orientated towards obtaining broad community support and by which, broad community support consists of a collection of expressions by community members and/or their recognized representatives in support of the proposed project/sub-project activities. Free, prior, and informed consultations may use existing community institutions and local/customary decision-making processes mechanism during the PTSL planning and preparation stage, when deemed feasible and culturally appropriate. Gender perspective should be added to make sure that women in the community can benefit from the project.

c. are two-way processes that should:
   - Involve members of affected communities and their recognized representative bodies and organizations in good faith;
   - Capture the views and concerns of men, women and vulnerable community segments including the elderly, youth, displaced persons, children, people with special needs, etc. about impacts, mitigation mechanisms, and benefits where appropriate. If necessary, separate forums or engagements need to be conducted based on their preferences;
   - Begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise;
   - Be based on the prior disclosure and dissemination/socialization of relevant, transparent, objective, meaningful, and easily accessible information that is in a culturally appropriate language(s) and format and is understandable to affected communities. In designing consultation methods and use of media, special attention needs to be paid to include the

concerns of Indigenous women, youth, and children and their access to development opportunities and benefits;
- Focus on inclusive engagement on those directly affected than those not directly affected;
- Ensure that the consultation processes are free of external manipulation, interference, coercion and/or intimidation. The ways the consultations are designed should create enabling environments for meaningful participation, where applicable. In addition to the language(s) and media used, the timing, venues, participation composition need to be carefully thought through to ensure everyone could express their views without repercussions;
- Be documented.

Furthermore, participation needs to be based on gender-sensitive and inter-generationally inclusive approaches.

Where there is broad support from Indigenous Peoples and *Adat* communities concerned to participate in the project, PTSL Taskforces should ensure the following are in place:

a. Documented evidence of free, prior, and informed consultations as well as measures taken to avoid and minimize risks and adverse impacts to environment and socio-cultural aspects. This will be in the form of written agreements with authorized community representatives;
b. Action plan and recommendations for free, prior, and informed consultations during project implementation, monitoring, and evaluation, and
c. Any formal agreements reached with affected communities and/or their representative institutions.

To ensure that free, prior, and informed consultations can be ascertained, the following requirements are needed to determine whether:

a. The level of engagement in a way that enables informed participation of communities is acceptable;
b. The level of support and dissent among communities for the project is taken into account into decision-making and development of mitigation measures.

In many cases, the process is integrated as part of the implementation processes and therefore, continues after its completion.

The frequency and extent of consultations are contingent upon the magnitude of potential impacts. For projects with no impacts or direct interventions, local communities are informed about the project, asked for their views on the project and assured that they will not be affected during project implementation. For projects affecting indigenous communities, whether positively or adversely, a more elaborate consultation process is required during project implementation.

4. Screening and Scoping

Once site-specific areas are identified, the PTSL Taskforces will screen for the presence of Indigenous Peoples and *Adat* communities in the project areas.

For purposes of the IPPF and consistent with the World Bank Policy (OP 4.10), the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

a. self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
b. collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories[30];
c. customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
d. an indigenous language, often different from the official language of the country or region.

This includes *Adat* communities who meet the above four criteria regardless formal recognition from the GoI as well as groups that have lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance[31]. If needed, PTSL Taskforces will consult with local leaders, experts and IPOs to determine the presence of Indigenous Peoples and *Adat* communities. The Bank will be consulted in cases where there are uncertainties or disagreements as to whether local communities may meet the criteria.

In cases where Indigenous Peoples and *Adat* communities are present in the project areas, an additional scoping measure is required during the preliminary preparations phase (Phase 2.d). This scoping is aimed to:

a. identify the tenure characteristics and existing claims of Indigenous Peoples and *Adat* communities;
b. assess potential project benefits;
c. identify additional measures needed (e.g. community engagement, facilitation, access to information, etc.) to enhance such benefits as well as associated risks concerning their customary land tenure claims;
d. consult with Indigenous and *Adat* communities concerned to obtain their broad support as well as level of acceptance to the project;

The results of the scoping will inform potential risks before their participation in the mapping processes is sought.

Site-scoping will commence with consultation with Indigenous Peoples leaders, local bodies and community representatives, including women and youth to document local traditions and practices in land allocation and use practices. This will lead to more community-wide consultations to identify risks and opportunities for land mapping and registration.

5. Community Engagement

Once Indigenous Peoples and *Adat* communities express their willingness and/or interest to participate, the PTSL taskforces will ensure that appropriate engagement is facilitated at the project level, including seeking involvement of community facilitators and local leaders. Specific principles that need to be adopted in the PTSL cycle include:

[30] Collective attachment" means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. "Collective attachment" also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.

[31] Forced severance" refers to loss of collective attachment to geographically distinct habitats or ancestral territories occurring within the concerned group members' lifetime because of conflict, government resettlement programs, dispossession from their lands, natural calamities, or incorporation of such territories into an urban area. For purposes of this policy, "urban area" normally means a city or a large town, and takes into account all of the following characteristics, no single one of which is definitive: (a) the legal designation of the area as urban under domestic law; (b) high population density; and (c) high proportion of non-agricultural economic activities relative to agricultural activities

a. PTSL Taskforces and village facilitation teams will make sure that free, prior and informed consultations (sub-section 5 of the IPPF) to obtain broad support are conducted in good faith. Efforts should be made wherever possible to use language(s) widely spoken in the communities affected, and that consultations are held in location and times convenient to Indigenous Peoples concerned. Additional consultation materials should be provided if seen necessary;
b. Risks and opportunities are clearly discussed and documented;
c. Project design should draw upon the strengths of Indigenous Peoples and *Adat* communities and take into account their cultural and livelihood practices, social organization/traditional institutions and religious beliefs as well as preferences, including their tenure arrangements;
d. Special measures for the recognition and support of customary rights to land and natural resources may be necessary to ensure inclusive development activities. This may include institutional strengthening and capacity building for Indigenous Peoples concerned prior to start of PTSL work;
e. Special measures concerning women and marginalized generational groups may be necessary to ensure inclusive development practices;
f. Where additional technical capacities are needed for field teams to respond to ground realities, project will consider training for personnel;
g. Grievance Redress Mechanism (GRM) should take into account local dispute resolution practices;
h. Involvement of Indigenous Peoples and *Adat* communities concerned in monitoring and evaluation exercises needs to be adapted to the local contexts and capacity.
i. Indigenous Peoples and *Adat* communities concerned have the right and ability to refuse participation in the project based on their collective agreements. Such decisions will be documented in writing and signed and/or testified by Indigenous Peoples and *Adat* communities' representatives concerned.

The above process would generate specific information with regards to appropriate measures for mapping and community participation. The information generated will feed into the development of a district-level Indigenous Peoples Plan (IPP).

6. Indigenous Peoples Plan (IPP)

Following the completion of site screening and social mapping, the PMU will develop an action plan (Indigenous Peoples Plan) to address key concerns identified as relevant to protect Indigenous Peoples and *Adat* communities' land rights as well as engagement strategy with Indigenous Peoples and *Adat* representatives. The IPP is developed as a district-level plan and is part of the Stakeholder Engagement Plan (SEP) required as part of project preparation. Implementation of the IPP falls under the responsibility of district land offices (*Kantah*) under technical assistance and guidance from the PMU at the central level and PIM at the provincial level.

The IPP should contain at a minimum:

a. Description of Indigenous Peoples and *Adat* communities and current land use and tenure arrangements;
b. Engagement strategy, detailing mechanisms for and results of free, prior, and informed consultation with Indigenous Peoples and *Adat* communities;
c. Specific training and capacity building for PTSL taskforces and third-party surveyors with regards to the handling of customary claims and engagement with Indigenous Peoples and *Adat* communities;
d. Action Plan to enhance benefits to Indigenous Peoples and *Adat* communities, including measures to address key concerns and context-specific risks relevant to Indigenous Peoples

and *Adat* communities. The IPP should describe which key steps in the mapping and identification of *Adat* land claims as well as facilitation processes for titling of *Adat* claims classified as K.1;

e. Facilitation and awareness raising to alternative tenure settlements for land parcels classified as K.2 and K.3 (not ready for titling);
f. Roles and responsibilities within PTSL taskforces and key institutions and community representatives who are relevant for the implementation of the IPP;
g. Adjustment in the PTSL timeline based on the screening and social mapping results by taking into account Indigenous Peoples and *Adat* communities' participation, access to information, ability to file disputes/objections, and oversight;
h. Required resources (budget and personnel);
i. Mechanisms to handle land disputes and grievances and accessible GRM that takes into account the availability of customary mechanism; and
j. Monitoring, evaluation, and reporting arrangements that includes assessments of communities' satisfactions.

The IPP should be disclosed publicly so that accessible to the affected indigenous community.

7. Handling of Customary Land Claims

The ESMF acknowledges that there are risks that PTSL may not have the incentives to support communal land rights, since the broader PTSL program's targets set by the GoI are expressed in the number of land parcels. However, the project would outsource the fieldwork for PTSL and make sure that the contractor incentive structure would not favor sub-dividing communal land holdings. Recognition of communal land rights, including those claimed by *Adat* communities but also other communities, would follow the prevailing GoI's regulations (see section 2.D). There are several possible avenues that *Adat* communities could pursue, including the *Adat* forest scheme, social forestry schemes, and communal land titles. Eligibility criteria are determined on the basis of communities' legal claims and the status of their recognition (legal personality), locations of customary territories claimed (forest versus non-Forest Areas), and status of the land claimed and whether or not the land in question is disputed, etc.

The ESMF endeavors to mainstream a pro-active approach and affirmative actions to accommodate *Adat* land rights through the following measures:

a. Ensuring representation and participation of *Adat* communities in the overall PTSL implementation (e.g. community facilitators, monitoring and oversight functions);
b. PTSL taskforces would actively and carefully record *Adat* land claims during the screening and social mapping activities. The taskforce would classify *Adat* land claims based on their legal status and if parcels can be classified as K.1 (ready for titling), the PTSL taskforces will consult *Adat* communities with regards to their tenurial preferences (collective and/or individual) as guided by this framework;
c. If the mapped parcels are classified as K.2 and K.3 (incomplete legal evidence, and/or under disputes/litigation), PTSL taskforces will engage the communities concerned with regards to the nature and legal status of their claims and inform alternative mechanisms and procedures that the communities may choose to secure their land tenure (e.g. *Hutan Adat*, TORA, social forestry schemes);
d. PTSL would actively engage community representatives, local CSOs/CBOs advocating on *Adat* rights in dispute resolution roles. Where possible, PTSL will include special training on mediation skills for *Adat* representatives as part of community capacity building;
e. The project would actively record *Adat* land rights that have been mapped under the PTSL process and identify the number that has been granted land titles;

The project would make a pro-active measure, such as engagement with other World Bank's active projects such as the Dedicated Grant Mechanism (DGM) Indonesia[32], Forest Investment Program[33] as well as the Social Forestry Program currently being prepared;

Tenure settlements for *Adat* communities who have gained formal recognition from the Government (e.g. through district government recognition) and whose land claims have been released from Forest Areas (through a ministerial decree) or concessions (through permit cancellation) will be guided by the existing Ministerial Regulation of ATR/BPN No.10/2016. Upon meeting all these criteria, *Adat* communities concerned are entitled to apply for communal land titles. Tenure settlements for *Adat* communities, whose claims are mostly located in Forest Areas, are outside the scope of the project's support and are currently being dealt with other GoI's initiatives, notably the Social Forestry and Land Distribution (TORA) programs.

8. Institutional Arrangements, Monitoring and Grievances

The IPPF is an integral part of the ESMF and project design. ATR/BPN will have the overall responsibility for the implementation of the IPPF. It will provide assistance to district land offices (*Kantah*) who will be responsible for preparing and implementing IPPs. Support from relevant experts, including IPOs, will be sought when needed to support the consultation process and the preparation and implementation of IPPs.

The implementation of the IPPF and site-specific IPPs will be included in the project's monitoring and evaluation arrangements described in Chapter 6, Section IV. The GRM of the project described in Chapter 5, Section II.B will also apply to the IPPF and site-specific GRM arrangements will be detailed in IPPs taking into account site-specific circumstances of local communities.

Costs for the implementation of the IPPF are integrated into project design and the ESMF specific budget described in Chapter 6, Section V.

9. Public Consultation and Disclosure on this IPPF

The first formal consultation workshop involving key stakeholders from the national and sub-national levels along with civil society representatives was held on April 19, 2018 (see **Annex 10 and 11** for FGD documentation) attended by representatives from national and local civil society and advocacy groups on Agrarian Reform, indigenous peoples and local community rights, governance reform, and women affairs, as well as representatives from the Indonesian Surveyors Association. Among the leading sector activists that attended were the Executive Director of Consortium for Agrarian Reform/KPA (that represents 85 CSOs including local chapters of AMAN, and 68 local and national NGOs), and representatives from DGMI National Steering Committee, the Samdhana Institute, and Kemitraan. Participants expressed concerns related to *Adat* customary claims and whether the project has the incentive to support registration and titling of communal rights since the current targets are expressed in the number of parcels. Relevant measures to ensure a preliminary screening and social mapping, processes to ensure meaningful engagement based on free, prior and informed consultations before

[32] DGM-I is developed to support participating indigenous people and local communities' (IPLCs) capacity to engage in tenure security processes and livelihood opportunities from sustainable management of forest and land. DGM-I is a demand driven delivery mechanism, designed by and for IPLC to channel funds effectively and efficiently to strengthen their visibility, and recognize and enhance their roles in the FIP, other REDD+ and related programs, and broader sustainable natural resource management at the local, national, and global levels.

[33] The project supports and strengthens the national effort to decentralize forest management through the operationalization of Forest Management Units (KPHs). Efforts will be mobilized to support forest tenure settlements and engagement with communities within the KPH areas.

and during project implementation, as well as registration of communal land rights for land parcels in non-forest areas, with no legal encumbrances have been included in the IPPF. If the mapped parcels are under disputes/litigation, PTSL taskforces will engage the communities concerned with regards to the nature and legal status of their claims and inform alternative mechanisms and procedures that the communities may choose to secure their land tenure (e.g. *Hutan Adat*, TORA, social forestry schemes). The project would actively record *Adat* land rights that have been mapped under the PTSL process and identify the number that has been granted land titles.

A second round of consultations on the revised ESMF, which included a full IPPF, took place on 28 May 2018. by the Executive Director and member of the Consortium for Agrarian Reform KPA, two representatives of AMAN representing the regions, Serikat Petani Pasundan, Sayoga Institute, and the Indonesian Surveyor Association. Representative of the Ministry of Environment and Forestry including from the Forest Investment Program-2, as well division heads from provincial land offices were also present. Specific inputs representing indigenous / *Adat* and regional perspectives on the IPPF were requested to provide feedback on the IPPF and strengthen the environmental and social risk mapping planned in the project initial period using a Technical Assistance Grant and to be subsequently continued with Component 3 of the Project.

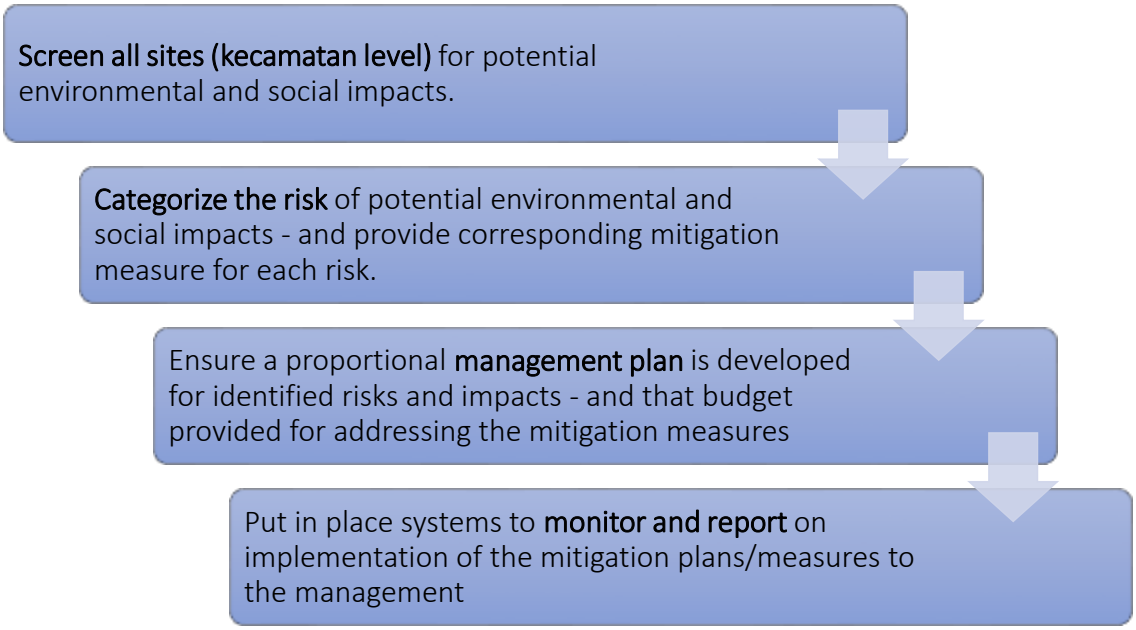
The specific inputs received from the 2nd public consultation includes: a) the use of existing *Adat* land-maps to inform areas of project interest; b) project to support affirmative actions for *Adat* communities to expedite recognition by district governments; c) identification and registration of claims to be done in parallel; d) Component 3 should look at policy and procedure development for recognistion and registration of *Adat* claims in both Forest and non-Forest Areas; and e) resettlement in Forest Areas will likely affect Adat communities since many of their claims are in conservation areas.

ANNEX 5: TOR FOR ENVIRONMENTAL AND SOCIAL ON-SITE SCREENING AND RISK MAPPING.

A. Introduction

The mandatory safeguard steps that must be taken to address safeguard screening process are illustrated in Figure 12. These steps are explained in detail in the TOR.

FIGURE 12. OUTLINE OF ATR/BPN'S MANDATORY SAFEGUARD SCREENING PROCESS



Under ATR/BPN policies, it is mandatory to screen all land mapping and registration sites before-hand, regardless of value or delivery mechanism, for environmental and social impacts against the five safeguards: social risks, environmental protection; vulnerable and disadvantaged groups; displacement and resettlement; indigenous peoples; and governance. Screening identifies that sites with potential safeguard risks are identified and mitigation measures prepared beforehand.

Where screening indicates that an environmental or social impact may occur, the level of risk must be assessed and rated. If a negative environmental or social impact is likely, a proportional environmental and social impact assessment for each site must be completed.

The environmental and social impact assessment should be proportional to the level of risk and the complexity of the circumstances. Depending on the circumstances, it could comprise a rapid assessment of environmental conditions[34] and a brief review of social impacts or a comprehensive environmental and social impact assessment (for example: presence of a large Indigenous Peoples or forest-dependent community in the area requiring appropriate preparation of the households before-

[34] Open source software such as Global Forest Watch (globalforestwatch.org) and IBAT software (www.ibatforbusiness.org) can be used for rapid assessment during screening process.

hand or a finding of a forest area in a non-forest area). An effective assessment must consult and consider the perspectives and needs of different people in a gender-responsive way.

Impacts identified in the environmental and social impact screening process must be managed through an environmental and social management plan, a site-specific document that sets out details of how impacts will be managed, including timing, budget, roles and responsibilities. The management of safeguards must be monitored and reported as part of the implementation of the investment implementation process.

Steps in the safeguard process must be completed in a way that is consistent with the environmental and social safeguard principles, including effective engagement with stakeholders and coordination with partners.

B. Scope of Work

The project's "pre-site screening" activity will support local communities that will benefit from the project to assess the causes of their vulnerability to land mapping and registration. It will also provide a baseline for monitoring and evaluation of the project, transfer additional skills to partner local entities to strengthen the work of field teams.

The ultimate aim of pre-screening is to create a risk profile that covers all risks prevailing in a particular kecamatan (sub-district) i.e., Indigenous Peoples and *Adat* communities living in the area, prevalence of *Adat* claims, methods to map out extent and features of *Adat* claims in the area, potential for overlapping claims, areas with high-conservation values as well as forest[35] and concession boundaries, etc. The screening should provide inform the project on selection of sites (based on a criteria), preferred types of engagement with the local community, and recommend risk management efforts, as well as oversight. Based on the assessment, decisions with regard "site eligibility" or "no-go" and proposal for alternative locations will also be made at this stage. The exercise of free, prior and informed consultations with affected communities will begin at this stage and communities may appeal to cancel the projects in cases. The site-screening per site will lay down a solid foundation for the development of a comprehensive risk mitigation and management measures and feeds into implementation plans prepared by the Field Teams.

C. Key Tasks

Specifically, this exercise will cover following three key aspects.

1) Development of a kecamatan-wise risk and vulnerability profile with visual presentation of the current status with challenges and opportunities identified. This will be developed systematically through village meetings/consultations, description of physical and environmental characteristics, community land walks and mapping of boundaries and land uses, existing risks as identified by the community and local officials, extent and intensity of vulnerabilities, build plausible risk-scenarios for major risks and build risk mitigation measures for those particular risks.

This part of the assessment will generate the following information and data:

a. Procedures and reasons of selection of site and compliance with "site eligibility" established by the project.
b. Data on present socio-economic environment of the proposed project site (kecamatan level) and in its vicinity where the project is implemented.

[35] Open source software such as Global Forest Watch (globalforestwatch.org) and IBAT software (www.ibatforbusiness.org) can be used during this screening process.

c. Detailed description of different categories of land holdings (or land use) in the area.
d. Potential impacts on the community and environment and proposed measures to prevent or bumper these impacts.
e. A community-level monitoring plan of project impact on social and environmental issues.
f. Conformity of the project with spatial planning and with government's economic development plan of area where project will be implemented.
g. Summary of consultations with local government bodies, the public and civil society groups and of their opinions.
h. Mitigation measures as recommended by the assessment as feasible as well as their cost.

2) Enhancement of risk mitigation and management capabilities

Site-screening and assessment is an integral part of decision-making. To ensure good understanding of the risks a particular site likely to face and effectiveness of the PTSL process and work.

This part can include further information such as the following:

a. Trans-border (e.g., inter-village or *kecamatan* disputes) impact on land administration and management, if any.
b. Technical measures to prevent and bumper negative impacts on the community and environment.
c. A summary of past or existing forest or mining concessions in the area.

Potential negotiations/consultations plan with other line agencies, local bodies, the public and civil society.

3) Integration of risk mitigation measures into field-work plans and project decision-support systems

The three tasks will delineate and categorize all vulnerabilities and risks for project implementation in the area covering factors such as:

a. Analysis of area's history (background) in the context of Fit-for-Purpose and participatory mapping and clarification of boundaries.
b. Catalog history of land related events such as land use, bio-diversity and a determination of various descriptors including sources of potential disputes/conflicts, threats, magnitude, frequency, probability of occurring again, extent and intensity of field work (spatial distribution of the project location)
c. Identify potential (or ongoing or frequency) threats to PTSL work
d. Characterize risks in terms of their probability of occurrence

Development of plausible risks scenarios and maps

- Identify most plausible risk scenarios for the given area, in consultation with key local authorities and communities (if available, use historic data to infer issues).
- Model and simulate different risk scenarios
- Develop comprehensive risk intensity maps based on information gathered.
- Fix responsibilities for each of the proposed recommendations and a monitoring and reporting method to project management.

A. Validation and consultation

1. Methodology

The process will be carried out in two stages. The first will consist of a 2-day participatory workshop by the Field Team to plan for the on-site screening exercise. At this stage, those not familiar with the project and land mapping will be given an overview. Comparisons will be made between land mapping and other land related issues to ensure that project scope, activities and limitations are well understood. At this workshop, basic data and information on the respective area will also be mobilized and organized by the Field Team for further processing.

The second stage will be a 2-3 day-workshop (depending upon size of the kecamatan) where different stakeholders will be engaged in a step-wise consultation, field walks and preparation of work-level maps and information. On the last day of this workshop, information gathered along with a mapping of "hot spots" and mitigation measures will be synthesized by the Field Team laying foundation for project implementation.

2. Outlines of the Expected Site-screening Report

The report is likely to include:

a. Detailed explanation on risks identified and proposed mitigation measures along with cost estimates for their implementation.
b. A comprehensive and well-structured description of the extent and intensity of each risk, highlighting hazard prone areas (social and environmental), risk-intensity maps, plausible scenarios, and possible trends in the context of project implementation.
c. Technical recommendations, if any, for effective and efficient mapping work.
d. Recommendations for (1) training local officials, field teams and communities; (2) methods suitable for monitoring risks and vulnerabilities during and post-implementation; and (3) additional considerations, if any
e. Detailed catalogue of data and information used in the exercise of site screening.

In the process of conducting the site-screening, each step will compile the information generated into matrices. These matrices can be widely shared or posted at the workshop venue for comments and suggestions too. The outputs from this process will feed into analytical framework and a site specific 'information dissemination and community engagement plan' on risks and opportunities. Sample template of reporting format along with matrices will be included in the Project Operations Manual and site-screening assessments will adhere with those.

3. Duration of the site-screening work

Ideally, the work should start prior to confirming the Annual Work Plan for the following year. The field assessment will require about 10 work day time (including preparation and submission of the report).

4. Implementation Modality

District Land Offices (Kantah) will be responsible for planning, conducting and managing the site-screening assessment. Provincial and National project offices (PMU and PPMU) will provide technical and oversight support all through the process The draft report will be reviewed by the project PMU in Jakarta and clearance issued by confirming inclusion of the area in annual work plan. Province will assign focal points to liaise with Local Land Offices to monitor progress on a regular basis.

B. SCREENING CHECKLIST

TABLE 18. SCREENING CHECKLIST

Key Considerations	Answers	Risk Level (High, Medium, Low)	Mitigation measures
Is the project located within any National or Provincial protected area?			
Are there any objects/sites/properties with cultural, social, religious, biodiversity, social, archeological values in the PTSL areas? If yes, how are these			

Key Considerations	Answers	Risk Level (High, Medium, Low)	Mitigation measures
objects/sites/properties being managed by the community? Are they collectively or individually owned?			
Will the project support titling in sensitive environment with high biodiversity values?			
Are *Adat* communities present/reside in the project areas? If yes: - **What are their tenure characteristics?** - **Who has the authority to decide over tenure?** - **Are there any other groups claiming the same plots of land?** - **Are women entitled to access to land and any forms of rights? (refer to possible restrictions and explore).** - **Who are the most underserved groups within the community?**			
Are there any existing disputes/conflicts related to land rights/access to land and natural resources?			
Do village stakeholders welcome the PTSL? Are there any objections raised by village stakeholders?			
Are there any other stakeholders who have concerns about the PTSL? If yes, explain who they are and reasons			

ANNEX 6: RESETTLEMENT POLICY FRAMEWORK AND PROCESS FRAMEWORK (RPF AND PF)

A. Project Description

Background

The Government of Indonesia is implementing the Reforma Agraria (*Agrarian Reform*) Program through the Ministry of Agrarian and Spatial Planning/National Land Agency (*Ministry for Agraria and Tata Ruang/Badan Pertanahan Nasional,* ATR/BPN) and the National Geospatial Agency (*Badan Informasi Geospasia*l, BIG). This project-specific credit with support from the World Bank (WB) will finance activities under the Agrarian Reform and One Map Policy (OMP).

The project's proposed development objective is to establish clarity on actual land use and land rights at the village level in seven select provinces in the country. This project is expected to enhance sustainable landscape management, land governance, social stability, inclusive growth, conflict resolution and environmental protection and conservation.

The objective would be achieved by: (i) implementing participatory approach to "fit-for-purpose" mapping of land parcels, land-use, village administrative boundaries, and other land-use occupation (Forest Area and mining concessions etc.); (ii) enhancing the availability and access to up-to-date geospatial information; (iii) promoting access to and availability of electronic land administration services; and (iv) improving capacity, procedures and legal framework for accelerating implementation of Agrarian Reform, OMP and modern e-Land Administration.

Forest Area boundary demarcation supported by the project (sub-component 1.3) attempts to clarify actual boundaries between non-Forest and Forest Areas through ground-truthing with multi-stakeholder participation. The core participatory field work will be done under the PTSL approach. With the PTSL results, a joint taskforce will be established to lead this activity and would be comprised of relevant officials from the appropriate ATR/BPN office, Forest Management Units (KPH), provincial and district governments and local community members. Key outputs of this sub-component are expected to lead to affirmation of state forest boundaries by the MoEF in project target areas.

Under the current PTSL modality, informal occupation would be classified as K.3 and/or K.2 and are therefore not eligible for further legal processes to establish ownership rights. However, the parcel maps generated through the PTSL process may facilitate certain actions by government agencies and/or permit holders to affirm land holding rights either through law enforcement, court processes and/or or direct negotiation. Such actions could have downstream effects of access restriction and in a more isolated case, evictions and thus be similarly subject to safeguard measures.

This document presents the Resettlement Policy Framework (RPF) and Process Framework (PF) for the World Bank supported Agrarian Reform and OMP Project (Project).[36] This RPF and PF has been prepared to ensure this Project's consistency with the World Bank's Policy (OP 4.12) on Involuntary Resettlement, as well as applicable Government of Indonesia laws and regulations. The World Bank

[36] Since it is difficult to clearly separate potential indirect impacts in the form of displacement and access restrictions respectively in Forest Areas, the required RPF and PF to address those particular impacts as per OP 4.12 have been combined into one framework. However, the specific provisions and instruments (RAP and PoAs) have been detailed.

Policy (OP 4.12) applies to any projects that might involve (i) the involuntary taking of land for project purposes, resulting in loss of shelter or the need to relocate (physical resettlement), loss of assets or access to assets, or loss of income sources or means of livelihood or (ii) the involuntary restriction of previously existing access to natural resources within protected areas, when this adversely affects people's livelihoods.

The need for an RPF and PF

The RPF and PF has been prepared to manage potential risks if they happen during project implementation and to ensure this Project's consistency with the World Policy as well as applicable GoL laws and regulations.

The World Bank Policy (OP 4.12) on involunatary resettlement applies to any projects that might involve (i) the involuntary taking of land for project purposes, resulting in loss of shelter or the need to relocate (physical resettlement), loss of assets or access to assets, or loss of income sources or means of livelihood or (ii) the involuntary restriction of previously existing access to natural resources within protected areas, when this adversely affects people's livelihoods.

Presently it is not possible to determine whether resettlement (broadly defined, as per the Bank Policy on involuntary resettlement) will occur and this RPF and PF has been developed as a precautionary measure.

RAP and Plans of Action (PoA) cannot be prepared at this time because it is not known whether any resettlement or other displacement could take place at all, and (if so), when, how many people might be affected, or where. This RPF and PF provide a consideration of how some of the risks be managed to avoid the potential for displacement. However, this RPF and PF does not prescribe the exact solutions for each conceivable case of resettlement or related displacement--that is the function of the future RAP and PoA (if needed).

While the project will not require land acquisition, which would result in direct involuntary resettlement, it is possible that there may be indirect impacts, downstream, and as a result of third party actions, that may result in involuntary resettlement in Forest Area and/or State and Public Lands in non-Forest Area. That is Forest Area boundary demarcation and affirmation may possibly lead to evictions and/or access restrictions. These would materialize if MoEF and/or concession holders used the new affirmed Forest Area or State Land boundaries to regularize informal tenure settlements in both Forest and non-Forest Areas, or chose to evict people from these settlements based on the project affirmed (outer) boundaries of for example conservation or protection forests. In such a case, where informal occupants or landholders on Forest Area, including State Forests or on other State Land, would be resettled, the GoI would need to apply World Bank Policy (OP 4.12). In such a case, a Resettlement Action Plan (RAP) would be prepared under the Project Component C's support. The GoI's responsibilities and institutional arrangements in implementing the RPF and PF, as well as subsequent RAPs and PoAs, would be confirmed at the Loan negotiations.

Scope of the RPF and PF

The World Bank Policy (OP 4.12) differentiates between situations which involve the "involuntary taking of land" (section 3[a]) and the "involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons" (section 3[b]). In situations where section 3(a) occurs, i.e. involuntary physical relocation, and possibly restriction of access linked to such relocation, is involved, a Resettlement Policy Framework is required. Where 3(b) occurs, i.e. involuntary restriction of access without physical relocation, a Process Framework is required.

The RPF and PF must be prepared, accepted and disclosed publicly before the Bank will appraise the project. The RPF and PF are typically done when the people who might be displaced by the project cannot be precisely identified prior to appraisal.

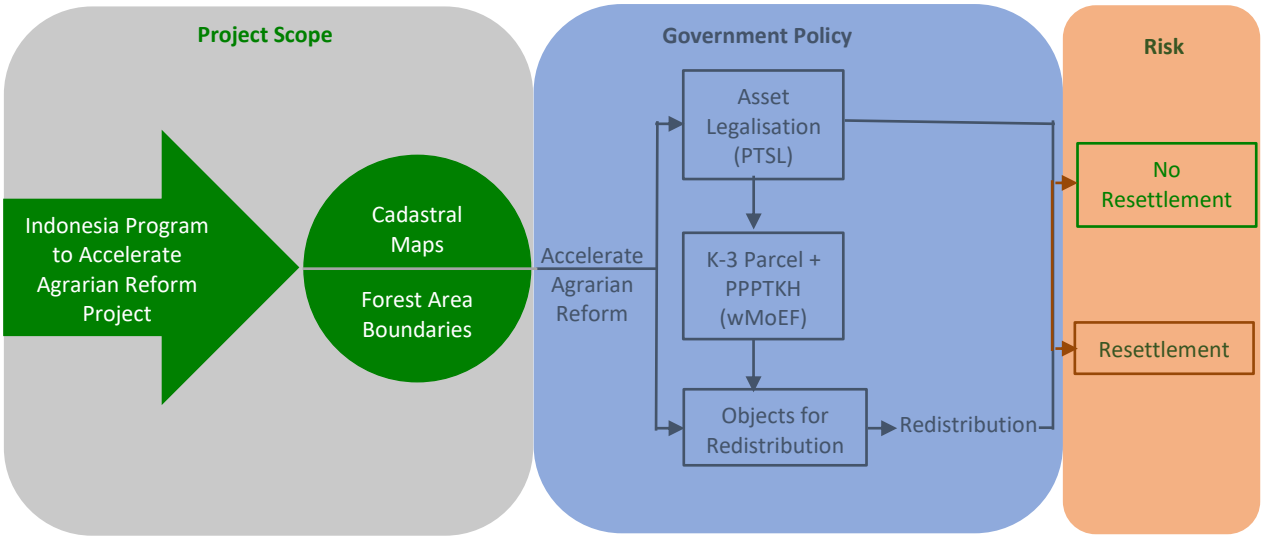
After assessment of the project risks and consideration of potential impacts it was concluded that both a RPF and PF would be developed. Involuntary resettlement occurs when projected-affected persons (PAPs) lack the right to refuse land acquisition and new land restrictions result in physical and/or economic displacement. In other words, involuntary resettlement occurs when people lose assets or means of livelihood, regardless of whether they are physically or economically displaced. An individual can experience one or both types of displacement. To manage these impacts consistent with accepted good international practice, for this project the GoI is obliged to meet the requirements of World Bank Policy (OP 4.12) on Involuntary Resettlement.

Project activities as such will not likely result in involuntary resettlement. The project activities do not involve land acquistion nor does the project displace people and/or their resources. Although the direct footprint is limited the project has potential for downstream indirect impacts related to subsequent forced evictions and restrictions of access by third parties.

Description of Project Activities

As shown in Figure below, the primary scope of the project activities will be to provide cadastral maps that records all lands subject to titles outside the forest areas, and to delineate the boundary of the forest areas. These outputs serve as the basic information upon which the Government implement the Agrarian Reform Policy. The PTSL will identify and record all parcels outside of the forest areas where the ATR/BPN will legalize the community's lands. Inside the forest areas delineated under the project, the Government (through the PPTKH Process led by the Ministry of Environment and Forestry under Presidential regulation 88/2017) will undertake tenure regularization through land redistribution.

FIGURE 13. PROJECT CYCLE AND POTENTIAL EVICTION RISKS



B. Project Activities Likely to Result in Involuntary Resettlement

Project activities as such will not likely result in involuntary resettlement. The project activities do not involve land acquistion nor does the project displace people and/or their resources. Although the direct footprint is limited the project has potential for downstream indirect impacts related to possible

subsequent forced evictions and restrictions of access by third parties. For example, as a result of increased scrutiny and regularization of land tenure by the Ministry of Environment and Forestry (MoEF) as the custodian of the state forests.

Possible forced evictions and restrictions of access may result from:

a. Community living deep inside the Forest Areas that are currently under Status Quo may face increased Government scrutiny to deny their tenure claim as a result of the affirmed boundary of the conservation and protection Forest Areas;
b. Communities living around unclear Forest Area outer boundaries may find their land partially or fully lies within State Forests in Forest Areas, hence requiring the change in their settlement and livelihood locations;
c. Informal settlers in the State Land and/or on State Land under a concession in non-Forest Areas may face increased pressures with regards to the legal status of their occupation, with possibilities of evictions if government agencies and/or concession holders seeks to reclaim land ownership.

C. Resettlement Objectives and Guiding Principles

The laws for resettlement and land acquisition of the GoI sets procedures for compensation while acquiring land from citizens. Both respective country laws and the World Bank's Policy (OP 4.12) should be adhered to.

Therefore, the objectives of this policy framework are the following:

(i) Involuntary resettlement will be avoided where feasible, or minimized, by exploring all viable alternatives.

(ii) Where involuntary resettlement is unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share project benefits. Displaced and compensated persons will be meaningfully consulted and will have opportunities to participate in planning and implementing resettlement and compensation programs.

(iii) Displaced persons will be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.

Affected people, according to the Bank policy, refers to people who are directly affected socially and economically by Bank-assisted investment projects caused by:

a. relocation or loss of shelter
b. loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or
c. the involuntary restriction or access to legally designated parks and protected areas results in adverse impacts on the livelihood of the displaced persons.

The RPF and PF applies to all components under the project, whether or not they are directly funded in whole or in part by the Bank. The RPF and PF will also apply to associated projects, whether or not funding is received from the World Bank. The policy applies to all affected persons regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line; the landless, the elderly, women and children, indigenous groups and

Adat communities, orphans, or other affected persons who may not be protected through national land compensation legislation.

This RPF and PF also requires the GoI to ensure that the implementation of individual RAPs and PoA are a prerequisite for the implementation of activities causing resettlement to ensure that displacement or restriction to access does not occur before necessary measures for resettlement and compensation are in place. It is further required that these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets or the denial of access to assets may take place only after compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and moving allowances have been provided to displaced persons. Furthermore, where relocation or loss of shelter occurs, the RPF and PF further requires that measures to assist the displaced persons be implemented in accordance with the resettlement and compensation plan of action.

Finally, the RPF and PF seeks to ensure that affected communities are meaningfully consulted, have participated in the planning process and, are adequately compensated to the extent that their pre-displacement incomes have been restored and that the process is a fair and transparent one.

D. Approach to Managing Risks Arising from Indirect Downstream Impacts from Third Parties

The framework underscores the project's ability to influence actions at the implementation level and acknowledges the limitations that the project would face with regards to management of potential risks and impacts in the Forest Areas since this will fall under the responsibilities of MOEF that will only be engaged during the project implementation. As such, the framework mainstreams a risk management hierarchy approach in addressing concerns under sub-component 1.3 to be compliant with the World Bank Policy (OP 4.12) on Involuntary Resettlement:

a. Avoiding potential risks associated with resettlement and access restrictions to the extent possible;
b. Ensuring that a risk management plan, capacity and resources are in place in the event that selection of project areas may expose communities with risks associated with resettlement and access restrictions. This includes agreed compensation mechanisms, due processes to enable free, prior, and informed consultations to obtain broad community supports, adequate support to livelihood restorations to the affected communities, use of participatory community engagement and persuasion rather than coercion and violence;
c. Ensuring that political and institutional commitments exist amongst authorized agencies to manage risks associated with resettlement and access restrictions to ensure the agreed measures can be implemented in a timely and appropriate manner; and
d. Ensuring that feedback and grievance redress mechanisms, as well as monitoring of risks and impacts are functional and accessible.

Management of Risks Outside the Forest Areas

Management of land tenure settlements in areas classified as non-Forest Areas will follow the PTSL processes as outlined in the ESMF. PTSL has an in-built mechanism to identify various land claims and screen out land parcels with overlapping claims, litigation, disputes, or those situated in forest and concession areas from further titling process until such issues are resolved. PTSL uses different classifications for the legal status of land parcels (i.e. K1, K2, K3, and K4 – see table 19).

TABLE 19. PTSL PARCEL CLASSIFICATION

(ATR/BPN Ministerial Regulation No. 12/2017)

Parcel Classification Category	CRITERIA
K1	Land parcels whose physical data and juridical data are eligible for the issuance of the Land Rights Certificate
K2	Land parcels equipped with complete physical and legal data but currently under litigation Not eligible for certification
K3	Land parcels with incomplete legal data/evidence of claims (e.g. unidentified owners, under disputes, overlapping boundaries, etc.) due to: - The land owner/holder is unknown/unwilling/a foreigner/a business entity - Incomplete proof of land holding or the land forms customary land; - The land parcel does not meet the criteria, such as absentee case, nationalized land, etc. K3 is not eligible for certification unless the above issues are cleared.
K4	Land Parcels whose objects and subjects are registered and certificates were previously issued but improperly located and/or mapped.

With such measures being embedded in the current business process, the mapping and land registration activities supported by PTSL are not expected to lead to resettlement, access restrictions and/or loss of land rights. Issues around mapping processes and data collection which could result in future land disputes due to erroneous titling have been acknowledged as a possibility and are considered as governance risks to the project. Management of such risks would warrant further oversight with regards to mapping processes and data quality. Key mitigation measures for the PTSL implementation have been mainstreamed in the ESMF, with further measures being further elaborated in Annex 4 of the ESMF on the Community Participation Framework and Annex 5 of the ESMF on the Environmental and Social Risk Screening.

On concerns with regards to access restrictions and evictions in non-Forest Areas, such risks may occur only in cases where there are third party actions (government, non-forestry license holders and/or other land owners) to regularize informal settlements following PTSL. Hence, such risks are not directly associated with the project and ATR/BPN does not have the authority and leverage to intervene. Therefore, this framework serves as a guideline to ensure that the project implementation classifies land types where there is likely occurrence of informal settlements and/or encroachments that the PTSL taskforces need to further assess with regards to the nature of people's occupation and if there are conflicts over land claims in those areas during screening and social mapping activities prior to location selection. If Government agencies as custodians of State Lands in non-Forest Areas, subsequent to such risk mitigation, would take actions to displace people as a consequence of the project's mapping and registration activities, they would be obliged to follow the provisions of this RPF similar to MoEF in Forest Areas. Disputes between private landholders are beyond the scope of OP 4.12 and the RPF.

TABLE 20. CLASSIFICATION OF LAND TYPES WITH POSSIBILITIES OF INFORMAL SETTLEMENTS

Land Classification	Assessment
State Land	The GoI's regulation PP 16/2014 concerning Land Management requires land holders to ensure that land use and occupation are: - in conjunction with the district/provincial spatial plans; - in compliance with protection and conservation functions of the land concerned to prevent ecosystem degr*Adat*ion; Land use on small islands, river banks, watershed areas, coastlines, lake flood plains etc. is subject to public interests, conservation and environmental carrying capacity. Due to the conservation and ecosystem functions, district and/or provincial spatial plans would retain the management of the areas into relevant government agencies and restrict occupation and utilization of land in these areas. Occupants are not eligible to private land ownership, and concession areas must enclave these areas. In the events of land use regularization, there could be potential risks that these occupants may face increased scrutiny with regards to the status of their occupations, with potential restrictions of further land use and evictions. The governing regulation pertaining to land acquisition for public interest is set out in Law No.2/2012. The laws require the government and/or other entities acting on behalf of the government to compensate any loss that may be incurred based on independent asset valuation. However, there remains issues with regards to compensation for informal settlers with regards to land compensation, which is currently not covered in the absence of legitimate claims of the land in question.
Land under HGU (Rights to Cultivate) licenses	The GoI's regulation PP 40/1996 allows communities, private and government-owned enterprises the rights to cultivate on state lands for agriculture and farming purposes. HGU licenses last for 25 years, and are extendable for another 35 years subject to certain eligibility requirements (e.g. compliant with tax obligations, cultivate land in conjunction to its purposes, including efforts to conserve, etc.). Ministerial Regulation of ATR/BPN No.7/2017 further regulates the provisions and mechanism for determinations of HGU. If within the HGU land sourced from the state land and Forest Areas, there is prior occupation, license holders are responsible to pay compensations to the occupants of the land in question based on mutual consensus between both parties. If the land is categorized as customary territories, a written consent from community representatives is required and parts of the proposed areas that are considered sacred and/or culturally significant will be enclaved based on community consent. On private lands, compensations will be determined based on willing seller-willing buyer agreements.

Land Classification	Assessment
	Unlawful evictions are therefore prohibited under the GoI's law. However, in cases where encroachment takes place following licensing, often in areas not cultivated and/or abandoned, settlements of land occupation can take place either through mediation and/or court cases. If there is evidence that such occupation results from HGU owners' lack of ability to manage the land, their license will be subject to further legal review, with possibilities of license revocation or excision of the land occupied by communities for the land redistribution (TORA) scheme.
Ex-HGU land	Expired HGU land that has been occupied by communities is subject to the TORA scheme to provide tenure security to the occupants provided they meet eligibility requirements (e.g. length and nature of settlements, no legal encumbrances/clean and clear status, etc.). In order for such land to be transferrable to the occupants, it has to be formally designated a status as an abandoned land (*tanah terlantar*) as per-the GoI's regulation No. 11/2010. However, ATR/BPN is often constrained by the lack of legal clarity with respect to asset handover from the previous HGU owner since the regulation (Presidential Decree) is still yet to be issued. As a result, there is legal uncertainty for both previous HGU owners, land occupants and the government, often resulting in a legal deadlock which prevents any actions by all parties.

With the legal framework pertaining to State Land as well as HGU land, evictions of informal settlers are considered unlikely and they would be isolated cases and the GoI is responsible to ensure that there is a due process to verify claims and compensate those who may be evicted. Further analysis pertaining to the prevailing GoI's legal frameworks with regards to resettlement in non-Forest Area and Forest Areas is presented in **sub-annex 1**. The analysis is concerned with land acquisition for public interests, which are also applicable for both Forest and non-Forest Areas. Settlements of tenure in private property, including HGUs are settled through direct negotiation between land holders and occupants based on consensus. Land tenure regularization in the Forest Areas is elaborated in **the next subsection** and additional measures as per- World Bank Policy (OP 4.12) will be required since there is absence of operational regulations/guidelines with regards to resettlement for forest tenure regulation.

Under the broader Agrarian Reform Program, the GoI is committed to protecting the rights of poor people, including informal settlers, occupying the land classified under state land and HGU, including ex-HGU land through the TORA scheme. However, settlements of tenure under TORA is outside the scope of the project and is addressed under the broader GoI's development program.

Through early screening and social mapping exercise, as well as community engagement, the project would be responsible to:

a. map land occupation, including encroachment, in state land as well as HGU, and ex-HGU land. Land parcels under this category would likely be classified as K 3 and K 2 (not ready for titling);
b. map existing conflicts, and assess whether or not project activities will exacerbate existing tension. In areas where tension is identified, the PTSL taskforce will seek further facilitation from relevant stakeholders and conduct prior community engagement to obtain broad community approval for their land claims to be mapped;

c. Inform the land claimants/occupants the nature and legal status of their occupations, as well as available mechanisms for tenure settlements (e.g. TORA). Physical and legal parcel data collected from these areas will inform the ATR/BPN's TORA mandates.
d. For land parcels with legal encumbrances, conflicts and disputes, the database of parcel maps, as well as legal status collected will be shared with the district, provincial and central governments and/or other stakeholders where relevant for further follow-ups.

It is important to highlight that access restriction and/or resettlement impacts constitute downstream impacts due to the use of parcel maps by other agencies and/or concession holders and therefore, are outside the purview of ATR/BPN as the project implementation agency. Such risks anticipated in this framework are part of broader government development programs, which may and/or may not be associated with the project. The framework serves as a **precautionary measure**. However, government agencies will be obliged to follow the provisions of the RPF and PF. This will be confirmed during loan negotiations and further described in the Operations Manual.

Under the PTSL scheme, the duration of the public notification/display of the parcel maps, including their legal status, is set for 14 calendar days. Such public display usually takes place in village halls. Land holders will have the ability to file complaints and/or objections and the PTSL taskforces will review and rectify the parcel information within 12 days following the public display. The project will mobilize extra efforts to reach out remote and vulnerable communities to enable access to information about their land parcel maps and facilitate submission of objections and complaints to the PTSL Taskforces. By doing so, it is expected that erroneous mapping, which could lead to future disputes will be minimized.

Management of Risks in the Forest Areas

The project scope does not include activities inside Forest Area, and MoEF is not an implementing agency to the project. However, the project will monitor and address possible involuntary settlement impact of the Forest Area boundary demarcation and affirmation supported by the project. Thus, the following activities within the project would apply to the project only in cases of planned involuntary resettlement resulting from the Forest Area boundary demarcation. Otherwise, the project does not concern Forest Areas or PPTKH. However, a parallel grant support is under development, which aims in bringing PTSL and PPTKH closely aligned, and hopefully merged creating a complete territorial participatory mapping and land rights regularization process.

The governing framework for the handling of tenure settlements in the Forest Areas (PPTKH) is set out in the Presidential Regulation No. 88/2017. As a consequence of this regulation, an acceleration team for PPTKH has been established by the GoI and is chaired by the Coordinating Ministry of Economic Affairs (CMEA) with membership from MOEF, MOHA, Cabinet Secretary and the Head of the President Staff Office (KSP). The PPTKH acceleration team, supported by its implementation taskforce staffed by relevant heads of directorate generals of these ministries, is responsible to facilitate tenure settlement processes in the Forest Areas, which include:

a. Coordinating and synchronizing the implementation of settlements of land tenure within the Forest Areas;
b. Stipulate steps and policies in the resolution of problems and obstacles in the implementation of PPTKH;
c. Determine the maximum land areas that can be allocated to settle land tenure within the Forest Areas;
d. Establishing resettlement mechanisms;

e. Conduct supervision and control over the implementation of land tenure settlements within Forest Areas; and
f. Facilitate the provisions of budget in the execution of land tenure settlements within Forest Areas

An inventory team for PPTKH is to be established at the provincial level by the governor and is responsible for assisting the PPTKH acceleration team and its implementation taskforce at the national level on specific tasks, which include:

a. Receiving proposals for inventory and verification of land use and occupation within the Forest Areas collectively submitted by district heads or mayors
b. Conducting field surveys/data collection;
c. Conducting analysis of a) physical and juridical data of land parcels within Forest Areas, and b) ecosystems of the land parcels concerned; and
d. Outlining recommendations for tenure settlements in the Forest Areas to be forwarded to the Governor for concurrence

Final decisions with regards to tenure settlement mechanisms rest with the PPTKH acceleration team hosted at the CMEA. The execution/implementation will remain the responsibility of MOEF.

The Presidential Regulation No. 88/2017 sets out several measures to address forest occupation and/or encroachments depending on the functions of the Forest Areas concerned (i.e. conservation, protection and production), as outlined in the following table (**Table 21**):

TABLE 21. OPTIONS FOR LAND TENURE SETTLEMENTS WITHIN THE FOREST AREAS

Options	Conditions/requirements
Occupation and/or encroachment before the designation of Forest Areas (*penujukan*)	
Land parcels/part of parcels to be enclaved and excised from the Forest Areas	- Land in question has been occupied and/or titles have been granted prior to the designation of Forest Areas;
Occupation and/or encroachment following the designation of Forest Areas (*penujukan*)	
Land parcels/part of parcels to be enclaved and excised from the Forest Areas	- Occupation for settlement purposes and/or establishment of public and social facilities in areas no longer classified as protection or conservation zones. - Land in question has been utilized for agricultural purposes for more than 20 consecutive years Note: Enclaved land parcels could be subject to the Land Distribution Schemes (TORA) and registration, including titling is to be processed through PTSL.
Land swap	Occupation for settlement purposes and/or establishment of public and social facilities in areas no longer classified as protection or conservation zones (applies to provinces whose forest cover equals to or is less than 30% of the total size of watersheds and/or land masses within provincial administrative jurisdictions)
Social forestry schemes	Land in question has been utilized for agricultural purposes for less than 20 years. These schemes apply to provinces whose size of the Forest Areas equals to or is less than 30% of the total size of watersheds and/or land masses within provincial administrative jurisdictions regardless of the length of occupation.

Options	Conditions/requirements
Resettlement	- Land in question is classified within the **conservation zone** regardless of the use (e.g. settlements, agricultural purposes and other land uses); - Occupation for settlement purposes and/or establishment of public facilities in **protection forests**. Note: In provinces whose size of Forest Areas equals to or is less than 30% of the total size of watersheds and/or land masses within provincial administrative jurisdictions, resettlement options can also be applied to forest occupation for settlement purposes and/or establishment of public and social facilities in **production forests under the discretion of MOEF.**

For the mechanisms above to be enforced, land in question must be free from any encumbrances and/or disputes with other parties. Furthermore, the government agencies involved are prohibited from enforcing forced evictions, criminalization against land claimants, closure of access to land and/or any forms of access restrictions **prior to a decision made by PPTKH acceleration team with regards to forest tenure settlements**. These requirements would enable investments in community facilitation and engagement, which the BPN/ATR project seeks to support, as guided by this framework.

Pertinent to the project, the resettlement policy would apply, if MoEF or a Forest Concession owner used the new affirmed forest area boundaries to force resettlement over people residing within the affirmed Forest Area. Guided by this framework, the project attempts to avoid adverse impacts as a result of resettlement and access restrictions and ensure that there is a risk management measure embedded within the project.

The project would facilitate coordination and collaboration between ATR/BPN and MoEF in line with the Presidential Instruction 2/2018 on Acceleration of PTSL and Presidential Regulation 88/2017 on PPTKH with an aim of bringing these initiatives together. Once an agreement for collaboration would have been reached during the project implementation, ATR/BPN could assist the PPTKH acceleration team and its field inventory teams in the following: 1) early identification of community members living inside conservation and protection forest zones; 2) joint-facilitation with MOEF and relevant agencies at the district and provincial levels to strengthen community engagement, facilitation and dispute mediation processes as needed.

The project seeks to avoid induced impacts with consequences of livelihoods displacement or physical resettlement through first conducting an inventory of the potentially affected community members (those living in the “grey zone” of unclear forest border during the risk mapping step as part of this ESMF). To avoid directly triggering resettlement, Villages adjacent to enacted conservation and protection forest lands in Forest Areas (which by the PPTKH rules, resettlement could be applied if the land parcels in question are legally determined to fall inside the protection and conservation forest zones) would not be included in the early years of the project implementation, to allow the more mature development of a mutually agreed participatory mapping process both sides of the Forest Area boundary.

If conservation areas were to be included in the later stage of project implementation and a specific location would result in displacement or access restrictions, the preparation of a RAP or PoA (depending on the type of impacts) that meets the World Bank Policy (OP 4.12) and follows this RPF/PF would need to be developed by the responsible government agency in consultation with affected parties and approved by the World Bank as a condition for project support to delineate forest boundaries in conservation areas (see **Table 24** on the assessment criteria).

Under the Component C of the Project on policy and institutional development, in case of resettlement being considered, the project would provide technical assistance to MoEF to develop a RAP (or PoA in case of access restrictions) that provides adequate livelihoods support and compensation to the affected people as per the World Bank Policy (OP 4.12). In cases of project impacted involuntary settlement in Forest Areas, such an approach would naturally materialize.

The World Bank, through separate grant financing, is also currently supporting MOEF in strengthening the implementation of the social forestry schemes, with technical assistance targeting both government and forest communities, to promote sustainable forest and land uses. Furthermore, complementarities with the existing operations, notably the FIP-2 and the Dedicated Grant Mechanism (DGM) Indonesia for Indigenous Peoples and Local Communities will be sought to enable synchronization and joint-management of risks[37]. Under the current PPTKH regulation, social forestry schemes are applicable options for forest tenure settlements for forests with non-conservation functions (e.g. production forests, buffer zones, convertible production forests, etc.). Such a mechanism can be considered as the GoI's Process Framework to provide forest dependent communities access to land and natural resources for livelihoods. The types of social forestry schemes are presented in **Table 22**.

TABLE 22. SOCIAL FORESTRY SCHEMES

State Forest
***Hutan Kemasyarakatan/HKm* (community forests)** The legal basis for HKm include the Forestry Law No. 41/1999, further elaborated in MOEF regulations No.6/2007 and No. 88/2014. HKm is aimed to enable community empowerment through community groups. Permits are valid for 35 years and renewable. Permit holders/community groups are only allowed to harvest Non-Timber Forest Products (NTFPs) if permits are issued in the protection forest zone. Timber extraction is only allowed in the production forest zone.
***Hutan Tanaman Rakyat*/HTR (community plantations)** The legal basis for HTR is the Government Regulation No. 6/2007 (amended through the Government Regulation No. 3/2008 and MOEF Regulation No. 23/2007 (amended through MOEF Regulation No. 83/2016). HRT is aimed to support community groups who work in the timber-based industries. Community groups who have received a HTR license can develop forest plantations and can harvest the timber.
***Hutan Desa*/HD (village forests)** The legal basis for a village forest is the Forestry Law 41/1999, followed by a ministerial regulation of MOEF No. 89/2014 to elaborate the process and institutional arrangements. This scheme enables state-sponsored community empowerment through village-based institutions. Permits for village forests can be issued for Forest Areas classified as production and protection forests and are valid for 35 years. If permits are issued in the protection forest zone, use of forest resources is limited to NFTPs and other environmental services, such as ecotourism. Timber harvesting is allowed in the production forest zone.
Title Forests (*Hutan Hak*)
***Hutan Adat* (customary forests)**

[37] FIP-2 is currently being implemented by MOEF and supporting the operationalization of Forest Management Units (FMUs) that serve as extended arms of MOEF in providing management oversight of the Forest Areas. DGM-I is being implemented by an NGO Samdhana and complements FIP-2 to support IPLCs within Forest Areas to support their capacity to secure their land tenure and livelihoods.

Constitutional Court Ruling No. 35/2013 and MOEF Regulation No.32/2015 on title forests enable ownership rights of forestland to customary communities and other local communities under title forest schemes (outside the state Forest Areas). The title forest scheme directed the government to keep customary territories outside of the state Forest Areas, which consequently allow customary forests to attain the status of private forests. These communities are eligible for this scheme if they have been utilizing the land for 20 consecutive years or more.

Customary forest (*Hutan Adat*) is the most significant forest scheme as it recognizes customary territory and offers the most expansive rights over land and forest resources to *Adat* communities and represents land ownership within the Forest Areas. Land rights are held by the communities in perpetuity. The other forestry schemes only legally grant use and management rights over forestland but the land ownership remains with the State.

Under the Component 3 on policy and institutional development, the project will support dialogues with MOEF, including facilitating joint collaboration between the PTSL and PPTKH Taskforces, to link the project activities with the on-going social forestry schemes implemented by MOEF. In doing so, the project seeks to ensure that risks associated with access restrictions and resettlement for communities whose land becomes legally declared within Forest Areas as a result of forest boundary demarcation can be avoided through the social forestry schemes.

Through mapping activities and physical and legal data collection supported by the PTSL, the project also expects to support MOEF in expediting the implementation of the social forestry program, which is currently constrained by the lack of agreed parcel boundaries.

E. Legal and Institutional Framework

This section presents an overview of the national laws relating to land and property acquisition and compensation arrangements. These legal requirements are compared with those required for compliance with World Bank Policy (OP 4.12) on Involuntary Resettlement. Where there are gaps between national legislation and procedures on the one hand and World Bank policy and practice on the other, the more stringent of the standards will prevail.

Government of Indonesia

The promulgation of the Law on Land Acquisition for the Development of Public Interest (Act 2/2012), passed in January 2012 was followed, several months later by the signing of the – the Presidential Regulation (*PerPres – Peraturan President*) 71/2012 on Implementation of Land Acquisition for the Public Purpose Development. These appointed the BPN the role as executor of land acquisition in the public interest (Article 1(16)). Subsequently several presidential regulations [38] were passed that

[38] The following PerPres have been passed since 2012:

- PerPres 40/2014: land acquisition up to 5 hectares can be directly conducted by a public agency through a business transaction or other way as agreed by both parties.
- PerPres 99/2014: ameliorates investors' concerns including the percentage (75 percent) at which land acquisition on a specific project would be considered adequate in order to apply the consignment procedure (i.e. the procedure whereby compensation is deposited in the district court when land owner's do not agree to the amount, so that the land can be appropriated for a project in the public interest).
- PerPres 30/2015: finance for land acquisition could be sourced from a business entity (Badan Usaha) as Agency needing land which has been given the right to act on behalf of state agency, ministerial, non-ministerial government agency, provincial government, and/or district government/city. This allows private entities to acquire land and pay compensation on behalf of the government or central government owned companies, and get reimbursed later by the relevant state agency. This combined with another presidential

attempted to clarify and further amend Law 2/2012, such as Perpres 40 and 99/2014, and 30 and 148/2015.

The list of key laws and regulations for land acquisition and resettlement and related issues is presented in the table below. The legal framework for forest tenure settlements in the forest areas has been described in the table 21 on PPTKH as governed by the Presidential Regulation No. 88/2017. The prevailing laws and technical guidelines governing eviction and resettlement processes in the forest areas for PPTKH purposes have not been developed by GoI. The analysis in the RPF and PF, therefore, only covers existing laws and regulations.

TABLE 23. SUMMARY LAWS AND REGULATIONS FOR LAND ACQUISITION AND RESETTLEMENT

Legal Hierarchy	Laws and Regulations
Constitution / Code	1. The 1945 Constitution and its Amendments 2. The Decision of the Constitutional Court on Judicial Review of Law 2 of 2012 concerning Land Acquisition for Development for Public Interest (Case Law No. 50/PUU-X/2012)
Laws	1. Law 39 of 1999 Concerning Human Rights 2. Law 11 of 2005 Concerning Ratification of International Covenant on Economic, Social and Cultural Rights (ICESCR) 3. Law 14 of 2008 Concerning Public Information Transparency 4. Law 1 of 2011 concerning Housing and Settlement Areas 5. Law 16 of 2011 Concerning Legal Aid 6. Law 2 of 2012 Concerning Land Acquisition for the Development of Public Interest.
Government Regulations	1. Government Regulation No 88 of 2014 concerning Housing and Settlement Areas
Presidential Regulations	1. Presidential Regulation 71 of 2012 Concerning Implementing Regulation of Law 2 of 2012 on Land Acquisition for Development for Public Interest 2. Presidential Regulation 40 of 2014 Concerning First Amendment of Perpres 71 of 2012 on Implementing Regulation of Law 2 of 2012 on Land Acquisition for Development for Public Interest 3. Presidential Regulation No. 99/2014 Concerning the Second Amendment of Perpres 71 of 2012 on Implementing Regulation of Law 2 of 2012 on Land Acquisition for Development for Public Interest 4. Presidential Regulation 30 of 2015 Concerning the Third Amendment of Perpres 71 of 2012 on Implementing Regulation of Law 2 of 2012 on Land Acquisition for Development for Public

regulation on PPPs (38/2015) determines that land acquisition is now facilitated (*diselenggarakan*) as opposed to undertaken (*dilaksanakan*) by the Government and in accordance to the laws applicable in land procurement for public interest. The term *facilitated* implies that the government may adopt the role of an arranger with the business entity partner acting to implement the acquisition. This enables a business entity to initially fund the land acquisition (see Art. 117A) and receive the return for such initial funding through return of investment pursuant to an agreement (see "Public Private Partnerships under the 2015 Presidential Regulation", Lubis Ganie Surowidjojo (LGS) Newsletters, 20th Apr 2015.). Note however, that should this funding method be chosen, the business entity is not entitled to receive the repayment of funding until after the land acquisition has been completed, thus placing the acquiring business entity at risk where the acquisition cannot be completed.

Legal Hierarchy	Laws and Regulations
	Interest 5. Presidential Regulation 148 of 2015 Concerning The Fourth Amendment of Perpres 71 of 2012 on Implementing Regulation of Law 2 of 2012 on Land Acquisition for Development of Public Interest[39] 6. Presidential Regulation 3 of 2016 Concerning Acceleration of National Strategic Projects Implementation 7. Presidential Regulation 102 of 2016 Concerning Funding of Land Acquisition for Development of Public Interest for Implementation of National Strategic Projects. 8. Presidential Regulation No. 56/2017 on Handling Social Impact in Land Acquisition for the National Strategic Projects 9as specified in Perpres 3/2016 and its update the Perpres 59/2017)
Ministerial Decrees	1. Head of National Land Agency Regulation (Perkaban) 5 of 2012, Concerning Implementing Regulation on Land Acquisition for Development of Public Interest 2. Regulation of the Minister of Spatial Development / National Land Agency No. 6/2015 on the Amendments of the Regulation of the Minister of National Land Agency No. 5/2012 3. Regulation of the Minister of Spatial Development / National Land Agency No. 22/2015 on the Second Amendment of the Regulation of the Minister of National Land Agency No. 5/2012 4. Instruction of Ministry Agrarian and Spatial Planning/National Land Agency No. 2/Ins/VIII/2016 Concerning Acceleration of Land Acquisition Implementation for Public Interest for Development of National Strategic Project

The following provide a summary of key provisions of relevant laws/regulations presented in the table above.

Law 2/2012 on Land Acquisition for the Development for Public Interest

The objective of this Law is to accelerate land acquisition process for the infrastructure development for the public interests. Compared to previous land acquisition regulations, it sets a clearer land acquisition process and requirements and institutional arrangements. The law clarifies that any state institution, ministry and non-ministry government institution, provincial government, district/city government, and State-Owned Legal Enterprise/State-Owned Enterprise which are specially assigned by the Government are eligible to acquire land through Law 2/2012.

The law specifies types of public purpose development, implementation stages and arrangements for land acquisition, requirements, process and institutional arrangements during the planning, preparation, implementation and handover of the results of land acquisition with focus on reducing the time period for completion of each stage of activities as well as for processing appeals from landowners.

The law provides clarity on eligible affected persons, affected assets, land/asset valuation procedures, compensation options, consultation, complaints, financing, and release of the compensated

[39] PerPres 148/2015: streamlining of the government approval process for land acquisition, such as elimination of determination letter for land acquisition for public interest development purpose up to 5 hectares.

land/assets. The law to some extent also strengthens support for affected persons who have no recognizable legal right or claim to the land they are occupying.

Presidential Regulation No. 71/2012 on the Implementation of Land Acquisition for the Development for Public Interests.

The Regulation elaborates the implementation of Law 2/2012 with detail and step by step processes and procedures of implementing land acquisition. In principle, these implementing regulations are a significant shift from the past. They aim at streamlining the land acquisition process by: (i) reducing the time period for completion of the land acquisition process for public infrastructure projects; (ii) ensuring safeguards for land-right holders by considering within compensation immaterial values defined as a 'non-physical damage that can be equated with a monetary value, for example, damages due to the loss of business or work, moving costs, costs associated with changing professions, and with the loss of value of residual property' and (iii) providing a formalized framework for proof of land ownership and ensuring that land rights would become null only upon the actual receipt of compensation (or with the court's decision in the case of the consignment process) (Article 5, Law 2/2012). This regulation has been amended four times by Presidential Regulation 40/2014; Presidential Regulation 99/2014, Presidential Regulation 30/2015 and Presidential Regulation 148/2015.

Presidential Regulation No. 40/2014 on the first amendment to the Presidential Regulation No. 40/2014 specifies the funding sources for operational and supporting costs for the implementation of land acquisition for the assigned SOEs and for the upstream oil and gas public infrastructure; increase the size of small scale land acquisition from 1 Ha to 5 Ha.

Presidential Regulation No. 99/2014 on the second amendment of the Presidential Regulation No. 71/2012 specifies in more detail the determination of compensation, the procedures of hiring or selection of the appraisal services, the expanded timing for giving the compensation from 7 to 14 days after the validation from the head of the land acquisition implementation team is received by the agency who needs the land. This regulation outlines the process and requirements for the incomplete land acquisition after end of December 2014 that can be extended until end of December 2015.

Presidential Regulation No. 30/2015 on the third amendment to the Presidential Regulation No. 71/2012 allows the business entities who obtained authorities /powers based on agreements with national institutions, ministries, non-ministerial institutions, provincial, district or city, and SOEs who are specifically assigned by the central government to provide infrastructure of the public interests. Further, this regulation allows the business entities who act on behalf of those parties who need the land to pre-finance land acquisition, which will be reimbursed by the concerned agencies/ministries after land acquisition process is completed. This regulation specifies in more detail the process and requirements for the incomplete land acquisition after end of December 2014 (that can be extended until end of December 2015) in relation to the determination of development location.

Presidential Regulation No. 148/2015 on the fourth amendment of the Presidential Regulation No. 71/2012 stipulates among other the institutions who will be responsible for or assigned for land acquisition for infrastructure development for public interests. This regulation shortens the length of time of the preparation and implementation for land acquisition, submission of the results of land acquisition. It also regulates the small-scale land acquisition up to 5 Ha and streamlines the procedures (no need to obtain determination of development location letter, and utilize the appraiser's service for defining compensation).

Presidential Regulation No. 102/2016 on the Financing Land Acquisition for Development the National Strategic Projects for Public Interests stipulates the process and procedures of land acquisition for the national strategic projects (as stipulated in the Presidential Regulation No. 3/2016). It covers procedures and requirements for funding land acquisition for national strategic projects that will be

implemented by ministries and/or SOEs. This regulation allows the pre-financing for land acquisition by business entities (SOEs or private business entities) who have been assigned by ministries to build infrastructure for public interests. The regulation also contains the procedures and requirements of pre-financing and reimbursement of the compensation that has been paid by the business entities

Presidential Regulation No. 56/2017 on Handling Social Impact in Land Acquisition for the National Strategic Projects (as specified in the Perpres 3/2016 and its update the Perpres 59/2007) stipulates that the Government will handle the social impacts on the occupants of land owned by the Government (national, provincial and district/city), state-owned enterprise, and local-government enterprise that will be used for the national strategic projects. The regulation specifies the criteria of such occupants (have ID cards endorsed by sub-district and do not have rights on the land; have physically controlled and used the land continuously for 10 years, and have controlled and used land with good intention openly, not contested and recognized and proven true by the land owner(s) and/or head of village); coverage of compensation (costs for dismantling houses, mobilization, house rents and support for income loss). The regulation requires the land owners to prepare a Social Impact Handling Plan (SIHP) to be submitted to the Governor, who will then establish an Integrated Team to make an inventory and verify the occupants and the occupied land; assign independent party to calculate the compensation; facilitate issues; recommend the list of occupants eligible for compensation, amount of compensation based on the calculation of the independent party, mechanism and procedures to give the compensation to the occupants; and control the implementation of the delivery of the compensation. The Integrated Team consists of various government officials from province and district/city and land owners. Based on the recommendation from the Integrated Team, the Governor will establish the list of eligible occupants for compensation; amount of compensation and mechanism and procedures to give the compensation. The regulation also specifies that the land owner(s) should provide the financing for the compensation and the compensated occupants should move out from the land maximum in seven days after the compensation is received.

Regulation of the Minister of the National Land Agency No. 5/2012 on the Technical Guidelines for implementing Land Acquisition.

It specifies in detail the preparation of the implementation that includes: inventory and identification of the affected land, determination of appraisal services and task of appraisers, discussions / negotiations on the forms and values of compensation values, compensation payment or provision in the case the compensation is in the form of non-cash, process and procedures in providing compensation in special circumstances, custody of compensation/ consignment, release of objects of land acquisition, documentation of field map, nominative lists and administrative data. It also specifies the submission of results of the land acquisition; the taking of the consignment; monitoring and evaluation; financing land acquisition; small-scale land acquisition; coordination or the implementation of land acquisition; and transitional provisions. This regulation is accompanied by a set of various formats as annexes. Since its issuance, this regulation has been amended twice, i.e., by the Regulations of the Minister of Spatial Development / National Land Agency No. 6/2015 and No. 22/2015.

Regulation of the Minister of Spatial Development/National Land Agency No. 6/2015 on the Changes of the Regulation of the Minister of the National Land Agency No. 5/2012.

This regulation amended the Regulation of the Minister of the National Land Agency No. 5/2012. This regulation elaborates the amendments of the Presidential Regulation No. 71/2012 as specified in the Presidential Regulation No. 40/2014, Presidential Regulation No. 99/2014, and Presidential Regulation No. 30/2015. This regulation specifies that land management rights could be given to the national institutions, ministries, non-ministerial institutions, provincial, district or city, and SOEs who are assigned by the central government to cooperate with business entities. Business entities who has the

agreements with one of these institutions could be given building rights or use rights. Moreover, this regulation also explains that the land acquisition funds is included in the budget document (DIPA) of the government institutions or budget of the SOEs. This regulation also stipulates the processes and procedures of small-scale land acquisition for an area up to 5 Ha and land acquisition for infrastructure that are not for public interests. Further, this regulation contains process, procedures and requirements on the incomplete land acquisition but has obtained Determination of Development Location Letter. This includes the requirements to apply the compensation level that is assessed by the land appraisers as specified in the Law 2/2012 for the land that had been assessed under the requirements of the previous regulations with lower compensation level.

Regulation of the Minister of Spatial Development / National Land Agency No. 22/2015 on the Second Changes of the Regulation of the Minister of the National Land Agency No. 5/2012.
This regulation elaborated the amendments of the Presidential Regulation No. 71/2012 as specified in the Presidential Regulation No. 30/2015. It specifies that the business entities who act on behalf of the agencies/ministries, provincial/district/city governments and SOEs who has been assigned by the Government to acquire land, can pre-finance land acquisition, which will be reimbursed by the concerned agencies /ministries / and local governments through APBN/APBD after land acquisition process is completed. The funds can be obtained through special account mechanisms

Presidential Regulation No. 17 of 2015. According to this Perpres, the Directorate General of Land Acquisition (DGLA) is responsible for formulating and implementing policies for land acquisition, land valuation, setting and determination of agencies land, and guidance and control of land acquisition. The Directorate of Land Acquisition has the following functions:

- formulating and implementing policy on land acquisition, land valuation, arrangement and establishment of institution's land, and guidance and control of land acquisition;
- formulating norm, standard, procedure, criteria, and guidance and supervision for land acquisition, land valuation, arrangement and establishment institution's land, and guidance and control of land acquisition;
- evaluation and reporting.
- setting norms, standards, procedures, and criteria for land acquisition for the public interest; determination of land rights; licensing and transition of agency land; and legal termination with entitled parties.
- implementing land acquisition; implementing and arranging above and underground space rights, right to use of waters, and the right to lease land for land acquisition; implementing transitional arrangements of rights and release of land management rights of government entities, state-owned enterprises, and foreign legal entities; and database development for land acquisition.
- providing technical guidance and supervision on land acquisition and land valuation or appraisal; regulating and stipulating land for government institutions.
- implementing evaluation and reporting on land acquisition and land valuation or appraisal; regulating and stipulating land for government institutions; and
- advisory and oversight of land acquisition.

In carrying out these tasks, the DGLA is supported by the Directorate for Land Acquisition, the Directorate for Land Valuation and the Directorate of Land Acquisition.

In accordance with the provisions of the Law 2/2012 and Implementation Regulations 71/2012 BPN is the key implementation agency for land acquisition and resettlement for Development in Public Interest.

Law 39 of 1999 regarding Human Rights provides that "All members of vulnerable groups in society, such as children, the poor, and the disabled are entitled to greater protection of human rights" (Article 5).

Law 11 of 2005 regarding Ratification of International Covenant of Economic, Social, and Cultural Rights (ICESCR) ratifies the ICESCR that extends recognition of the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (Article 11 of the ICESC Rights). It acknowledges the essential importance of international cooperation based on free consent in ensuring this right.

Law 14 of 2008 regarding Public Information Openness aims to (Article 4) as: i)guarantee citizens' right to acknowledge public policy making plans, public policy programs, public decision making process, and the grounds of a public decision making; ii) encourage public participation in public policy making process; iii) increasing active public involvement in the public policy making and good public body governance; iv) constitute good governance that is transparent, effective, efficient, and accountable; v) acknowledge the grounds of public policies that have eminent effects on people's lives; and vi) develop science and to enhance the intellectual life of the nation.

Law No 16 of 2011 regarding Legal Aid governs pro bono legal services granted by a legal aid provider to a recipient freely (without any charges) (Article 1 paragraph 1). A legal aid recipient is a person or group of poor people (Article 1 paragraph 2). A legal aid provider is legal aid institution or civil society group offering legal aid services based on this law (Article 1 paragraph 1).

World Bank Policy 4.12 on Involuntary Resettlement

The overall objectives of the Bank's policy on involuntary resettlement are the following:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

The World Bank's Policy (OP 4.12) on Involuntary Resettlement applies to all components of the project, all associated activities, and to all economically and /or physically affected persons, regardless of the number of people affected, the severity of impact and the legality of land holding. Furthermore, the Policy requires particular attention to be given to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities, orphans, and other disadvantaged persons.

The Policy differentiates between situations which involve the "involuntary taking of land" (section 3[a]) and the "involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons" (section 3[b]). In situations where section 3(a) occurs, i.e. involuntary physical relocation, and possibly restriction of access linked to such relocation, is involved, a Resettlement Policy Framework is required. Where 3(b) occurs, i.e. involuntary restriction of access without physical relocation, a Process Framework is required.

Where an RPF is in place and resettlement is required, a RAP is developed during project implementation. The RAP sets out a detailed action plan for treating a specific situation. A RAP is done for each project component or activity where involuntary resettlement will occur when it is clear exactly where the zone of impact will be. The RAP must be consistent with the RPF.

Somewhat different provisions are required for restrictions of access to natural resources within protected areas, then those required for situations involving the taking of land. Instead of an RPF, a Process Framework is required initially. Just as specific RAPs are required before the implementation of any project entailing resettlement, so are Bank-approved Plans of Action (PoA) required at the implementation stage of each project, before enforcing the envisaged restriction of access. These PoA must set out the specific measures taken to assist people deprived of access to the natural resources within parks and protected areas, and implementation arrangements.

The Policy requires that the nature of the restrictions of access to natural resources within protected areas, as well as the type of measures necessary to mitigate adverse impacts is determined, with the participation of the displaced persons during the design and implementation of the project.

F. Eligibility and Entitlements of Affected Persons

At this stage, it is not possible to identify the categories of people that could be affected. It is thus not feasible to undertake a census or to provide a precise estimate of the total population that might be affected.

Under the World Bank Policy displaced persons may be classified in one of the following three groups:

a. those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);
b. those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets - provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement; and
c. those who have no recognizable legal right or claim to the land they are occupying.

Persons covered in groups (a) and (b) are provided compensation for the land they lose at full replacement cost, and other assistance. Persons covered in groups (c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in three groups (a), (b), or (c) are provided compensation for loss of assets other than land at full replacement cost.

G. Stakeholder Consultation, Participation and Disclosure

Participatory validation of forest boundary, including local conflict mediation processes in the event of emerging disputes, will apply during the implementation of forest boundary demarcation. Chapter 5 of the ESMF provides further elaboration on handling of disputes if they emerge during the project implementation. Under the Component 3, the project seeks to facilitate coordination with relevant agencies and provide technical support to conflict mediation, community engagement as well as public awareness raising activities, particularly to communities living on forest borders. The newly issued Presidential Regulation No. 2/2018 calls for a stronger collaboration and facilitation across relevant institutions.

Management of potential risks and impacts associated with involuntary resettlement, access restrictions and other adverse impacts due to loss of land rights will take into account local understanding, perceptions, and expectations for communities who may be impacted following forest boundary affirmation. Hence, the scope of the framework covers management of potential risks and impacts in forest and non-Forest Areas, particularly in areas considered as buffer zones.

H. Grievance Redress Mechanism

The handling of grievances is guided by the Chapter 5 of the ESMF and seeks to mainstream village-level dispute mediation as part of the PTSL processes (under the Component 3). Under sub-component 1.3, disputes and/or grievances will be handled by the joint taskforce for forest boundary demarcation. In the event that disputes arise during and/or following forest boundary demarcation, the following measures will be implemented:

a) Consultations with aggrieved parties, facilitated by the joint taskforce with oversight and technical support from the PMU's safeguards/risk management unit to understand the nature of complaints/grievances and severity;
b) Postpone the activities if grievances require further formal resolution by MOEF and/or other agencies and/or when events present safety risks for both aggrieved parties and members of the taskforce;
c) Conduct further investigation involving relevant stakeholders, including representatives from the aggrieved parties and reach an agreement on whether or not the activities should move forward. This process may involve local mediators and the project will provide financial support;

All grievances and complaints will be documented and reported to the PMU, including the status of their resolution.

I. Implementation Arrangements

This framework recognises the complex nature of land governance in Indonesia and the fact that Forest Area demarcation activities requires institutional collaboration with the MoEF, who is not an implementing agency. As such the RPF and PF has been produced to outline necessary measures, including institutional arrangements and roles and responsibilities to manage any potential displacement impacts arising from increased scrutiny and regularization of land tenure by the MoEF as the custodian of the state forests.

Supervision of this framework will be retained within the project PMU at the ATR/BPN, with oversight provided by the provincial PIM units and technical implementation by the district land offices (*Kantah*).). A Project Coordination Committee (PCC) would be established at the national level, co-chaired by ATR/BPN and BIG with members from the various stakeholder agencies including CMEA, BAPPENAS, MoHA, MoEF, and MoEMR, to facilitate inter-agency coordination and cooperation of project activities. The following activities will be performed by the safeguards/risk management units at the ATR/BPN, in collaboration with relevant agencies at both national and district level:

Early screening of risks and social mapping:

This screening process is guided by the **Annexes 4 and 5** of this Framework and attempts to understand potential risks associated with access restrictions and resettlements under the sub-component 1.3. The PTSL taskforce, with technical support from the PMU and PIM units, will undertake early screening to map out areas where there are Indigenous community, areas with adjacent boundaries with conservation and protection forest zones and will flag these areas as "high risk" areas, including areas with existing conflicts. These high-risk areas would require differentiated treatments before the PTSL

taskforces can enter and/or engage with communities, including a joint facilitation with MOEF and formal agreements on resolution of tenure settlements that meet the World Bank Policy (OP 4.12), local conflict mediation mechanisms, village-level facilitation, etc.

Where there is a lack of political and institutional commitments and capacity amongst key agencies to engage and address relevant risks associated with forest boundary demarcation, the PMU, with recommendations from PIM units, will postpone the forest boundary activities in the areas concerned and/or alternatively exclude forest boundary demarcation in those areas.

Location Selection:

Location selection for forest boundary demarcation will be informed by the risk screening results. The safeguards/risk management unit at the PMU will develop a district-level profile that will be updated on a regular basis based on information provided by the district land offices (*Kantah*)/PTSL taskforces to ensure that emerging risks are duly identified and necessary resources and mitigation measures can be mobilized.

The PMU will be informed if there are changes of location selection for forest boundary demarcation and if there are decisions to include villages with adjacent boundaries with conservation and protection forests. The PMU will be responsible for assessing if necessary mitigation measures, including a resettlement plan or PoA (to be developed by MOEF should the eviction or access restriction risk materialize), is acceptable as per-the World Bank Policy (OP 4.12) (see Table 24) is in place and whether the responsible implementers have an adequate risk management capacity to implement the agreed plan. The project may provide technical assistance support to strengthen MOEF's capacity or link with other parallel initiatives, at the request of MOEF.

Joint coordination:

At the provincial and district levels, the project will support coordination between the joint taskforce for forest boundary demarcation[40] and the PPTKH inventory teams to ensure that data and information pertaining to land use and occupation in the Forest Areas generated through the forest boundary demarcation activities are mutually agreed by both taskforces and there are follow-up actions to mitigate potential risks and impacts.

The project will facilitate inclusion of members of PPTKH inventory teams in the joint taskforce for forest boundary demarcation and provide coordination and logistical support (under Component 3). In the current practice, the memberships of forest boundary demarcation task force, PPTKH inventory team, and the PTSL acceleration team for forest boundary affirmation (under Presidential Instruction 2/2018) are generally the same, comprising of staffs from the Regional Forest Area Gazettement Unit (BPKH) of MOEF and of the Provincial Office of ATR/BPN's cadastral and agrarian planning units.

Risk monitoring:

Using the district-level risk profile developed and maintained by the safeguards/risk management unit, regular monitoring will be carried out based on the ESMF monitoring plan elaborated in Chapter 6 (section IV of the ESMF). Districts with high-risk profiles will receive further support and facilitation to address potential risks relevant to this framework.

[40] This taskforce will be established as per MOEF regulation No. 44/2012 on Forest Area gazettment.

The PMU's safeguards/risk management unit will liaise on a periodic basis (weekly) with the PIM units at the provincial land offices (*Kanwil*) and PICs at the district land offices to update if there are emerging risks.

Handling of grievances and dispute resolution:

The handling of grievances is guided by the Chapter 5 of this ESMF and seeks to mainstream village-level dispute mediation as part of the PTSL processes (under the Component 3). Under sub-component 1.3, disputes and/or grievances will be handled by the joint taskforce for forest boundary demarcation. In the event that disputes arise during and/or following forest boundary demarcation, the following measures will be implemented:

a) Consultations with aggrieved parties, facilitated by the joint taskforce with oversight and technical support from the PMU's safeguards/risk management unit to understand the nature of complaints/grievances and severity;
b) Postpone the activities if grievances require further formal resolution by MOEF and/or other agencies and/or when events present safety risks for both aggrieved parties and members of the taskforce;
c) Conduct further investigation involving relevant stakeholders, including representatives from the aggrieved parties and reach an agreement on whether or not the activities should move forward. This process may involve local mediators and the project will provide financial support.

All grievances and complaints will be documented and reported to the PMU, including the status of their resolution.

J. Preparation, Implementation and Monitoring and Evaluation of Resettlement Action Plans and Plan of Actions

As mentioned previously, it is not possible to develop RAPs and PoAs at this stage as it is not clear whether any involuntary resettlement will occur.

In the case of this project possible forced evictions and restrictions of access may result from:

a. Community living deep inside the Forest Areas that are currently under Status Quo may face increased Government scrutiny to deny their tenure claim as a result of the affirmed boundary of the conservation and protection Forest Areas;
b. Communities living around unclear forest boundaries may find their land partially or fully lies within state Forest Areas, hence requiring the change in their settlement and livelihood locations;
c. Informal settlers in the state land and/or private concessions in non-Forest Areas may face increased pressures with regards to the legal status of their occupation, with possibilities of evictions if government agencies and/or concession holders seeks to reclaim land ownership.

OP 4.12 should apply to all case a), b) and c) if there is forced evictions by a government agency of informal settlers regardless of whether in forest areas or state land. If there is disputes between land occupants or owners in such cases Op 4.12 does not apply.

Under scenario (a), where the process is fully under the jurisdiction of MoEF, the project will support coordination and collaboration between ATR/BPN and MoEF in line with the Presidential Instruction 2/2018 (on Acceleration of PTSL), and in case of involuntary resettlement resulting from the Forest Area boundary demarcation and affirmation process, the project's RPF and PF would apply. The Presidential Regulation 88/2017 on PPTKH provides a guideline to assist the MoEF in early

identification of community members living inside conservation forest with a view of informing and assisting them in the event of unavoidable resettlement. Under the Component 3 on policy and institutional development, the project will provide technical assistance to the MoEF (if the eviction or access restriction materializes in a Forest Area impacted by the project activity and OP 4.12. applies) for developing a RAP or PoF that meets the World Bank Policy (OP 4.12) requirements. The World Bank, through separate grant financing could also support the MoEF, upon request, in strengthening this policy and mechanism in line with World Bank Policy (OP 4.12).

Under scenario (b), the project seeks to avoid induced impacts with consequences of livelihoods displacement or resettlement by creating an inventory of potentially affected community communities living and/or occupying land in the "grey zone" and/or unclear Forest Area boundaries as part of risk screening and social mapping. In order to avoid Forest Area demarcation in areas with identified risks of evictions and/or access restrictions, the following measures apply:

a. Villages adjacent to conservation and protection forests (which by PPTKH rules require resettlement if land parcel is legally determined to fall inside the forest) will not be included in the early year of the project to allow further development of land regularization over the Forest Area boundary, and possible operationalization (due to a materialized risk) of the framework and processes to manage involuntary resettlement in line with World Bank Policy (OP 4.12) by MoEF. If these areas are to be impacted by the project's Forest Area demarcation activity, a joint agreement, in accordance with this RPF and PF, with relevant agencies notably MoEF should be in place to restore the livelihoods of the affected people (e.g. compensation, alternative livelihoods programs, social forestry, etc.) and processes to ensure free, prior, and informed consultations to obtain broad community support among affected groups that meet World Bank Policy (OP 4.12);
b. Community members whose lands fall in the 'grey zone' close to tentative boundaries of Forest Areas will be properly informed about the possibility that their land may fall within the Forest Areas hence cannot be immediately issued land titles. Technical support will be provided to these communities by a joint taskforce between ATR/BPN and MoEF to facilitate the selection of alternative tenure arrangement to allow continued use (i.e., no resettlement) under the social forestry scheme, including through titled forest (*Hutan Hak*), to ensure that they are able to at least maintain their livelihoods and living standards.

Under scenario (c), evictions of informal settlers would remain isolated cases and the GoI is responsible to ensure that there is a due process to verify claims and compensate those who may be evicted. Due process includes compliance with World Bank Policy (OP 4.12) as well as national requirements. The prevailing GoI framework is concerned with land acquisition for public interests (Law No.2/2012), which is also applicable for both forest and non-Forest Areas. Settlements of tenure in private property, including HGUs are settled through direct negotiation between landholders and occupants based on consensus.

The specific content of a RAP would depend upon information not yet known, such as locations, numbers of people who might be affected (in different ways) and eligible for resettlement-related assistance. The generic contents of a RAP involve:

1. Description of the project: Description of the project, activities and summary of potential resettlement impacts.

2. Potential impacts of the project: Description of the project component or activities that give rise to resettlement; the zone of impact of such component or activities; the alternatives considered to avoid or minimize resettlement; and the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

3. Objectives and studies undertaken: Objectives of the resettlement program and a summary of studies undertaken in support of resettlement planning and implementation.

4. Regulatory framework: Relevant laws and regulations and international including World Bank policies and procedures.

5. Institutional framework: Relevant institutions and responsibilities for resettlement programming.

6. Stakeholder engagement: Schedule of consultations and participation and interaction with PAPs during RAP preparation. RAP disclosure arrangements.

7. Socioeconomic characteristics: Findings of socioeconomic studies to be conducted with the involvement of potentially displaced people, including results of household and census survey, information on vulnerable groups, information on livelihoods and standards of living, land tenure and transfer systems, use of natural resources, patterns of social interaction, social services and public infrastructure.

8. Eligibility: Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

9. Valuation of and compensation for losses: Methodology used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.

10. Magnitude of displacement: Summary of the numbers of persons, households, structures, public buildings, businesses, croplands, and churches to be affected.

11. Entitlement framework: Categories of affected persons and what options they were or are being offered, preferably summarized in tabular form.

12. Livelihood restoration measures: Various measures to be used to improve or restore livelihoods of displaced people.

13. Resettlement sites: Site selection, site preparation, and relocation, alternative relocation sites considered and explanation of those selected, and the impacts on host communities.

14. Housing, infrastructure, and social services: Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

15. Grievance procedures: Affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievances should take into account the availability of judicial recourse and community and traditional dispute settlements.

16. Organizational responsibilities: Organizational framework for implementing resettlement, including identification of agencies responsible for delivering resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions are involved in its implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or those resettled, the responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

17. Implementation schedule: Schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to those resettled and their hosts, and implementing the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

18. Costs and budget: Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

19. Monitoring, evaluating and reporting: Arrangements for monitoring of implementing agency's resettlement activities , supplemented by independent monitors to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involve of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; use of results of resettlement monitoring to guide subsequent implementation.

In the case of PoA this will be developed together with the affected communities to describe the agreed restrictions, management schemes, measures to assist affected persons and the arrangements for their implementation. The action plan can take many forms, including natural resource use agreements or protected area management plans. It can simply describe the restrictions agreed to, persons affected, measure to mitigate impacts from these restriction, and monitoring and evaluation arrangement. An indicative outline is provided below:

1. Project background and how the plan was prepared, including consultations with local communities and other stakeholders;
2. The socio-economic circumstances of local communities;
3. The nature and scope of restrictions, their timing, as well as administrative and legal procedures to protect affected communities' interests;
4. The anticipated social and economic impacts of the restrictions;
5. The communities or persons eligible for assistance;
6. Specific measures to assist these people in improving or at least maintaining their livelihoods and living standards, along with clear timetables of actions and financing sources;
7. Protected area boundaries and use zones;
8. Implementation arrangements, roles and responsibilities of various stakeholders, including government ad non-government entities providing services or assistance to affected communities;
9. Arrangement for monitoring and enforcement of restrictions and natural resources management agreements;
10. Clear output and outcome indicators developed in participation with affected communities.

In specific relation to Forest Tenure Settlements as per-World Bank Policy requirements, the table below provides criteria for assessing the adequacy of resettlement planning.

Assessment of the key criteria will be required by the project prior to affirming conservation and protection forest boundaries. These resettlement plans will remain the responsibility of MOEF as the implementer of forest tenure settlements and/or other agencies delegated on their behalf.

TABLE 24. CRITERIA FOR ASSESSING ADEQUACY OF RESETTLEMENT PLANNING ASSOCIATED WITH FOREST TENURE SETTLEMENTS AS PER-WORLD BANK POLICY.

Aspect	Criteria
Assessment of potential impacts	The resettlement plan should contain: a. Census of Project Affected Persons (PAPs) and inventory of affected assets; b. Socio-economic study; c. The zone and scale of impacts; d. Alternatives considered to avoid or minimize resettlement; and e. Mechanisms established to minimize resettlement, to the extent possible.
Census of PAPs and inventory of affected assets	The census should cover the following information: a. List of PAPs, distinguishing land holding types; b. Inventory of plots and structures affected and include the following information: • Total size of the plot affected (both for settlements either permanent or non-permanent, agricultural purposes, public and social facilities) • Level of dependence to the plots and structures for the sustenance of livelihoods; • Building conditions and land productivity; • Other assets (e.g. trees, crops, wells, fences, etc.); and • Use of land/buildings for spiritual and cultural purposes c. Total number of PAPs and Project Affected Households d. Number of PAPs that will be physically displaced, distinguishing between 1) those that need to permanently move, 2) those who can still access the land and resources following the move, 3) those who only cultivate land temporarily, 4) encroachers e. Number of Project Affected Households that will lose more than 20% of their productive assets.
Socio-economic study	The study applies to Project Affected Households and communities that could lose more than 20% of their productive assets and/or are forced to move to another location. The study should contain at a minimum: a. Description of production systems, labor and household organization; b. Patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the decisions taken to resolve tenure settlements; c. Information on vulnerable groups or persons as per World Bank Policy (OP 4.12), who include people below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities and other displaced persons who may not be protected through national land compensation legislation. These groups would warrant special provisions under the resettlement plan; d. Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of Forest Areas) governed by locally recognized land

Aspect	Criteria
	allocation mechanisms, and any issues raised by different tenure systems; e. Public infrastructure and social services that will be affected; f. Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities; g. Baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population; and h. Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
Legal Analysis	The plan also contains analysis of any legal steps necessary to ensure the effective implementation of resettlement activities including, as appropriate, a process for recognizing claims to legal rights to land—including claims that derive from customary law and traditional usage.
Institutional Framework	The plan needs to clearly describe: a. The identification of agencies responsible for resettlement activities; b. An assessment of the institutional capacity of such agencies; and c. Any steps that are proposed to enhance the institutional capacity of relevant agencies
Eligibility Criteria	The plan needs to clearly define eligibility criteria to identify Identification of the PAPs who will be eligible for compensation, resettlement assistance and rehabilitation support and explanation of the criteria used to determine eligibility, including relevant cut-off dates.
Valuation of assets and calculation of compensation for losses	A description of the procedures that will be followed to determine the form and amount of compensation to be offered to PAPs.
Compensation, resettlement assistance and rehabilitation support	A description of (1) the compensation packages to be offered to PAPs who lose land and/or other assets, (2) resettlement assistance to be offered to physically displaced persons, and (3) rehabilitation support to persons who lose income sources or livelihoods as a result of forest tenure settlements. The compensation packages, combined with other assistance and support offered to each category of PAPs should be sufficient to achieve the objectives of World Bank Operational Policy (4.12) on Involuntary Resettlement (see para. 6 of the policy). The relocation options and other assistance offered to the PAPs should be prepared in consultation with them and should be technically and economically feasible, as well as compatible with the cultural preferences of the PAPs. PAPs are to be fully informed about their options and rights pertaining to resettlement and provided prompt and effective compensation at full replacement costs for losses of assets attributable directly to actions enforced by MOEF which result in resettlement.

Aspect	Criteria
Site selection, site preparation and relocation	The plan should clearly describe alternative relocation sites considered and explanation of those selected, covering: a. institutional and technical arrangements for identifying and preparing relocation sites, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources; b. any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites; c. procedures for physical relocation under the physical investment, including timetables for site preparation and transfer; and d. legal arrangements for regularizing tenure and transferring titles to resettled people.
Housing, infrastructure, and social services.	The plan should provide support to establish housing, infrastructure (e.g. water supply, feeder roads), and social services (e.g., schools, health services); These establishments must be comparable to the host populations, as evidenced in any necessary site development, engineering, and architectural designs for these facilities.
Community participation	The plan should provide evidence of involvement of PAPs and host communities: a. A description of the strategy for consultation with and participation of PAPs and hosts in the design and implementation of resettlement activities; b. A summary of the views expressed and how these views were taken into account in preparing the resettlement plan; c. A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals, families, or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); d. Institutionalized arrangements by which displaced people can communicate their concerns to physical investment authorities throughout planning and implementation, and measures to ensure that vulnerable groups are adequately represented; and e. Measures to mitigate the impact of resettlement on any host communities, including consultations with host communities and local governments, arrangements for prompt tendering of any payment due the hosts for land or other assets provided to PAPs, arrangements for addressing any conflict that may arise between PAPs and host communities; and any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to PAPs
Grievance handling	The plan should describe affordable and accessible procedures for mediation/third-party settlement of disputes arising from forest tenure settlements. Such grievance procedures should take into account the

Aspect	Criteria
	availability of judicial recourse and community and traditional dispute settlement mechanisms.
Implementation Schedule	The plan should clearly define an implementation schedule covering all resettlement activities, from preparation through implementation, including target dates for the achievement of expected benefits to PAPs and host communities and gradual phase-out of the various forms of assistance.
Cost and Budget	The plan should clearly outline itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.
Monitoring and Evaluation	Arrangements for monitoring of resettlement activities by MOEF and/or agencies delegated on their behalf, supplemented by independent monitoring systems as considered appropriate by the World Bank, performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlements for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

K. Funding Arrangements

The World Bank Policy requires that the RPF and PF provides a description for funding of alternative livelihood support measures and/or resettlement, including the preparation and review of cost estimates, flow of funds and contingency arrangements. The costs for the implementation of the RPF and PF are integrated into project design and the ESMF specific budget described in Chapter 6, Section V

Overall costs of alternative livelihoods support and/or resettlement cannot be determined at this stage, since the number of people who might be affected (it could be zero), as well as the when or where remains unknown as does the nature, extent and scale.

If any resettlement were to occur then the RAP would be prepared with the Component C support. In most cases, the resettlement would concern State Forests, and most likely Conservation or Protection Forests, and while GoI is broadly responsible of implementing this ESMF, MoEF would be the responsible executive agency that would have to prepare the RAP or PoA and specify the dedicated source(s) of Government funding to be used to carry out the budgeted resettlement-related commitments. The Nature Conservation Unit/BKSDA (in the case of conservation forest), or Provincial Forestry Office (in the case of protected forest) would be associated to the process and securing the needed finance and/or ensuring that finance is directed towards the RAP or PoA activities. If the resettlement concerned other State Lands than State Forests, the GoI would still be responsible and the executive agency for RAP would be the Designated State Agency responsible of the concerned State Land.

L. Public Consultation and Disclosure on this RPF and PF

A second round of consultations on the revised ESMF, which included a full RPF and PF, took place on 28 May 2018. by the Executive Director and member of the Consortium for Agrarian Reform KPA, two representatives of AMAN representing the regions, Serikat Petani Pasundan, Sayoga Institute, and the

Indonesian Surveyor Association. Representative of the Ministry of Environment and Forestry including from the Forest Investment Program-2, as well division heads from provincial land offices were also present. Specific inputs representing regional perspectives on these two safeguard instruments were requested to strengthen the environmental and social risk mapping planned in the project initial period using a Technical Assistance Grant and to be subsequently continued with Component 3 of the Project.

The specific inputs received from the 2nd public consultation includes: a) resettlement in not only a risky option with limited chance of success, it is also costly and land swaps could be an alternative; b) the Project should also target HGU (non-forestry plantation concessions) particularly using mediation to avoid evictions; c) as 70 per cent of *Adat* claims are within Forest Areas, resettlement options offered under the Presidential Regulation 88 will likely adversely affect *Adat* communities; d) a framework to enable good governance and practice in forest tenure settlement needs to be established; e) the use of the term "involuntary resettlement" needs to be revisited as it has negative connotation.

Sub-Annex 1: Gap Analysis for GoI's Frameworks for Involuntary Resettlement

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
Policy Objectives	PAPs (Project Affected Persons) should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher (Para 2.c)	Law 2/2012 specifies basic principle for land acquisition including: humanity, fairness, usefulness, certainty, transparency, agreement, participation, welfare, sustainability and harmony (Article 2). Whereas, *"Principle of justice" means to guarantee any reasonable reward in exchange for the acquired land to the entitled parties in the process of Acquisition of Land such that they have opportunity to live their better life* (Chapter II, Principles and Objectives, Elucidation of Article 2(a). Elucidation of Article 2 (h) defines *"Principle of welfare" means that the Acquisition of Land for development can bring added value to the viability of the Entitled Parties and the public in general*.	Guiding regulations for resettlement in Forest Areas are yet to be formulated. The framework requires that an acceptable Resettlement Policy Framework and Process Framework for Access Restrictions and Resettlement Framework that meets the World Bank's Policy (OP 4.12) is in place prior to project support to delineate conservation area boundaries (where by the PPTKH regulation, resettlement is the current option)	In general, basic principles in Law 2/2012 are aligned with the WB's policy objectives. The provisions of the RPF and PF will apply to replacement and access restrictions respectively.
Resettlement as Sustainable Development Program.	Resettlement activities should be conceived as sustainable development programs, providing sufficient resources to enable persons displaced to share in project benefits (Para 2.b).	Law 2 of 2012 and its implementing regulations provide compensation options for land acquisition due to the development for public interests. Compensation level is defined based on the assessment carried out by the licensed, independent appraisers.	N/A	Different modes of compensation other than cash, particularly relocation and land-for-land, are not sufficiently elaborated. OP 4.12 provisions described in the RPF and PF apply.
Direct Impacts due to Land Acquisition	Covers provision of benefits to address direct social and	Law 2/2012 relates to compensation for loss of land and assets also other	N/A	Adverse social and economic impacts due to restriction of

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
	economic impacts caused by the acquisition of land including restrictions of access to legally designated parks and protected areas resulting in adverse impacts on livelihoods (Para 3)	losses that can be caused by taking of land for a project. Once fair compensation given, further consideration and impact mitigation are not elaborated.		access to legally designated parks and protected are not explicitly covered under the Law 2/2012. The provisions of the PF apply.
Linked Activities	Covers impacts that result from other activities if they are (i) directly and significantly related to the proposed project; (ii) necessary to achieve its objectives; and (iii) carried out or planned to be carried out contemporaneously with the project (Para 4)	Not covered	N/A	Indirect impacts in the form of displacement and access restrictions imposed by government agencies using the mapping data supported by the project are covered by the provisions of the RPF and PF.
Compensation for indirect impact caused by acquisition of land or structures	It is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups (Footnote 5) States that other environmental, social and economic impacts that do not result from land taking should be addressed under OP 4.01	Indirect impacts are not covered in the Law 2/2012 on Land Acquisition for Public Infrastructure. However indirect impact regulated in Law No. 23 of 1997 on Environmental Management (AMDAL/ESIA)	N/A	Indirect impacts are not covered in the Law 2/2012 on Land Acquisition for Public Infrastructure. Indirect impacts in the form of displacement and access restrictions imposed by government agencies using the mapping data supported by the project are covered by the provisions of the RPF and PF.
Compensation at full Replacement cost	Compensation for lost land and other assets should be paid at	Law 2/2012 (General Elucidation, para 5) provides for reasonable and fair	N/A	In principle, the valuation guidelines by MAPPI provides for compensation at replacement

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	full replacement costs (Para 6.a (iii) and Footnote 11)	compensation for acquisition of land in the public interest. Para 1, Paragraph 3, Appraisal of Compensation, Article 31 of Part IV, Land Acquisition Implementation provides for designation of an Appraiser by the BPN. Article 33 provides for Appraisal of the amount of Compensation by the Appraiser on a parcel-by-parcel basis, including land; over-ground and underground space; buildings; plants; objects related to land; and/or other appraisable loss. The MAPPI (Association of Appraisers)'s guideline determine compensation based on market price plus transaction and other costs, plus premium (to cover over and above valuation cost such as emotional cost). Key elements include: -Property (Physical Assets) ✓ *Land* ✓*Buildings & Facilities* ✓*Plants* ✓*Other things related to the land required to restore to the owner a property of at least the same quality as that owned prior to the land acquisition*. - Non-Physical Losses.		cost for affected land and other non-physical impacts. However, detailed review of the methodology adopted by the appraiser revealed that for structures the valuation includes 'depreciation depending upon physical condition of affected structures'. This is not in compliance with the Bank's Policy(OP 4.12). Full replacement cost is achieved by applying the provisions of the RPF.

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
		✓ *Transaction costs* ✓*Moving costs* ✓*Loss of on-going business (business interruption)* ✓*Other losses of special nature, subjective and difficult to calculate* -Premium		
Support for affected persons who have no recognizable legal right or claim to the land they are occupying	Financial assistance to all project affected persons to achieve the policy objective (to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher (Para 15.c, 16 and Footnote 20)	Law 2/2012 does not cover squatters (unless in good faith on public land), encroachers and renters on private land. This issue is addressed to some extent by the Presidential Regulation (Perpres 56/2017)[41] on 'Handling for Social Impacts in Land Acquisition for the National Strategic Projects'. This regulation, issued on May 31, 2017, provides a legal basis to compensate[42] squatters (those who occupy land that	N/A	Perpres 56/2017 provides for compensation (financial assistance/allowance) for affected structures and other assistance to affected households without recognizable legal rights or claims to land they occupy if legal opinion recommends. However, Perpres 56/2017 does not provide for any assistance to affected landless, laborers and those losing employment due to

[41] Presidential Regulation No. 56/2017 on the Handling Social Impact in Land Acquisition for the National Strategic Projects (as specified in the Perpres 3/2016 and its update Perpres 59/2007). This regulation stipulates that the Government will handle the social impacts on the occupants of land owned by the Government (national, provincial and district/city), state-owned enterprise, and local-government enterprise that will be used for the national strategic projects. The regulation specifies the criteria of such occupants (have ID cards endorsed by sub-district and do not have rights on the land; have physically controlled and used the land continuously for 10 years, and have controlled and used land with good intention openly, not contested and recognized and proven true by the land owners and/or head of village); coverage of compensation- in the form of financial assistance and allowances -(costs for dismantling houses, mobilization, house rents and support for income loss). The regulation requires the land owners to prepare a Social Impact Handling Plan (SIHP) to be submitted to the Governor, who will then establish an Integrated Team to make an inventory and verify the occupants and the occupied land; assign independent party to calculate the compensation; facilitate issues; recommend the list of occupants eligible for compensation, amount of compensation/allowances and/or financial assistance, based on the calculation of the independent party, mechanism and procedures to give the compensation to the occupants; and control the implementation of the delivery of the compensation. The Integrated Team consists of various government officials from province and district/city and land owners. Based on the recommendation from the Integrated Team, the Governor will establish the list of eligible occupants for compensation; amount of compensation and mechanism and procedures to give the compensation. The regulation also specifies that the land owners should provide the financing for the compensation and the compensated occupants should move out from the land maximum in seven days after the compensation is received.

[42] Compensation paid in the form of financial assistance and allowances (*uang santunan*)

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		belonged to other parties). However, in practice legal opinion is sought to determine whether or not any compensation and/or assistance to these squatters can be provided. Paragraph 5, Article 40 provides for Payment of compensation for buildings, plants or other objects on land even if they do not hold or owned without a land title and if they occupy land in good faith. Landless and laborers are not expected to be compensated and provided rehabilitation measured. **It is the responsibility of the landowner to compensate them.**		the project. Financial assistance to all project affected persons to achieve the policy objective will be applied.
Compensation for illegal structures	Compensation at full replacement cost for all structures regardless of legal status of the PAP's land and structure.	Paragraph 5, Article 40 provides for payment of compensation for buildings, plants or other objects on land even if they do not hold or owned without a Land Title and if they occupy land in good faith.		Provisions of the Law 2/2012 and Perpres 56.2017 to some extent meet the WB policy requirements. However, some categories of illegal occupiers (not considered occupation in good faith) are not adequately covered by these provisions. All structures will be compensated at replacement cost under the RPF.
Assistance to Vulnerable Groups	To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the	Law 2 of 2012 requires detailed analysis of the risks and impacts to affected communities; it does not explicitly discuss the need for analysis	N/A	Taken together these regulations provide sufficient legal basis to achieve policy objectives.

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	poverty line, the landless, the elderly, women and children, indigenous peoples ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation (Para 8).	of affects to particular community groups (such as vulnerable groups). Law 39 of 1999 regarding Human Rights provides that "All members of vulnerable groups in society, such as children, the poor, and the disabled are entitled to greater protection of human rights" (Article 5). Gender issues have also been prioritized by the Government of Indonesia as a cross-cutting priority by way of Presidential Regulation 2 of 2015 regarding the National Mid-term Development Plan Year 2015-2019 (*Rencana Pembangunan Jangka Menengah Nasional*). The National Mid-term Development Plan mandates government action on gender issues through gender mainstreaming in every policy, program, and development activity.		
Compensation for loss of income sources or means of livelihood	Loss of income sources should be compensated (whether or not the affected persons must move to another location) (Para 3a & 6)	The Indonesian legal framework does not provide for comparable access to employment and production opportunities. The appraisal guidelines by MAPPI provides for consideration of non-physical impacts.	N/A	Legal provisions are deficient to recognize entitlements for loss of incomes and means of livelihood due to land acquisition. The provisions of the RPF and PF apply to meet OP 4.12 requirement.
Income restoration plan and assistance	The resettlement plan or resettlement policy framework	Once fair compensation given, further consideration and impact mitigation are not elaborated.	N/A	The Law 2/2012 and its implementing regulations do not elaborate the option and

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	also include measures to ensure that displaced persons are: (i) Offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements; and (ii) Provided with development assistance in addition to compensation measures described in paragraph 6 (a) (iii), such as land preparation, credit facilities, training, or job opportunities (Para 6c).	Indonesian legal framework does not provide for comparable access to employment and production opportunities		implementation of assistance and livelihood restoration. The provisions of the RPF and PF apply to meet OP 4.12 requirement.
Assistance to Physically Displaced	Includes measures to ensure that the displaced persons are provided assistance during relocation; residential housing, or housing sites, or, as required, agricultural sites; and offered support after displacement, for a transition period, and provided with development assistance in addition to compensation measures (Para 6b&c and Footnote 13 & 14)	Law 2/2012 does not provide for any specific assistance to displaced persons other than offering options of replacement land and resettlement. Further Article 36 does not provide for transitional support & development assistance and provision of civic infrastructure and community services. MAPPI valuation procedures provide for moving cost 9transport allowance)	N/A	Assistance to displaced households due to land acquisition are not covered by Law 2/2012 and its implementation regulations (Perpres 71/2012). The provisions of the RPF apply to meet OP 4.12 requirement.

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Land for Land	Preference given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken (Para 11).	Law 2/2012 provides options for land-to-land, but detailed procedures to implement this option are not described. The provision in Para 5 of Article 77 and Para 4 of Article 78 (Perpres 71/2012) require affected households to relinquish their right without waiting for the availability of substitute land.	N/A	Law 2/2012 and Implementation Regulations (Perpres 71/2012) do not provide details on the procedures for replacement land. Further, the provision in Para 5, Article 77 and Para 4 of Article 78 (Perpres 71/2012) are in contradiction of Bank's Policy 4.12 that requires completion of relocation arrangements before affected households are displaced. The provisions of the RPF and PF apply to meet OP 4.12 requirement.
Compensation Options	Provide technically and economically feasible resettlement alternatives and needed assistance, including (a) prompt compensation at full replacement cost for loss of assets attributable to the project; (b) if there is relocation assistance during relocation and residential housing, or housing sits, or agricultural sites of equivalent productive potential, as required; (c) transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; (d)	Article 36 of Law 2/2012 provide for options for compensation in the form of: a. Cash amount; b. Substitute land; c. resettlements; d. shareholding; and e. other forms as agreed upon by both parties. However, Para 1 of Article 75 of Implementation Regulations (Perpres 71/2012) places priority on payment of compensation in cash.	N/A	Provision of replacement land is not sufficiently elaborated. In practice, only compensation in cash is given priority in deciding the form of compensation. Further Article 36 of Law 2/2012 does not provide for relocation assistance (except for moving cost which is covered under MAPPI's valuation procedures), transitional support & development assistance and provision of civic infrastructure and community services. The provisions of the RPF apply to meet OP 4.12 requirement.

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	cash compensation for land when the impact of land acquisition on livelihoods is minor; and (e) provision of civic infrastructure and community services as required.			
Eligibility for Indigenous Peoples.	Land of Indigenous Peoples is addressed in both World Bank Policies (OP 4.12 and OP 4.10). If land of Indigenous Peoples is to be taken, requires broad community support and FPIC. Preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (Para 9)	IPs is covered once they have been legally recognized[43]. Law 39/1999 Article 6 on Human Rights requires that the differences and needs of (*Masyarakat Hukum Adat*) *MHA* should be noticed and protected by law, community and government. Their identity including customary land rights should be protected in harmony with the current development. Paragraph 5, Article 40 of Law 2/2012 provides for Compensation for indigenous land in the form of substitute land, resettlements, or other forms as agreed upon by the relevant indigenous people. Affected land that privately/ individually belongs to Indigenous Peoples is treated the same way as other affected households.	N/A	Law 2/2012 does not specify any groups including IPs. This law applies to any affected persons due to the land taking for infrastructure development for the public interests. The Implementation Regulations (Perpres 71/2012) do not specify any requirement of conducting social assessment and consultation with Indigenous Peoples and *Adat* communities and FPIC
Host Community	Displaced persons and their communities, and any host communities receiving them,	Not covered in the Law 2/2012 and its Implementation Regulations since option of resettlement/relocation is	N/A	Host communities are not explicitly covered in the Law

[43] In BPN and Forestry Regulations Indigenous Peoples institution should be recognized by local government, while institutions that in favor of Indigenous Peoples prefer that the recognition comes from independent Indigenous Peoples Committee.

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	are provided timely and relevant information offered opportunities to participate in planning, implementing, and monitoring resettlement; infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities (Para 13 a&b)	not elaborated sufficiently. The legal framework also does not require integration of resettled persons into their host communities and does not extend project benefits to host communities.		2/2012 and its Implementation Regulations (*Perpres* 71/2012). However, Article 1 of the Law 1 of 2011 on Housing and Settlement Area provides for basic facilities of surrounding settlement to fulfil certain standard for decent living, healthy, secure and comfortable. Further together with Regulation 88 of 2014 regarding Implementing Housing and Guidance of Settlement Area stipulate that every instance of resettlement must involve and empower the local community.
Resettlement Planning Instruments	To achieve the objectives of this policy, different planning instruments are used, depending on the type of project (Para 6). A resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (Para 17a and 25)	At the planning stage of project preparation, a Land Acquisition Plan (LAP) is prepared by the Land Acquisition Team based on a feasibility study. This is further updated with additional data as Land Acquisition Development Plan, by the Preparation Team established under Para 2, Article 8, Implementation Regulations 71/2012. However, the scope, format and contents of the Development Plan are not the same as Bank's LARAP for a project. LARAP focuses more on implementation procedures.	N/A	The scope of Land Acquisition Development Plan does not clearly include the need for social-economic survey, identification of vulnerable groups, public consultation and participation, and monitoring and evaluation requirements. Further, the Development Plan does not include relocation assistance and livelihood restoration, where necessary. The Land Acquisition Development Plan does not fully cover elements and details of

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				those in the LARAP. Timing of the preparation of the Land Acquisition Plan with results of inventory of affected land plots should be advanced to the planning stage. The provisions of the RPF and PF apply to meet OP 4.12 requirement.
Resettlement Cost to be included in project cost	The full costs of land acquisition and/or resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project.	Although Law 2/2012 requires the land acquisition plan to include estimated costs for land acquisition and/or resettlement, but usually it does not include the costs for providing assistance and livelihood restorations. Cost estimation and proposal for budget allocation are carried out at the planning stage, whereby detail surveys for each land plots and measurement are carried out during the implementation stage of land acquisition.	N/A	Local laws do not specify resettlement cost to be part of the total project cost. However, the Feasibility Study at the planning stage is required to include overall project cost as well as estimated cost of land acquisition; and a cost benefit analysis. By inference it is assumed that resettlement cost is therefore included in overall project cost.
Public Participation and Consultation	Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs (Para 6a, 13, 14 & 19)	Chapter II provides for land acquisition following principle of transparency. *"Principle of transparency" means that the Acquisition of Land for development shall be implemented by provision of public access to information concerning Acquisition of Land* (Elucidation of Article 2 €	N/A	Provisions of the Law No. 2/2012 and implementation regulations (Perpres 71/2012) have elaborate procedures for public consultation at every stage of planning and preparation for land acquisition. However, the procedures explained in the Law 2/2012 & Implementation

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
		Elucidation of Article 2 (g) defines participation as any support through public participation in the performance of Acquisition of Land, either directly or indirectly, from planning to construction activity. Article 7, para 3 provides for Acquisition of Land in the Public Interest performed through planning with involving all the local leaders and stakeholders. The Law 2 of 2012 and its implementing regulations do not stipulate on participation of entitled parties in monitoring and evaluation of resettlement program Consultations to the PAPs are needed to get permit for the proposed location of the project, for defining forms of compensation. The law and regulations stipulates that process of consultations are carried out with dialogue approach. Negotiations are carried out with each affected household individually to reach agreement on compensation level.		Regulations do not ensure that all modes of information dissemination are applied and affected households are fully informed of all options of mode of compensation in detail. The provisions of the RPF and PF, and general provisions of the ESMF, apply to meet OP 4.12 requirement.
Disclosure of Planning instrument	The relevant draft resettlement document is made available at a place accessible to displaced persons and local NGOs, in a	Article 55 of Law 2/2012 recognizes the right of entitled parties (affected households) to have information on	N/A	Although the Law 2/2012 and implementation regulations provide for dissemination of information on affected land and

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
	form, manner, and language that are understandable to them. Once acceptable, the Bank makes it available to the public through its InfoShop (Para 22 & Footnote 23).	status and performance of the Acquisition of Land. Article 16 provides for direct or indirect notification of land acquisition development plan to general public and hold public consultation to achieve agreement on the location of the development plan (Article 19). Preliminary data on affected persons and objects of acquired land (affected assets) for preparation of land acquisition development plan will be the basis for public consultation and for reaching agreement on locations (Article 18). Article 29 provides for public announcement of results of the inventory and identification of possession, ownership, use, and utilization of land, collected during implementation stage, at the urban/rural village administration office, the sub-district office, and at the place where Acquisition of Land is conducted.		other assets, and applicable compensation amounts to affected households, there is no clarity on public disclosure of documents: FS, LAP, etc. Draft RAPs and PoAs will be publicly disclosed as per Bank policy.
Grievance Redress Mechanism	Appropriate and accessible grievance mechanisms are established (Para 13a & 14)	The mechanisms to complain due to the disagreement on the compensation is elaborated in the Law 2/2012 and its implementing regulations, including how and where to file complaints, timing for responses, and judicial procedures.	N/A	Provisions of the Law No. 2/2012 and implementation regulations (Perpres 71/2012) have elaborate and time-bound procedures for filing complaints by affected households and process to

Scope / Topic	Provision of the World Bank's Policy (OP 4.12)	GoI's Framework for Land Acquisition for Public Interests	GoI's Resettlement Framework for Forest Tenure Regularization	Analysis
				address complaints and grievances. It is however, not clear whether documentation of grievances is provided for. Grievances will be documented as per the GRM of the ESMF.
Monitoring and Evaluation	Adequate monitoring, both internal and external, by an independent agency, required. Upon completion of the project, an assessment is required to determine whether the objectives of the resettlement instrument have been achieved (Para 24)	Part Six, Article 51 of Law 2/2012 provides for Monitoring and evaluation of the performance of Acquisition of Land by the Land Administrator (BPN). For the strategic projects, the Instruction of Ministry of However, the legal framework does not require external monitoring of land Acquisition / resettlement impacts on the livelihoods and living standards of displaced persons and does not require assessment whether the objectives of the resettlement plan have been achieved.	N/A	The Law 2/2012 does not provide for external monitoring of resettlement implementation and post-implementation evaluation to assess whether the objectives of the resettlement plan have been achieved. Further it is deficient in providing details on objectives of evaluation.

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ANNEX 7: ENVIRONMENTAL CODES OF PRACTICE FOR CONSTRUCTION

How to use the COP

The following specifications must be included in both the bidding documents and renovation/construction contracts under *Acceleration Program of Agrarian Reform and One Map Policy Project*. The specifications will become contractual obligations for Contractors and can be enforced by ATR/BPN as Project Management Unit (PMU).

Environmental Duties of Contractor

Compliance with all relevant legislative requirements in Indonesia;

Implement the project for the duration of the renovation/construction period;

Undertake monitoring of the effectiveness of the implementation of the project and keep records;

Report the monitoring records to PMU Project office;

Employ and train suitably qualified staff to take responsibility for the project;

Comply with the Chance Find Procedures for Physical Cultural Resources; and

Stop renovation/construction activities upon receiving instructions from the PMU Project Office, and propose and carry out corrective actions and implement alternative renovation/construction method, if required, in order to minimize the environmental impacts.

Prohibitions

Disturbance to anything with architectural or historical value;

Indiscriminate disposal of rubbish or construction wastes or rubble;

Spillage of potential pollutants, such as petroleum products; and

Burning of wastes and/or cleared vegetation.

Dust

Use water as often as required to dampen dusty areas during windy conditions.

Noise

Renovation/construction activities shall be scheduled in daytime only (8 am to 6 pm).

Any work that must be carried out after hours shall be notified to the community at least one week in advance.

Waste Management

Establish and enforce daily site clean-up procedures, including maintenance of adequate storage, recycling and disposal facilities for litter, solid waste, soil and construction debris.

All solid waste that cannot be recycled shall be transported by an approved waste handler, disposed of offsite at an approved / licensed disposal site.

Waste oil and other hazardous wastes (including contaminated soil and oil spills) shall be stored under cover and separated from other wastes. They shall be removed by a licensed transporter to a licensed disposal facility.

Once the job is completed, all renovation/construction -generated debris should be removed from the site.

Worker Health and Safety

The contractor will comply with all Indonesian regulations and Standard Operating Procedures (SOP) for worker exposure to the project.

All staff will be provided with suitable personal protective equipment (ie hard hats and high visibility clothing).

ENVIRONMENTAL MANAGEMENT AND MONITORING PROGRAM

Environmental Management Plan

Pre-Construction

Environmental or social impact	Pre-Construction Mitigation Actions	Costs	Responsible	Start	End
General / all impacts	The Environmental Codes of Practice for Construction (COP) will be included in the Contractors specification.	Minor, included in tendering costs	PMU Team	Tender preparation	Award of construction tender.
General / all impacts	All Indonesian laws and regulations relating to the environment will be followed during the construction phase.	Minor, included in construction contract	Construction contractor	Tender preparation	End of construction

Construction

Environment or social impact	Construction Mitigation Actions	Costs	Responsible	Start	End
Accidental Find of Culturally Significant Artefacts	On discovery of a potential artefact, all renovation/construction activity works shall be suspended and the Chance Find Procedures invoked. (if applicable)	Minor, included in construction contract	Construction Contractor	In the beginning of construction	After completion of construction
Dust	The construction site will be sprinkled with water, especially during dry and windy conditions. (if applicable)	Minor, Included in construction contract	Construction Contractor	In the beginning of construction	After completion of construction

Noise	Renovation/construction activities will be performed only during normal working hours (from 8 a.m. till 5 p.m.). If renovation/construction activities have to be performed before or after the specified time limits, the local community must be notified about it at least one week in advance. (if applicable)	No cost	Construction Contractor	In the beginning of construction	After completion of construction
	On arrival at site, and prior to installation, the contractor will confirm that the equipment meets the standard for noise emissions as stated in the tender documents.	Minor, Included in Operation Cost	Contractor	Prior to equipment installation	Prior to equipment installation
Toxic, hazardous wastes (B3)	Hazardous material will be managed by contractor through Indonesia hazardous regulation. (If any or applicable.) The history data will be recorded and saved.	Minor, Included in renovation / construction contract	Construction Contractor	In the beginning of construction	After completion of construction
Construction worker health and safety	All construction workers will have site inductions by contractor on health and safety.	Minor, Included in construction contract	Construction Contractor	In the beginning of construction	After completion of construction
	All workers will be provided with hard hats and covered boots.	Included in construction contract	Contractor	In the beginning of construction	After completion of construction

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ANNEX 8: PHYSICAL CULTURAL RESOURCES (PCR) MANAGEMENT FRAMEWORK

1. **Definition.** This framework is to provide guidance and emphasize that the mapping exercise and consultation process will integrate PCR management framework. In case, archaeological, historical, cultural, and/or remain material encountered unexpectedly during the first-time land registration activities on all the unregistered land parcels in a village/ ward territory and also mapping of the registered land parcels in order to make all the information of the parcels completed and available. A chance find procedure is a procedure which will be followed if previously unknown cultural heritage is encountered during mapping and survey activities. Such a procedure generally includes a requirement to notify relevant authorities of found objects or sites by cultural heritage experts; to fence off the area of finds or sites to avoid further disturbance; to conduct an assessment of found objects or sites by cultural heritage experts; to identify and implement actions consistent with the requirements of the World Bank and Indonesian law; and to train government and private surveyors, supervisors, land affairs personnel and field workers on chance find procedures.

2. **Objectives.**

a. To protect physical cultural resources upon or during the survey and mapping activities and support their preservation through recording it into the physical aspects of land parcel information/ details.
b. To promote the equitable sharing of benefits from the use of Physical Cultural Resources (PCR).

3. **Procedure.** If the proposed activity encounters archeological sites, historical sites, remains, and/or objects, including graveyards and/or individual graves during dialogues with communities or surveying and mapping activities, the activity shall:

a. Record the objects and the preliminary actions;
b. This would require a preliminary evaluation of the findings to be performed by the local Institute of Archaeology. The significance and importance of the findings should be assessed according to the various criteria relevant to cultural heritage; these include the aesthetic, historic, scientific or research, social, and economic values;
c. Decisions on how to handle the finding shall be taken by the responsible authorities. This could include changes in the physical investment layout (such as when finding an irremovable remain of cultural or archeological importance) conservation, preservation, restoration, and/or salvage;
d. Implementation for the authority decision concerning the management of the finding shall be communicated in writing by relevant local authorities;

The mitigation measures could include the change of proposed project design/layout, protection, conservation, restoration, and/or preservation of the sites and/or objects or the area could be screen-out from the list of mapping activities during PTSL preparation and screening stage.

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ANNEX 9: CONTEXTUAL OVERVIEW OF LAND AND NATURAL RESOURCE MANAGEMENT ISSUES IN INDONESIA

A. Land Governance

At the formal level, there are two separate systems of land administration are being pursued. Each system covers either forest-areas (*kawasan hutan*) or non-forest land. ATR/BPN is responsible for land administration in non-forest land, currently covering around 35 percent of the entire land mass of the country. Land administration in Forest Areas falls in the domain of the Ministry of Environment and Forestry (MoEF). The areas currently cover around 65 percent of the entire land mass of Indonesia. As regulated by MoEF regulation P.93/2016, MoEF holds the legal mandate to demarcate forest boundary, which is conducted by a joint task force involving ATR/BPN and Ministry of Home Affairs (MoHA). Forest boundaries are established legally by virtue of MoEF decree (*Surat Keputusan*/SK). However, physical boundary between Forest Areas and non-forest land may not be physically and visually clear on the ground. In addition, many parts of the lands recognized as Forest Areas have been occupied and cultivated by communities for a long period of time and hence, are no longer forested. Community occupation of land within forest-zones is often perceived as illegal and tenure rights as well as other rights to basic services are not guaranteed for such land holders. Such issues have been complicated by various forest logging, plantation and mining concessions (administered by Ministry of Energy and Mineral Resources/MoEMR), which may overlap with community claims and favor concession holders over long-standing occupants of lands being acquired and/or leased. Lack of clarity over boundaries, protection and recognition of tenure rights and occupation of people living near and/or within forest zones and concession areas have led to both horizontal and vertical conflicts between communities, the government and concession holders. A more detailed description of divisions of roles and authorities in the land sector is further described in the following table:

TABLE 25. LAND SECTOR AND DISTRIBUTION OF KEY GOVERNMENT FUNCTIONS

No.	Institution	Responsibilities/Functions
1.	*Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional (ATR/BPN)* Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (formerly spatial planning directorate general is part of Public Works Ministry, by President Regulation number 17/2015 and 20/2017)	Responsible for the national spatial planning policy and administration of all non-forest land areas and non-forest state assets, and issuance of land titles to land holders. Implements agrarian policies and reforms. Endorses issuance of land concessions and rights in mining, plantations, and farming.
2.	*Kementerian Lingkungan Hidup dan Kehutanan* Ministry of Environment and Forestry (MoEF).	Responsible for the administration of all forest lands including its resources and rehabilitation. Also, covers plantation lands in Forest Areas.
3.	*Badan Perencanaan Pembangunan Nasional (BAPPENAS)*	Responsible for the preparation of the National Development Planning processes. Bappenas is responsible for developing, among others, plans in sectors of the

No.	Institution	Responsibilities/Functions
	National Planning and Development Board	macro economy, economic development, infrastructure, human resource development, regional development and natural resource management; law, policy, defense, and civil development, and national spatial planning and land policy.
4.	*Kementerian Pertanian (Kementan)* Ministry of Agriculture	Responsible for creating an efficient sustainable system of agriculture based on technology and local resources. Also responsible to improve food security, food exports, and peasant empowerment. They also provide for support for smallholder farm development and small plantations.
5.	*Kementerian Energi dan Sumber Daya Mineral (ESDM)* Ministry of Mines and Energy	Responsible for creation of sustainable energy and prosperity of the people. Also responsible for development of policy on national and technical energy and mineral resources. Responsible for the issuance of the Mining Licenses and their oversight.
6.	*Badan Informasi Geospasial (BIG)* Geospatial Information Agency (formerly known as Bakosurtanal)	Responsible for the development of geospatial information at national and local levels. Implements Geospatial Information Law of 2011 and undertakes development of National Spatial Data Infrastructure (NSDI). Prepares procedures and standards for all types of mapping and geospatial data, land data, and maintains consolidated databases. It is mandated to develop standard operating procedures for community land mapping and criteria for providing some form of legal status for these maps.
7.	*Kementerian Pekerjaan Umum dan Perumahan Rakyat (KemenPUPERA)* Ministry of Public Works and Housing (MPWH) (formerly Public Housing has its own ministry before being merged into Public Works)	Responsible for plan and build roads and bridges, water resources and major irrigation projects, and development of human settlements (including zoning and spatial planning) and their implementation. Responsible to provide public housing. This ministry requires land (usually obtained through land acquisition) for housing estates and apartments for low income groups and the community. For its work, the Ministry also requires land areas and these are usually acquired through compliance with land acquisition laws for public purposes only. The projects generally are: dams, water storage facilities, roads, toll roads and highway, human settlements, drainage, solid waste disposal sites and others.
8	*Badan Nasional Penanggulangan Bencana (BNPB).*	Responsible to provide guidance and direction for disaster protection and management including: prevention, emergency responses, rehabilitation and reconstruction that deliver fairness and equity to people:

No.	Institution	Responsibilities/Functions
	National Agency for Disaster Management	a) To standardize disaster management needs, based on regulation; b) To disseminate information of activities of disaster management to community; c) To report on disaster management activities to the President, monthly in normal situations and in the emergency phase of a disaster; d) To utilize and account for funds donated from national and international agencies; e) To be responsible for utilization of budget from APBN; and f) To compose guidelines for establishment of Local Agencies for Disaster Management.
9	*Kementerian Keuangan (Kemenkeu)* Ministry of Finance	Main responsiblity is to manage income and expenditure of national budget. Related with land, MoF is responsible for land valuation, land taxation, and management of revenue from state assets. In land acquisition projects, it has a specific role as per Law on Land Acquisition for Public Purposes (Law no. 2/2012).
10	*Komisi Pemberantasa Korupsi (KPK)* National Corruption Eradication Commission	Responsible for improving good governance in the country. In this respect, the agency is responsible for the eradication of corruption in all government functions and agencies. KPK coordinates with government to prevent and eradicate corruption, to monitor good governance in government agencies and to investigate corruption allegations. In recent years, the agency has pursued a number of high-profile cases and even achieved convictions for those found guilty.
11	*Badan Pemeriksa Keuangan (BPK)* National Supreme Audit Agency	This is an independent national audit entity responsible for monitoring state budgets, disbursements, ensuring financial integrity, and management of other national agencies as well as local government. BPK prepares periodic audit reports to Parliament for action.
12	*Badan Pengawasan Keuangan dan Pembangunan (BKPK)* National Development and Financial Auditor Agency	Supports the government in supervising the budget and development according to law. BPKP is responsible to, and submits their audit reports, to the President. BPKP audits relevant budget expenditures by other national government agencies as well as by local government.
13	*Kementerian Dalam Negeri (Kemendagri)* Ministry of Home Affairs (MoHA)	Responsible for realization of democratic political system, decentralization of government, sustainable regional development, advanced community participation supported by professional resources in State Unitary of Republic Indonesia. Related with land, MoHA ccooperates with local government agencies responsible for aspects of land

No.	Institution	Responsibilities/Functions
		management (regional boundaries, etc) and in service delivery. MoHA holds a specific responsibility for land acquisition, issuance of land concessions and other specific aspects.
14	*Kementerian Hukum dan Hak Asasi Manusia (Kemenkumham)* Ministry of Justice and Human Rights	This ministry is responsible for ensuring the rule of law and implementing justice and human rights are applied and respected Its main task is to oversee implementation of the Constitution and other provisions enshrined by the law. It reports to the Parliament through the President. Its specific role and functions include: • Formulation, articulation and implementation of aspects of justice and human rights. • Managing Government property and assets that fall within the responsibility of the Ministry. • Supervising implementation of tasks of Ministry of Justice and Human Rights • Implementation and technical guidance and supervision on implementation of Ministry of Justice and Human Rights in regions. • Implementation of technical activities on national scale, and • Implementation of technical activities from National level to regional level. Related to land, this Ministry is responsible for human rights aspects of laws relating to land ownership and conflicts.
15	*Komnas HAM (Komisi Nasional, Hak Asasi Manusia).* National Commission on Human Rights	Komnas HAM is independent agency,responsible for reviewing, researching, dissemination, monitoring and mediating on Human Rights. The Commission also periodically reviews the government's compliance with various international treaties and commitments in regard to human rights (e.g., UNDRIP, political-civil rights, and land and housing rights), and responds to complaints on human rights violations (e.g., forced evictions; non-compliance of contract clauses by investors in mining or plantation areas). Also, in land affairs, the agency is responsible to protect human rights of people involved in land conflicts, land acquisition and other issues.

No.	Institution	Responsibilities/Functions
16	*Dewan Kehutanan Nasional (DKN)* National Forestry Council	DKN is an independent, multi-stakeholder agency established to coordinate policy discussions and formulatie strategies related to forestry land and governance issues (Lembaga Pemerhati Kehutanan). An important task of DKN is to facilitate dialogue among key stakeholders such as private sector, CSOs and government entities. In another role, DKN enhances forestry policy based on inputs received from stakeholders. It works independently under the broad oversight of the MoFor.
17	*Kantor Staf Presiden (KSP)* Office of the Presidential Staff,	Office of the Presidential Staff, to provide support to the President and Vice President in controlling the implementation of 3 strategic activities namely the implementation of National Priority Programs, activities related to presidential political communication, and management of strategic issues. Presidential Regulation no. 26 can be seen in public information. Land registration through Complete Land Registration (PTLS) by ATR/BPN is the one of President priorities program. President set the target all of the land in Republic of Indonesia will be registered by the end of 2024.

B. Land Administration in Non-Forest Areas (Area Penggunaan Lain)

Government has mandated ATR/BPN to manage non-forest land areas and deliver land services, including registration and certification. Land registration is pursued as per two modalities i.e., sporadic and systematic. Sporadic certification is based on demand (i.e. landholders requesting certification). Such a modality was considered prevalent in the past, often resulting in inefficiency (e.g. higher costs), surveyed land plots remaining partial and incomplete and delineated boundaries, or land parcels cannot be identified in the map (commonly referred to as "flying parcels"). In recent years, ATR/BPN has begun implementing a systematic land registration[44] with the launch of PRONA (*Program Nasional Agraria*/National Agrarian Program) in 2015 (Regulation of ATR/BPN no.1/2015, further elaborated in Regulation of ATR/BPN no. 28/2016). PRONA requires complete village certification and is targeted to the poor. Implementation of PRONA has been challenged by limited budget to meet village-wide coverage. Furthermore, since subsidies for certification are only available to landholders classified as being "poor", complete village-wide certification remains incomplete due to people's lack of interest to participate and willingness to pay fees for certification.

At the outset, it is important to note that multiple means exist in Indonesia to formally acquire land rights. The general mechanisms to obtain rights to land and property are inheritance, purchase, and allocation or entitlement from the community or government (managed by ATR/BPN). Three institutions regulate these mechanisms and determine who has land rights: socio-cultural structures, the market economy, and the state. Examining the influence of these mechanisms and institutions on tenure systems contributes to an understanding of people's rights to land and to policies and programs for improving tenure security. Depending on a region or community's history and current socio-economic and political conjuncture, one mechanism is generally more important than the others in

[44] Systematic registration is not new in Indonesia and was first used in 1961. However, the original 1961 systematic registration did not take off due to proliferation of sporadic certification requests.

acquiring land rights. However, none is solely determinant: all mechanisms and accompanying institutions influence and interact with each other in determining a society's specific tenure relations.

Lessons learnt from past projects and programs have shown that public demand for better land administration and services is strong in all areas in the country and that a strong case can be made for the decentralization of land administration to cater to diverse local aspirations and for a national institution that would ensure a common national framework and technically sound implementation in all regions. Its reach is probably limited because user expectations on security/reliability, transparency, timeliness, affordability, and convenience in obtaining services have not been met in entirety. The inability to incorporate *Adat* concerns is also a drawback. Demand for land administration services from local institutions is also strong, with recognition of the importance of land revenue and the role of land agencies in land conflict prevention and enhancing a region's attractiveness to investors. However, detailed knowledge about the mechanisms of land administration is rather limited.

Studies carried out by ATR/BPN have also shown that rural landholders and forest dwellers until recently have relied on traditional *Adat* land documentation traditions and procedures. Increasing land transactions have become a part of rural life and changed the perception of tenure security through land registration and certification as something only large landholder need to do. On the other hand, studies have found that there is still limited understanding of the land titling process on the part of small holders and *Adat* communities, and a need for broader education. This is especially the case for women who are often the *Adat* landholder, and more subject to underestimating of land prices, and the likelihood of losing the land to male family members. It is also recognized that local authorities need more training in how to work effectively with women landholders as the titling process for women usually requires additional information and steps to prepare a land deed and related documents as well.

Field studies also recommended a set of steps to address the existing deficiencies in mapping and registration programs like PRONA, LARSITA and others. The recommendations include: (a) accelerating the preparation of basic map for land registration purposed on a unified scale and specifications; (b) expanding the criteria for identifying target beneficiaries and importantly including urban poor and middle income communities as a target group; (c) improving both the quantity and quality of human resources in land offices, particularly the surveyors and strengthening work on and registries; (d) outsourcing surveying work on a regular basis to compensate for lack of personnel within land offices; (e) regular and comprehensive monitoring and evaluation, both internal and independently, of the ongoing land registration programs and projects; (f) investing in infrastructure and facilities required to improve land registration; (g) reducing or freeing land transfer taxes for the first time land registration; (h) improving internal coordination between land offices, regional land offices and central office in setting up the land registration targets; and (i) importantly adoption of a comprehensive land law that would replace all of the existing multiple regulations and guidelines.

In line with those recommendations, in 2016 ATR/BPN launched a complete village-based land registration, namely the Systematic and Complete Land Registration (*Pendaftaran Tanah Sistematis Lengkap*/PTSL). Under the PTSL approach all land parcels in a village would be mapped and registered with the land office and relevant data entered into the electronic database (KKP) and title certificates for land parcels previously not certified and free of encumbrances (i.e. no competing claims, no overlaps with Forest Areas, concessions and other land parcels) would be declared eligible for issuance of titles. This approach not only focuses on building public confidence in land administration through a participatory process but also invests in technological upgrades and adoption of appropriate policies and guidelines to support operations. The PTSL process also reinforces the importance of decentralized land administration and management models and good practices in governance of resources.

C. Land Administration in Forest Areas (Kawasan Hutan)

Forest boundary demarcation, including land tenure regularization and dispute/conflict settlements within forest zones falls under the purview of MoEF. Previously, forest tenure was primarily available only to business entities. Land use concessions within Forest Areas are granted in the form of leases, such as in the case of logging (IUPHHK and IUPHHK-HTI) and mining activities (*Hak Pijam Pakai*). In the case of plantations, forest release prevails. Forest release is a process of removing land plots from their forest status and is usually applicable for non-forest uses, where plantation is categorized as one. Due to lack of clarity over boundaries and legal recognition of land claims within Forest Areas, access to formal forest tenure by local communities was limited and this has resulted in conflicts. In recent years, opportunities have been created through the Social Forestry schemes which aim to improve access rights to the Forest Areas particularly amongst forest dependent communities, including *Adat* communities. Such schemes are usufruct rights in nature, where ownership remains with the State. Opportunities for further recognition of community claims over forest lands were further reinforced following the Constitutional Court decisions MK45 (2011) and MK35 (2013).

Forestland administration intersects with customary land ownership *(Adat or hak ulayat)* in two ways: (a) Since most forest land is customarily owned or occupied, land mapping requires the full participation of customary land owners for better results; and (b) mapping itself may pose threats to customary land ownership where land tenure is inadequate or insecure, prompting communities to feel vulnerable. It is necessary to ensure that customary land holders and forest-dependent communities adequate information on decisions affecting their land and neighborhood.

It is also important to note that Constitutional Court decision (MK45) challenged the definition of State Forest Land. The previous definition of State Forest Land included areas that had been "designated and/or gazetted" as such[45]. The new definition includes only areas that have been properly gazetted. Article 15 (1) describes the process of gazettal as a "process of a) forest zone designation, b) administrative demarcation of forest zone boundaries, c) forest zone mapping, and d) forest zone determination. Although this ruling does not likely affect previous decisions on land allocation since the decision is non-retrospective (previous designation and gazettment still remain Forest Areas), it raises questions concerning a) the legal status of Forest Areas; b) MoEF's ability to enforce management authority over Forest Areas, especially those not gazetted; c) to what extent the space for negotiation of land use and allocation has been created to enable MoEF, ATR/BPN, district governments and local communities to sit together and come to terms with regards to long-standing land disputes and conflicts.

In addition, Constitutional Court ruling (MK 35 in 2013) overturned the classical understanding in Indonesia about the forest *(hutan),* Forest Area (*kawasan hutan*) and the position of indigenous forest (*hutan Adat*). Indigenous forests (*hutan Adat*) are now largely controlled by investors or the government both used for business and conservation that in practice actually exclude Indigenous Peoples from their forests. The ruling primarily confirmed the rights of Indigenous Peoples and local communities over forestlands. This court decision recognized customary rights, including over customary lands within Forest Areas. However, implementation of this decision has not been straightforward. Information collection to determine the locations of customary lands is required and oftentimes, the community maps do not meet government criteria. In the case of *Adat* communities, their existence needs to be legally recognized, in this case by the district governments before their land claims can be processed. In 2017, Presidential Regulation 88/2017 was enacted to support settlements of land occupancies, including conflicts within Forest Areas by way of a joint taskforce involving

[45] As of 21st February 2012, the forest states (Kawasan Hutan) covered approximately 130.7 million hectares (68.4 percent) of Indonesia's landmass, but only 14.2 hectares of this has been formally gazztted.

ATR/BPN, MoEF, and MoHA under coordination of the Coordinating Ministry of Economic Affairs. However, implementation of this regulation was reported to have been challenged by lack of collaboration across key agencies, lack of technical guidelines and availability of data with regards to boundaries and actual land use.

All that said, the interaction of forest-dependent communities with mapping cannot be reduced to a negotiation about government management of resources alone. Forestland administration is different from more familiar natural resource programs because its products are not widely understood. The resultant maps, stability of land use options available to local communities and such other factors remain unclear. There is no clarity on the ownership of forest resources and any discussion on this subject will affect existing tenure and use rights. Most critically, forestland administration in the past while creating opportunities for wider debate on land and natural resources has also caused uncertainty among forest sector stakeholders, particularly IPs. In this context project cannot make progress without clarity on reasons for mapping, tenure security, and will, therefore, bring to fore renewed attention to the issue of forest tenure, which is disputed between governments and Indigenous Peoples and local communities in the project areas. In closing, the government has taken a number of measures to clarify interpretation of several laws and regulations both in national and sub-national levels to strengthen community rights over land and natural resources. This is contributing to speed up the current phase of reforms in the land sector and the project will take advantage of such legal guidance and in accordance with existing laws and guidelines. Building on such positive developments, the current government initiatives such as PTSL are helping to address issues critical for safeguarding the rights of people to own or access land, forests and fisheries, and can provide a strategic tool for addressing specific tenure related programs too.

TABLE 26: INDONESIA: EXAMPLES OF STATUTES THAT RECOGNIZE AND PROTECT INDIGENOUS RIGHTS TO LAND AND RESOURCES

Statute	Relevant Articles
Constitution (1945)	• Preamble states that the purpose of the constitution is 'to form a government of the state of Indonesia which shall protect all the people of Indonesia and all the independence and the land that has been struggled for, and to improve public welfare, to educate the life of the people and to participate towards the establishment of a world order based on freedom, perpetual peace and social justice'. • Article 18B(2) (second amendment) states that 'The state recognizes and respects indigenous peoples and their traditional rights providing these still exist and are in accordance with the development of the people and the principles of the Unitary State of the Republic of Indonesia, which shall be regulated by law'. • Article 28I(3) (second amendment) states that 'The cultural identities and rights of traditional communities shall be respected in accordance with the development of the times and civilization'
Law 5/1960 on Basic Agrarian Principles (BAL)	• Recognizes *Adat* law as the law that is most relevant to most Indonesians, and the basis of Indonesian land law, thus reversing the dualism of colonial/ western versus *Adat* law, which is specifically cited as undermining legal certainty. • States that resource rights should emphasize the prosperity of communities. • Recognizes land rights over customary territories *(hak ulayat).* • Ties land and resource rights together.
Law 39/1999 on Human Rights	• Articles 4 and 6 confirm the existence of indigenous peoples' rights as human rights that must be considered and protected by law, the public and the government.
Law 27/2007 on	• Affirms the existence and unconditional recognition and protection of indigenous peoples, traditional wisdom and traditional communities.

Statute	Relevant Articles
Management of Coastal Areas and Small Islands	
Law 32/2009 on Environmental Protection and Management	• Article 65 protects indigenous communities and recognizes their rights as basic human rights, including the rights to a healthy and good environment, local and traditional knowledge, decision-making based on free, prior and informed consent (FPIC), environmental education, information, justice, participation in decision-making, enforcement in the courts and compensation • Recognizes the importance of indigenous peoples in the process of crafting national and local policies for the recognition and protection of indigenous rights, and of local knowledge in crafting national and local policies related to the management and control of the environment.
Law 21/2001 on Special Autonomy for Papua Province.	• Contains specific policies to protect the basic rights of indigenous peoples and communities in Papua. (A similar legal instrument exists in case of Aceh i.e., Law on Governance of Aceh and refers to local customary practices).
Law 39/2014 on Plantation Development	• Article 12(1) states that, 'in the case of land require for plantation businesses, companies must consult indigenous land rights holders to obtain agreement on the delivery of land and compensation'. • Article 17(1) states that 'The relevant authorities are prohibited from issuing plantation permits over the land of indigenous communities'. • Article 55(b) states that '[Individuals are prohibited from] working, using, occupying and /or controlling public land or the land of indigenous peoples for the purpose of conducting a plantation business'. • Article 103 states that 'Any officer who issues a plantation permit over land with indigenous rights holders […] shall be punished with imprisonment of five years or a fine of Rp 5 billion'.
Laws 22/1999 and 32/2004 on Local Government	Restores the rights of indigenous peoples to organize and regulate themselves in the form of an 'autonomous village' or to be referred to by another name in accordance with local cultural customs.
Law 6/2014 on Villages	Gives local communities the opportunity to propose becoming an indigenous village *(desa Adat),* with substantial opportunities to self-govern based on traditional laws and customs. Article 76 makes specific reference to communal land (tanah ulayat) as a village asset if a village has been legally recognized as an *Adat* village by district or provincial legislation.
Draft Bill on the Recognition and Protection of the Rights of Indigenous Peoples	Synchronizes and harmonizes diverse sectoral laws at the initiative of the parliament (DPR); the draft law has been placed on the national legislative program for 2015–19.
Draft Umbrella Land Law	Includes a provision for the recognition of collective land right claims by IP. If adopted, those specific provisions will replace BPN Regulation 5/1998 on the subject.

Note: (1) Sources to be cited. (2) Please refer to relevant implementing decrees or regulations for better understanding of the downstream work and processes. (3) Refer to the other matrix on division of governance responsibilities with regard to the land sector (to be updated + completed). (4) A listing and analysis of some of the overlapping laws are outside of the purview of this matrix (e.g., Law 18/2014 on Prevention and Eradication of Forest Destruction and prohibits the clearing of

forests – this law if adopted in full virtually puts a brake on any work that Indigenous Peoples advocacy entities may wish to undertake – this law criminalizes inhabitants of 35,000 villages who live what is currently zoned as Forest Area).

Compiled by SS/September 6, 2016 and updated on November 25, 2016.

D. Understanding of Land Disputes and Conflicts

In general, land related disputes (or conflicts) arise when two or more groups believe their interests are incompatible while complaints arise when land administration or management is unsatisfactory or remains uncertain. Dispute/complaint is not in itself a negative phenomenon. Non-violent dispute or conflict can be an essential component of a social process, progress and development, and is a necessary component of human interaction. Resolution of a complaint or dispute is possible when individuals and groups have trust in their governing structures, society and institutions to manage incompatible interests.

Complaint/dispute becomes problematic when societal mechanisms and institutions for managing and resolving disputes break down or non-responsive giving way to grievances, social unrest, or even violence. When governments or state institutions are weak, complaints and disputes tend to increase leaving fragile community-government relations Preventing this negative spiral and ensuring the peaceful resolution of disputes is a core interest of better land resource governance. The challenge for the government, ATR/BPN, MoEF and other institutions is to promote positive social transformation, while mitigating the risks and potential impacts of grievances or disputes.

Land grievances may be linked to broader security, livelihood, political and identity issues. In periods of political-economic uncertainty, land related grievances/disputes can turn increasingly violent and may result in some population displacement. At this stage, leadership, land institutions and the quality of land governance will have a significant impact on whether complaints/disputes are transformed into opportunities for building reliable land administration and management systems.

Experience has shown that environmental factors are rarely, if ever, the sole cause of complaints or disputes over land. However, the exploitation of land and land based natural resources and related environmental stresses can be implicated in all phases of the grievances cycle, from contributing to the outbreak and perpetuation of complaints or disputes to undermining prospects for peaceful access to and use of resources. Therefore, the ESMF accordingly intend to focus in addressing causes that trigger, escalate or sustain grievances, disputes or conflicts in project implementation. Its aim is to provide practical guidance on the role that the project and/or ATR/BPN can play in early warning and assessment, structural complaint/dispute prevention (long-term measures) and direct prevention (short-term measures). It is meant to provide a combination of strategic advice and operational guidance, as well as to unite existing tools and guidance under a single framework.

Common challenges confronted by the government and ATR/BPN in addressing grievances and disputes/conflicts:[46] Land is a contested issue in Indonesia. In the communities, a huge variety of grievances and disputes around land exists, ranging from disputes within families about the division of

[46] After its independence in 1945, the Indonesian government had to deal with a pluralist legal system comprising a combination of *Adat*, colonial inheritance, and Islamic legal influences. Despite decades of effort to unify legal systems in a formally codified law, Indonesia today still witnesses the persistence of customary institutions (*Adat*), particularly in the outer islands (outside Java). The authority of *Adat* may be weak or perceived to be self-serving; in many cases, informal institutions may emerge to meet the land needs of local populations. Fundamental reforms may be required. At this stage, however, government is taking incremental steps to recognize and address issues related to Indigenous Peoples and *Adat* claims and these have potential to develop into major challenges and will have to be addressed for latent land-related grievances to become conflicts disrupting social order.

the inheritance or the limitations of plots, to those resulting from the occupation of land by investors or migrants, or those about land-use between farming households and government authorities.

First of all, ATR/BPN's experience indicates that large proportion of grievances were enquiries seeking information or advice with regard to a land parcel. On the other hand, over the years, complaints and disputes about land have multiplied, and nowadays majority of disputes/conflicts appearing in both administrative and judicial courts are about claims over access to and use of land and related resources. Inequitable access to land, a complex land tenure system and weak capacities at subnational levels are further compounded by an increasing demand for land for various economic development activities and degr*Adat*ion of the land.

Secondly, evidence also shows that situations of open grievances, disputes or conflict are characterized by small to large-scale population restlessness and social strife. For example, in Indonesia, abandoned land is occupied, sometimes out of necessity or in good faith, at other times as part of an orchestrated plan to grab resources. In such circumstances, households or affected communities seek redressal from the government and such requests are invariably sent to local land offices. In most cases, unless relevant factors (e.g., agreement between disputing parties, direction from the local or national governments) are resolved, ATR/BPN is not really mandated to focus on providing immediate assistance. On the other hand, ATR/BPN's mandate include both direct and indirect support as directed by the respective agencies and that include efforts to monitor and protect land and property claims/rights regulate and manage land-related crises. In such circumstances, public confidence in the government – and ATR/BPN much depend on progress of the following events and arrival of peace within the community. If there is a delay in putting confidence building measures by the local and national governments with regard to land and resources, State and customary institutions will further weaken or collapse – and consequently public trust on local land offices too.

Thirdly, land and natural resources are often used to introduce new economic and political incentives by the government from time to time. Such new programs tend to change the rationale for land administration and management too. This often is not immediately taken into account in formulating the program or criteria put in place advance. As a consequence, such new measures tend to trigger miscommunication or tensions among households. ATR/BPN is often not well-equipped to address such unexpected challenges that are triggered by factors outside of its control.

Fourthly, land holders, local authorities and different stakeholders often require information on a regular and systematic manner. Without understanding the underlying procedures and guidelines on claims to land and land related resource, BPN often times had risked its position as a neutral institution in land administration or undermine the spirit and effectiveness of the land administration programs, and, in the worst cases, resulted in exacerbating tension and endanger the lives of communities. Such conditions pose numerous challenges to ATR/BPN in clarifying local land rights, developing a land inventory and providing information on government policies and programs are some of the practical measures that can be taken to ensure land claims and rights are appropriately recognized and protected. That has slowed down progress of land mapping and registration work too. While ATR/BPN has been addressing those challenges, all such efforts demand resources, capacities and commitment from not on ATR/BPN but other national and subnational institutions and stakeholders.

Fifthly, mapping and adjudication work often results in land and resources being "assigned". This 'assignment' feature often demands unraveling the history of secondary occupation such as the use of satellite information, the acceptance of alternative forms of evidence including community-endorsed oral testimony, third-party dispute resolution support, etc. Mainstreaming policy and legal support for such measures are critically lacking.

In some areas, there may be a need to undertake more fundamental land-related reform rather than merely mapping work to address the structural causes of grievances/disputes, such as unequal access to land or land concentration. Whether 'market assisted' or 'government-led,' land reform requires sustained political consensus, financial commitment and measures to mitigate the risks associated with such reforms. Such areas should be marked and assigned to appropriate authorities for necessary action rather than engaging in mapping work per se. Such an approach could help to address land related grievances comprehensively.

Some of the grievances relate to lack of reconciliation of government policies with public perception of tenure security. Reviewing data on previous or existing land concessions are some of the practical measures to be considered.

Lastly, dispute or conflict-free areas are always preferred for mapping and titling work among land administration agencies. However, it is not always easy to detect past land related grievances or protected disputes involving multiple families or communities until a formal operation begins. Therefore, great care must be taken to avoid legitimizing past injustices or creating new injustices. Recent experiences suggest that effectively applied pre-mapping screening of villages/kecamatan limited overlapping rights and claims, enabled better planning of technical and input resources to complete the tasks without numerous grievances or disputes.

E. Gender Considerations and Lessons Learnt

Indonesia is a largely patriarchal society. Gender norms (and the expectations and stereotypes these create) reinforce inequalities in the access to and distribution of assets and resources, including property rights. Women have equal rights enshrined in law, per the Indonesian Constitution, Islamic laws, and some customary practices. Policy statements and legislation have, at least in theory, removed gender barriers and given women the right to independently own and manage land and other economic resources. However, these rights have not been translated into practice, particularly in terms of equal access to property as well as the agency to actively participate in decision-making processes.

Gender-based constraints impact mean that women's involvement in participatory mapping processes and secured access to and control over assets or resources cannot be taken for granted. Women are generally discouraged from exercising land title and inheritance rights and participating in public forums. Even in matrilineal societies, where property rights and land titles remain with women, brothers and husbands tend to make the land-use decisions – including major changes in use, such as whether to convert rice paddy to palm oil plantations or to lease land for coal mining. Moreover, the emergence of new interpretations of *Shariah* laws can undermine the gains women have achieved so far and hinder future possibilities for equal access to development, as expressly stated in the Indonesian Constitution.

Gender equality is about equal access to opportunities and services, and the allocation of resources and benefits so that both men and women are able to achieve their potential as human beings. However, the meaning of gender and benefits of gender equality (for both men and women) is poorly understood at every level -- from national policy-makers and civil servants in government line-agencies to grassroots CSOs/NGOs and communities. Most people think "women" when they hear the word "gender." And gender stereotypes about women's "place" in society and within the household perpetuate and reinforce gender-based inequalities and discrimination, including in property rights and in operationalizing land administration and management policies and programs.

The Government and civil society groups have introduced policies and convened multi-sectoral dialogues on land and gender, particularly after 1998. These included discussions and guidelines on whether to enforce procedures for joint titling (among married husbands and wives) as well as other

gender-inclusive approaches to land administration and women's access to property rights. However, there has been little traction on many of these initiatives. The consultative processes involved in participatory mapping can promote dialogue among local leaders and between communities, helping to reduce or settle disputes and validate claims that can prevent the loss of land rights among women and *Adat* groups or indigenous peoples. However, significant challenges remain, with widespread inequalities based male-preference in inheritances, male privileges at the community level, and male bias in government programs which provide land for relocation and housing.

In the context of Indonesia, there is a clear and present need to increase awareness and disseminate information about women's legal, customary and traditional rights. Field surveys have confirmed that women's access to land and property rights can be dependent on the availability of information and understanding about gender issues. NGOs and civil society groups have strived to support gender equality, including women's access to land and property. However, impacts are constrained by norms in existing practices and social structures, with male biases and gender-based constraints affecting women's participation and property rights, particularly those related to land, housing, and natural resource management**.**

The following paragraphs present an overview of key issues and lessons learnt from projects and programs in Indonesia, particularly as these pertain to gender and social inclusion issues in land mapping, property titling, and approaches that will increase the efficiency and sustainability of outcome for the One Map project.

Most property issues are settled at the family (or community) levels. Some inheritance traditions are favorable towards women's rights. However, these traditions and practices, including those relating to *Adat*, are not homogeneous within Indonesia or across a region, and are often contingent on the level of understanding and sensibilities of local leaders. In terms of land inheritance, several studies note that more women than men hold land, but they lack the formal documentation. Women face difficulties in registering and securing title for inherited properties, in part because their claims have to be endorsed by senior male members in the family and the community. In property disputes related to inheritance, guardianship, divorce, or ownership following remarriage, women's rights tend to be subordinated to men due to social and family pressure. Men are more likely to seek outside help in disputes, bolstering their position. Women prefer to forgo their claims and accept a compromise rather than to cause a conflict that might jeopardize peace and harmony within the family. Women are also less likely to appeal against an unsatisfactory decision with a higher authority. Moreover, women can be vulnerable to intimidation by males from the extended family, with many women choosing not to complain or pursue their rights for fear of repercussions.

Adat processes have been useful in registering land and property rights, but these also be problematic for women. *Adat* and local leaders are frequently turned to for solving disputes in local land matters. These forums or mechanisms are often fast, culturally relevant and most-appropriate for the local context. Moreover, these leaders remain the primary authority for the vast majority of *Adat* people and are often the first point of contact for the government, including land concerns. However, women, children and other vulnerable groups tend to have little influence over decision-making and are usually under-represented in local forums or committees and may face discrimination. Local (mainly male) leaders have had too much discretion and *Adat* processes are increasingly seen as ambiguous, subjective and unaccountable.

Discrimination against women in government programs can be subtle, but the impact is significant. Prevailing rules, social norms and conventions, and the hierarchical relationships in institutions can impede women's access to essential information and preclude women from exercising their rights. Procedures that are meant to increase women's access to land and property rights can be undermined by gender-biased and preconceived notions about women's roles, rights, and responsibilities. For

example, men are routinely identified as the "head of household", with property titles recorded based on this default.

Most government departments and local/village institutions are male-dominated, and traditional leaders and civil servants tend to support claims made by men over those made by women. Women's issues are often not taken seriously and/or overlooked by the authorities in land affairs, with land and property rights often unacknowledged. In the case of land acquisition, compensation and relocation, local village heads and other leaders are often seen as favoring men and denying women their rights. Social norms are, at times, selectively applied to benefit the male disputant or claimant, with women's claims by-passed.

There is a need to make authorities at local and district levels more aware about women's legal, customary and traditional rights. BPN's work in land administration projects has demonstrated that the formal and active participation of women in determining land and property rights is imperative from the initial stages of analysis and assessment and throughout mapping and titling operations. Land mapping and adjudication processes are primarily managed by government and community-based traditional or religious leaders – most of whom are disinclined to empower women and are well-placed to maintain the *status quo*.

The enhanced participation of women in mapping and adjudication work will depend on the quality of socialization and attention paid to addressing gender-based constraints and issues. However, women are reluctant to attend meetings because their husbands (or male members in the family) prohibit them or because the local culture positions men as the representative of the household. Nevertheless, there are examples of Indonesian women are assuming leadership roles and actively engaging in mapping and titling processes. Women have recovered their land and property rights, generally using nonconfrontational methods, such as using temporary markers to claim land rights. They have also helped to organize their communities and neighborhoods and actively participated in community land mapping to protect their rights (World Bank, 2010; AMAN Reports, 2012; World Bank 2015, unpublished PROFOR report on community land mapping).

Women's participation in decision-making and access to and control over land assets and natural resources is largely sub-optimal because of gender issues, such as the subordination of women, the lack of self-confidence and limited engagement in public domains and meetings, and the stereotyping of women's roles and household contributions to domestic domains. It is important to realize that there is a significant risk that participatory mapping will be based primarily on discussions with village elders, government officials, and local leaders (i.e., men). While this may accurately capture village jurisdictional boundaries, the mapping will most likely will not reflect the full scope of women's usufruct and property rights, undermining the validity of the process and boundaries. The absence of women's involvement in land-related consultations could be particularly disadvantageous for female-headed households. In many parts of Indonesia, including Kalimantan, the out-migration of males for employment in Malaysia and other countries is significant. This means that the numbers of de facto female-headed households are likely greater than official statistics.

Women's active participation in community-based mapping activities is essential. However, as noted above, gender-based constraints are acute and will need to be explicitly addressed from the outset. Recommended approaches for gender inclusion in One Map / PTSL (through the ESMF) include:

a. Recognize and strengthen socio-cultural traditions and practices that support women's land and property rights. As a lack of awareness of understanding of these rights may be critical to this support, specific efforts should focus on ensuring that local leaders and stakeholders are oriented to these rights and persuaded to be supportive of women's claims and land titles. Information should be couched in the language of local norms and cultures, with this outreach inclusive of local *Adat* leaders and the judiciary.

b. Smaller women-only focus group sessions to create a safe space for women's participation. This should be facilitated by gender-sensitive facilitators and processes that ensure active listening to women's voices, concerns and needs and the incorporation into planning procedures and mapping processes. This will build women's confidence in speaking publicly and increase their ability to have "voice" in local forums, such as the PTSL taskforce and community level activities.
c. Awareness-raising and sensitivity sessions that promote acceptance and implementation of women's land and property registration, as independent holders or in joint titles, among local institutions and stakeholders. This will support land registration and titling functions for women and contribute to the GOI's expressed prohibitions against discrimination. Persuading local leaders (and village heads) will be critical for ending misconceptions and gender stereotypes in relation to land use and property rights.
d. Improve data collection and analysis to prevent bias in property rights and title-holding. Government actions in land administration and management often fail to protect women's land claims and rights. This is harmful to policy and process.
e. Mainstream gender within ATR/BPN and the land administration system. As the primary agency responsible for restoring and protecting land rights, BPN can gender-sensitize the PTSL and related processes by: (a) preparing a strategy to build in-house awareness on women's land rights and gender concerns; (b) supporting community-based efforts, like CLM, and work through a participatory process; (c) increasing the number of women staff in the field, in the back office and in decision-making positions; (d) reaching out to various actors, within and beyond the government, through consistent and targeted information dissemination activities aimed at fostering public support and building confidence in the concept and process of land certification; (e) maintaining regular monitoring, quality control and gender audits; and (f) establishing and managing databases with gender-related indicators on land and property rights that can provide data down to the grassroots level and analysis to better inform management and policy decisions.
f. Improve local capacity to gather information on land use and ownership patterns, and the socio-cultural factors that affect them. This will be required at the start of mapping work, in order to gather sufficient information on pre-existing access claims and ownership rights. Thorough classification and analysis of available information could strengthen women's claims on land and property during mapping and the adjudication process.
g. Establish gender-aware representation and stakeholder criteria to ensure balanced, meaningful, and inclusive participation. This could include: (1) minimum proportion of 33% women; (2) separate meetings for women and men, with female facilitators for women-only group meetings; (3) staggered scheduling of meetings to allow internal discussions and consensus building in settlements (inter- and intra-household levels); and (4) scheduling of meetings in places and at time for maximum participation, taking into consideration women's mobility concerns/issues and the need to provide on-site childcare.
h. Collective and participatory preparation of land maps as a basis for strengthening community, gender-balanced participation, and building support for equal recognition of land rights and/or issuing joint titles.
i. Build social safety nets for women, by requiring that all new land titles for married owners be in the husband's and wife's names (joint titles).
j. Outreach (within and beyond Government) to foster public support and ensure open communication and transparency in ATR/BPN operations**.** The engagement of media, civil society groups and NGOs will help to build trust and confidence among local people that the government is conducting the land mapping/titling operations in a fair and transparent way. It will also send the right signals, reassuring citizens (particularly, disadvantaged groups and women) about the Government's commitment and intention to be more responsive to local-level issues and priorities.

F. Community Participatory Mapping: Lessons Learnt

The adoption of participatory community land mapping methodology represents an important struggle to reconcile modern day nation-state views on land use and boundaries. It is to the credit of the civil society organizations (CSOs) working in the rural areas, particularly those among Indigenous Peoples' (IP) and forest-dependent communities, that they have been able to generate not only information on land use and related information but also confidence among local communities. However, preparing a map is only one-piece evidence in securing land claims and that forms of legal evidences such as neighbors endorsement of the boundaries and inter-community acceptance of the details included in the map are equally essential. A land mapping and registration program can help take forward that agenda. In that sense, it is important to bear in mind that the adoption of community maps without broad consultation and consensus could trigger more conflicts, and that maps would remain as visual details if relevant and appropriate instruments and procedures for legal registration of the land areas are not developed and upon their adoption not complied.

Since early 2000s, while the government, political leaders and policy makers struggle to reform land laws, local communities and local governments seem to have taken the lead in innovating new concepts in land governance and offering solutions out of the impasse resulting from factors such as the lack of boundary demarcation and clash between customary and modern laws. In the participatory mapping work done by the CSOs – and in recent times by BPN – have taken shape without much interference and that the will of the local communities have taken a lead and substituted government's indifference to the mapping process. This in fact has produced considerable change, but does raise questions as to sustainable use of the maps produced, especially with regard to securing legal acceptance from the formal sources. It is here the preparation of the SOP on community mapping exercise is critical so that broader recognition and acknowledgement for the CLM work is secured.

Lessons learnt from participatory mapping:

a. History of the village or community. Most genealogically formed villages usually have a clear village to village (or community to community) border agreement since the territorial boundaries (or use rights over land) were agreed a long time before, and some have distinctive *Adat* concepts. In the village formation in the 1980s, some settlements/kampong with a sufficient population became villages. However, the establishment of these villages was not accompanied by a clear delineation of the village boundaries. In some areas settlements were regulated by local authorities, partly following river flow or access to water (e.g., Jambi). Transmigration settlement units were placed among the old villages by the earlier governments without the consent of the Indigenous Peoples and *Adat* communities. The ancestral villages considered these transmigration villages to be only settlements and agricultural land, not separate villages.
b. Unclear boundaries. Village boundaries somewhat tend to be assumed – and remain unclear, increasing the potential for dispute among the villages. Most definite limit is the limit on road maintenance responsibilities placed on the curb. Most accepted boundaries are indigenous *Adat* boundaries or government unit boundaries from the colonial era. Unfortunately, community and indigenous leaders are rarely involved in the implementation of boundary clarification, especially pertaining to the boundaries of Forest Areas or *Adat* lands. However, when there is a dispute, *Adat* or Indigenous Peoples leaders play a prominent role in arriving at a consensus. Village boundary disputes were few in the past – but with increasing government allocation of village development funds, intra-community squabbles over boundaries reportedly grow.
c. Lack of community understanding. The main problems were usually encountered are a lack of time for the introduction of mapping work among the communities, so information and discussions within and with the adjacent communities were always insufficient. Sometimes there is resistance from the people residing in boundary areas, some even try to threaten the surveying party.
d. Community participation. ATR/BPN acknowledge the importance of involving the community in

the area to be mapped and concede that people living on the boundaries are the ones who would know what may have been agreed between adjacent communities. In addition, they are the ones who know most about conditions in the area. But in practice, while it has been agreed to jointly conduct site visits for the purpose of mapping, field teams had confronted several problems such as lack of attendance (or sporadic attendance), local leaders reluctant undermining participation, etc.

e. Fear of loss of land and property claims and access. A common assumption in a community whose area is being mapped is that clarification of land boundaries will remove their claims or rights and access, especially to buildings, land and natural resources in the region. Even when socialization and dissemination have been conducted by the team, there are still many people may have questions or information provided was not sufficient to eliminate their concerns. This is general occurrence in Indonesia as in the past governments had acquired land without providing adequate compensation. As a result, agreement on land boundaries is often difficult to achieve. In some cases, agreement on cartometric boundary delineation can be achieved, but during border marking and demarcation in the field, the land holders withdraw their agreement. Moreover, the construction of new settlements on a city's boundaries or in a new city can cause land prices to soar and land holders want to be part of a city area in order to get a higher price for their land.
f. Concerns on the complexity of land administration. Experience has shown that people are worried that land mapping or surveying could compel them to pay taxes. Formal land administration involves money and time – a concern for land holders in many areas.
g. Concerns on accessibility and government attention. Community groups in a target area can often try to be part of a certain village or kecamatan (for economic, social or cultural reasons), although administratively they actually belong to a neighboring area. One reason could be accessibility to government services, as this will affect the time and cost of administration and government services.
h. Too rigid technical approach. This happens because the field workers follow the procedures and guidelines as set in stone – and reference map as it is, regardless of field conditions.
i. Coordination among team members. In land mapping, many elements are involved. But due to lack of coordination, there are many working maps prepared by one institution that differ from each other. Moreover, each line agency has its own activities and plan, so sometimes it is difficult to find the perfect time to bring all the team members together. Many districts do not have any technical staff for surveys or mapping in the local government unit in charge of managing village boundary setting. They also do not have proper equipment and tools. They may not be ready for use of modern digital equipment too.
j. Quality of data and information available to start mapping work will have to be thoroughly verified and confirmed. In most areas, information contained in the maps may not be complete, and the boundaries shown on the map may have altered too. However, there is often no conformity between the regional boundaries in the community's version (such as in *Adat* or Indigenous Peoples' areas) and the topographical map, with many maps also being inconsistent.

G. Benefits and Opportunities Identified

Participatory land mapping work will be able to support protection of existing land uses and claims by local communities. This way, disputes can be prevented. Experiences show that participatory mapping work takes larger political-cultural-social-economic context into account[47]. Mechanisms for resolving boundary and inter-household disputes are a concern in every village.

On the other hand, there is a growing realization among communities and the civil society that preparations of maps will not necessarily lead to immediate recognition of land rights per se and that

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maps are only one of the evidences needed to substantiate a claim over land. It is important to bear in mind that the adoption of community maps without broad consultation and consensus could trigger more conflicts, and that maps would remain as visual details if relevant and appropriate instruments for legal registration of the land areas are not developed. It is in this context, work of ATR/BPN can benefit by proactively engaging with local communities to ensure that maps produced can lead to productive and durable results.

Building a counter policy discourse at community level. The analysis of experiences demonstrates that participatory land mapping is a counter policy discourse. An important factor that seems to have prompted spontaneous support for mapping work stems from an awareness that modern day government systems do not readily respond to communities immediate and long-term needs of the poorer groups, Indigenous Peoples and forest-dwellers. However, this does not mean that ATR/BPN or BIG are not open to adapting participatory mapping techniques or models. The inflow of information on fit-for-purpose cadastral mapping and exposure to outside world have opened up their views too to the need to adapt to changed political and economic realities in Indonesia. ATR/BPN's work through PTSL is also an attempt to prevent not only loss of communities' access to land and resources but also an attempt to respond to tenurial claims and improving governance. By undertaking participatory land mapping ATR/BPN was seen as helping to revive (*Adat*) traditional practices but also seem to have convinced community leaders as to how engagement with ATR/BPN will improve the management of land tenure and will protect community interests.

Participatory mapping work can help to establish checks and balances in access and use of land resources. The focus on community-based work is creating a level playing field for all households and stakeholders. Field reports have shown that women are also comfortable and actively participate in the mapping work. These elements will have to be further supported and nurtured. With communities taking a lead, the mapping work is generally assumed by younger people (both men and women) who get an opportunity to learn about land tenure arrangements from seniors. The work, in many ways, has served as an orientation and exchange of knowledge within the community on customary arrangements and current use of resources. As a collective activity it helps to rebuild a sense of community ownership of the mapped outputs.

Mapping exercise allows an early analysis of rights and their links to tenure: An analysis of experiences shows that a range of different tools have been piloted to demarcate, delineate and record complex and overlapping land uses and claims which could be useful in programs like PTSL – and also in different circumstances such as disaster recovery, biodiversity conservation and climate change. Experiences show that such programs can be successful only if they begin with a careful review of existing different rights and interests in the land involved and a clear mechanism to protect those rights. In this context, a mapping exercise will have to begin with a careful review of existing different rights and interests in the land involved. Gathering data on land use and claims along with land demarcation processes is key in supporting these processes. Further, these past efforts have developed some initiatives to lower cost options for cadastral mapping, adjudication and participatory mapping processes.

There is a tendency to stereotype women's participation through flawed policy prescriptions for the mapping processes. Government regulations and statements are replete with prohibitions against discrimination in any form. However, the Government's own actions in mapping work often fail to prevent discrimination when it comes to recognizing and protecting women's land rights. Traditional leaders and government institutions are inclined to stereotype women's roles and rights, and are less willing to adopt creative solutions and support women's claims. This is often witnessed in the mapping work with fewer engagement by women. Some of the GoI's misconceptions about how women own land are not backed up with actual data and these can be harmful for its policy and procedural development. The lack of gender disaggregated data favors the perpetuation of such misconceptions too. On the other hand, ATR/BPN's pilots have shown that readily participated in mapping activities

and taken a lead gathering evidence too. There is a need to recognize local social traditions and practices that support women's participation in public affairs too. In addition participatory mapping process helps conservation of resources: The land tenure problems of rural and Indigenous Peoples and *Adat* communities are increasingly discussed within the context of biodiversity conservation, natural resource management, and climate change.[48]

Experiences indicate that community-driven participatory mapping has helped build safety nets over land areas used by poorer Indigenous Peoples and *Adat* communities. There is considerable evidence that prior to the mapping work, families tend to be isolated and in cases indifferent to the land access issues. However, as the mapping progressed, a sense of understanding government regulations and procedures is built. Field stories documented show that government and communities have bonded well overtime and thus, a safety net over the land resources was slowly established.

It is acknowledged the importance of participatory mapping and will lead to better outputs from PTSL process. Mapping experiences, in every instance, show that the process has helped to categorize land uses and mark common land areas needed for rural livelihood too. However, past experiences indicate that a number of CSOs engaged in mapping are yet to grasp the land registry requirements and recognize that land registry is more than preparing maps. In this regard, PTSL work will have to better disseminate information and end-of-process outputs so that understanding is similar and no undue expectations are raised.

Role of civil society in advocating and guiding mapping work is building partnerships: ATR/BPN's recent experiences in Tangerang, Grobagaon, Tangamus (where PTSL pilots are implemented) shows that local civil society has been able to play a strong role in improving participation and have effectively strengthened voices of marginalized populations by forging alliances of local communities with PTSL field teams. Notable successes have included achieving coordination between local governments and land offices and improvements in the functioning of the different departments too. Partnerships with Indigenous Peoples and *Adat* communities and local civil society groups help in building confidence and speed up mapping work too.

Mapping should be linked to on-going reforms: The recent PTSL work in Grobagan and Tangerang Selatan shows that evolving policies of local governance reform towards greater transparency and public participation have helped PTSL work to establish a better and inclusive mapping process in clarifying boundaries and land uses. In addition, engagement of local governments in respective areas have also created more space for local participation and empowerment. Engaging in the mapping process enhances the power of local communities to benefit from these reforms triggered by local governments. Further, it is important to bear in mind that the adoption of maps generated through participatory process without broad consultation and consensus could trigger more conflicts, and that maps would remain as visual details if relevant and appropriate instruments for legal registration of the land areas are not sufficiently developed.

H. Recommendations

Experiences gained in participatory mapping work (both by ATR/BPN and CSOs) have provided a few critical principles that should underpin future initiatives. Firstly, community engagement is central to the mapping work, where participation is encouraged and those are who are more disadvantaged or marginalized are given opportunities to gain a voice in the processes. Closely tied to this, the second principle, is the notion of membership, which involves making links for those who are disadvantaged,

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those with little or less sense of belonging in a community. Participatory mapping relies on a belief that, in the communities, resources are renewable and generative, not scarce; land and environment are a facilitating and sharing resource. The third principle relates to dialogue and partnership because it is through these reciprocal processes that people can discover and test their own capacities and powers. All of these principles strengthen people's relationship with their land and resources. The mapping exercise is a powerful way to contribute to a stronger community which more fully embraces social inclusion. Furthermore, as experiences in Grobogan, Tangerang and Tanggamus show, the approach enables outcomes to be sustainable because it strengthens the social relations within the indigenous peoples and uses their strength in advocating their aspirations and needs. Also, as ATR/BPN, through its PTSL work, considers strategies to mitigate the challenges confronted by rural communities and ensure clarification of boundaries within the context of tenurial regimes must be understood. Growing evidence suggests that communities and households with secure access and use rights protect, maintain, and conserve forests, land and related resources.

Concerted efforts are required to listen, and respond to the specific concerns of women. In the mapping work, concerns of women can be easily overlooked. In addition, and in most traditions, women opt not to speak in the presence of men, or even interact with men. Hence, there is a need to ensure the presence of gender-sensitive development workers/facilitators who would listen to the voices, concerns and needs of women. Approaches to enhancing women's inclusion and participation in land and property matters should be adopted. These approaches can be aided by increasing the ability of women to have "voice" in local forums. This will not only give women a voice in planning the support to be provided; it will also help the larger society to speed up the mapping work.

Mainstream gender concerns within ATR/BPN and the mapping processes within PTSL. As the primary agency responsible for mapping and protecting land rights, ATR/BPN should initiate systematic guidelines for mapping across the target areas to safeguard and promote women's rights to land in the most cost-efficient and effective way, reaching all women, including the most disadvantaged. To further gender sensitize this process, BPN needs to: (a) prepare a strategy to build in-house awareness on women's land rights and gender concerns; (b) support community-based efforts like mapping and work through a participatory process; (c) increase number of women staff in the field, in the back office and in decision-making positions; (d) reach out to various actors, within and beyond the government, through constant information dissemination activities to foster public support and build confidence in the concept and process of land certification; (e) maintain regular monitoring, quality control and gender audit; and (f) establish and manage gender-specific databases and gender indicators on land and property rights at the grassroots level with these aggregated results available for management and policy decisions.

Need to encourage agents of change: While there is considerable concern that decentralization has not improved governance of land and resources, yet regional autonomy represents an opportunity for change and reform in the land sector and in empowering Indigenous Peoples and *Adat* communities. Available information and case stories emerging from hundreds of local leaders and community members, parliamentarians and other stakeholders during the course of this review suggests there are constituencies for change at the local level and participatory mapping work, with checks and balances, could be one of the positive tools in the hands of these change agents. They should be encouraged to advocate for more inclusive and accountable multi-level governance of land and natural resources.

The data, analysis and examples presented in this review suggest that forging the middle ground in participatory mapping requires a mix of policy, regulatory and on ground-support for community-based efforts. These changes should empower the weak and marginalized, enhance the quality of lives of millions of unsecured indigenous landholders through reforms and gain public confidence in the land administration system. Acknowledging this situation, the government is gradually opening up, albeit slowly, to endorsing some new approaches like fit-for-purpose. Only a long-term engagement

with all stakeholders building trust and confidence would help participatory mapping in the current context. Therefore, discussions on participatory mapping work should aim to target four levels of priorities:

- The first priority is to look more broadly at the land sector to enhance overall governance in order to open up options and extend the reach of the rule of law and accountability. This includes addressing upward accountability for policy making and guidelines.
- The second priority is to work at the intermediate level to develop the capacities and technical skills of those engaged in indigenous land administration (e.g., land offices and PTSL processes). This would involve working with BIG and MoEForests in preparing appropriate guidelines for boundary clarification and mapping.
- The third priority is to improve the government's information on land administration and management, to ensure that it is complete, consistent and accessible, and accordingly underpins good land governance.
- At the grassroots level to support community-based land uses (e.g., marginal farm holders, smallholder farms, Indigenous Peoples and *Adat* communities, or small-scale forest plantations), to empower weak and marginalized groups. This is the most important priority as it tackles the main identified weaknesses head on and intend to build a supportive and nurturing environment for the mapping work among rural communities and local institutions.

ANNEX 10: FGD/WORKSHOP AND STAKEHOLDER ENGAGEMENT DOCUMENTATION

ESMF Focus Group Discussion
Dates and Venue : January 16 – 17 2018/Santika Serpong, West Java
Participants : See Annex 11

Key Points	Key Concerns/Comments
Fit-For Purpose Cadastral Mapping	• Land parcels with owners out of town (or absent) are at risk of their land being claimed by local people; • Outside of Java, the community / citizens often calculate higher honorarium payments compared to on Java; • Possible / likely changes in land use functions; • Efforts to avoid taxes / increased financial (tax) burden on local people, resulting in lack of participation; • Reduced opportunity for land conflicts to occur due to use of a participatory process; • Increase workload for BPN; • Increased community/public awareness of land ownership; • Possibility for vulnerable groups or people to be excluded from participatory processes (not getting recognition); • Increased or improved regional investment climate; • Low level of thoroughness in measuring/mapping (on the ground); • Lack of legal framework, primarily for Forest Area; • Poor availability of base maps (spatial framework); • Land registration in Forest Area risks causing social conflict if it does not result in certificates; • Legal cases against BPN employees may arise if certifying Forest Areas; • Low participation of village leaders due to potential loss of revenue, as land transactions being done through PPAT; • Difficulties locating and fixing boundaries – FFP uses general boundaries that do not have a legal basis; • General boundaries are difficult to fix as the majority are visible as parcels in aerial or satellite photos showing heterogenous vegetation; • Inconsistent FForest AreaArea borders/boundaries and areas; • Determining borders with mutual agreements (through a mechanism with minutes/records) may reduce or lead to loss of social/public facilities.
Land Registration	• Local village leaders may reject PLTS as the program is implemented for free and there are no opportunities for them to earn fees; • Community may use / lend their certificates to meet consumption needs; • Rejection by community members due to not wanting to pay taxes (BPHTB dan PBB); • The idea of first registrations being free of tax (Rp. 0) will be opposed by local governments; • Increased potential to access capital (for landowners);

Key Points	Key Concerns/Comments
	• Increased land transactions and transfers of ownership; • Transparency of land prices leading to increased investment; • Clear identification of land/areas where there are (land) conflicts; • Land certification can add financial (tax) burden to low income households; • Increased possibility of land speculation / speculators preying on vulnerable groups; • Land Registration process not acknowledging or affording communal rights; • Registration of land at risk of contradicting spatial (plan) zone boundaries; • Land use not aligned with the spatial plan
Land Tenure, Land Use and Forest Boundary Demarcation	• KLHK and the community will have different versions of forest boundaries; • In Papua there are unclear boundaries between state (government) land and customary/tribal land, as well as unclear boundaries/borders between tribal lands; • Cross-sectoral conflicts in the process of granting permits (mining, plantations, forestry); • Government (BPN and KLHK) reputation impacted due to unavailable or inconsistent primary data; • Incidents, community unrest, tension between groups over loss or changes in access and assets; • Increased land cases (in court) in regions; • Land cases are known (i.e. better data on cases/conflict); • PTSL leading to poor practices, “whitening” of (forest) areas; • Legal certainty and lack of protection for community lands in the Forest Area; • BPN workers at risk of legal action if they make certificates for land in the Forest Areas; • Differences in maps and ground reality in Forest Areas; • Land registration risks overlap with forest boundaries.
Strengthening Local Land Office	• Insufficient storage space leads to increasing losses and damage to files; • Provision of ATR/BPN-owned land for storage will increase; • SOP on the provision and maintenance of data is required so that unauthorized parties cannot access data; • Certain parties may reject the SOPs; • Difficulties finding files; • Paperless data cannot yet be used as evidence in court; • Cost, training, facilities (needed); • Standardization between land offices (currently not standardized); • Computerization of Land offices; • Difficulties for groups such as the Elderly (distance to office, capacity of certain groups to use/benefit from an electronic system, including some indigenous people); • Increased risk of problems during the transition phase between two systems; • Lack of internet in land offices

Key Points	Key Concerns/Comments
Strengthening LIS	• Internet connections and networks are uneven/unreliable, particularly in remote areas; • Interference with data by unauthorized parties (hackers); • Risks of system failure; • Human resources lacking competence
Strengthen Geodetic Framework	• There is no institution to maintain CORS
Improving NSDI Technology and Services	• Local government commitment to provide human resources and funding for maintenance; • Lack of binding work arrangements (just based on MoU); • System failure can impact on public trust, credibility; • Potential misuse/abuse, thus requires screening or layers of access; • Socialization needed once set up
Preparing Field Base Map and Local One Maps	• Preparation of human resources need to the village level; • Provision of CSRT (High resolution satellite images) by LAPAN must cover 100% of Indonesia; • Provision of large scale base maps by BIG
Strengthen Policy, Legal and Institutional Framework	• Overlapping regulations (Location permits: mining, forestry, agriculture / LP2B); • Legal risks (*Pidana/Perdata/Tata Usaha*) due to overlapping regulations affecting implementers (service providers/staff) and community; • High degree of sectoral ego (competition) between agencies; • Complex institutional structures; • Complexity in planning and implementation

ESMF Focus Group Discussion

Dates and Venue : February 15 – 16 2018/Grand Kemang Jakarta
Participants : See Annex 11

Summary of Main Points:

Key points	Inputs/Concerns
Dissemination	The project has not been communicated widely within the ATR/BPN. Involvement of the Public Relations Bureau (*Humas*) is important to ensure that communication and outreach for the project reaches target beneficiaries and other wider stakeholders, which is essential to foster collaboration and participation across stakeholder groups.
	Socialization and outreach, including access to information about PTSL is limited across levels. There is a need to beef up the current efforts mobilized by the central ATR/BPN to support public awareness campaign about the program.
Grievance Handling	Various channels for lodging land-related grievances and inquiries exist within and outside ATR/BPN and hence, there is no single Grievance Handling Mechanism (GRM) in the institution although the Public Relations and Legal Bureau (*Humas*) holds the overall responsibility to screen and direct complaints to relevant departments/agencies for redressals. Depending on where complaints and/or inquiries are submitted, key bottlenecks identified include: - Lapor.go.id (web-based GRM for government services): lack of follow-ups, slow responses. - Social media: absence of a dispatch mechanism to address complaints and provide timely responses, resulting in mounting complaints left unaddressed; - ATR/BPN's website and paper-based complaint submission to *Humas*: the current dispatch system is not fully functioning due to limited personnel and resources. Complaints often go to irrelevant departments/directorates, thus delaying responses/redressals. - Whistle-blower: the system exists, mainly to report internal issues but currently not used. The system could be potentially re-activated to improve organizational accountability. The Inspectorate General is responsible to investigate and address internal affairs involving ATR/BPN's personnel. In addition, there are other external channels for complaints submission, including the Ombudsman, Human Rights Commission (KOMNASHAM), the President Office, which would require a dedicated team to monitor.
	Various grievances and/or complaints, although directed to ATR/BPN, fall outside the institution's mandates to resolve, especially tenure conflicts and/or disputes in Forest Areas and private and/or state-managed concessions e.g. the case involving the State Plantation Company (PTPN) 2 in North Sumatra. This could affect the public image of ATR/BPN and the institution's credibility. There is a need to have a strong public communication and relations strategy to minimize distorted information and messages against the institution.
General Management Issues	The participants, especially from the DG Dispute Resolution and Land Conflicts (DG 7) stressed that it is important to invest in quality processes and oversight during the PTSL implementation to prevent/minimize future disputes/conflicts. Learning from the previous WB-supported projects, namely RALAS and LPMDP,

Key points	Inputs/Concerns
	many of the today's disputes could be attributed to the past projects. With a large target to achieve (23 million parcels by 2019), PTSL may potentially run the risks of weak oversight and inaccurate physical and legal data collection, which may expose ATR/BPN to future problems. With the use of outsourced services through third-party licensed cadaster surveyors, there is a strong need to ensure oversight and quality control.
	Criminal lawsuits are often filed against ATR/BPN's officers for cases that should have been dealt through administrative processes/cancellation (e.g. land titling in Forest Areas). There are no legal services and protection available to ATR/BPN's officers. This has caused reluctance amongst ATR/BPN officers to cover areas with forest overlaps or disputes.
Potential risks	Barriers to the PTSL implementation include limited access to information about the program and its benefits, lack of clarity with regards to roles and responsibilities of different stakeholders, including target communities and perceptions about the program's implications (e.g. land taxes, community contributions being perceived mandatory), and lack of community participation and willingness to participate.
	Unclear forest boundaries also prevent PTSL implementation and may risk exacerbating existing tension due to unmet expectations and distorted understanding of the program. Areas opened up for earlier transmigration programs may not be equipped with an official decree (SK), and therefore remain in a grey area in terms of legal rights. In addition, frequent changes in peatland boundaries have also prevented PTSL from being implemented and there are risks that land titling is issued in critical peatland areas
	Changes in land use allocation and spatial plan (RTRW) following the PTSL process may also some level of risks, since types of ownership rights could potentially be affected (e.g. from full ownership to rights to use) and there could be implications with regards to land values. In other cases, due the absence of RTRW, there are possibilities for some areas previously classified as non-Forest Areas to be included as Forest Areas, thus occupants are not eligible to certification and may be considered as illegal.
	Target communities may not necessarily welcome the initiative, with some *Kantah* officers reporting community resistance and refusal to the program. PTSL has attempted to accommodate collective rights, including those claimed by *Adat* communities. However, since the current targets are expressed in terms of number of parcels to be registered and certified, accommodating collective rights or communal parcels as a large parcel block may not be an attractive option for PTSL Taskforces. Some land claims/occupation may exceed the stated size of land parcels in the certificates, and thus potentially cause disputes.

ESMF Public Consultation

Dates and Venue : 19 April 2018/ ATR/BPN Sisingamangaraja

List of participants : See Annex 11

Morning Session: Consultation with CSOs/NGOs

Sessions	Key points
Session 1: Opening remarks from the Minister of ATR/BPN (Bp. Sofyan Djalil)	• Development of public policy requires inputs from various parties who work on a day to day basis on the subject as well as valid data; • The project expects improvements in land administration, and therefore minimize and/reduce distortion in land ownership and poor management of land data; • With support from the WB's loan, the GoI aims to accelerate the Agrarian Reform with the following approaches: 1) complete mapping and registration of non-Forest Areas, including forest boundary delineation, 2) modernization of land administration and services, 3) acceleration of asset redistribution and legalization, starting from land parcels outside the Forest Areas through PTSL • The Basic Agrarian Reform (UUPA) is a well thought legislation and it is the responsibility of the government to respect and enforce the provisions. ATR/BPN is working on refining and/or developing on supplementary regulations to operationalize UUPA; • Lack of parcel land data has prevented development, including taxation systems and access to formal economy particularly amongst poor people. Therefore, it is imperative to have a good database to inform public policy.
Session 2: Presentation of the Project Design and ESMF	ATR/BPN team explained the purpose of the project and the working arrangements for the ESMF, which is spearheaded by the ATR/BPN's Research Department. The project is expected to continue following its completion. The presentation also explained the details of the project design as well as component activities it supports. The session was followed by a detailed presentation of the ESMF by the Research Department. In general, the ESMF: • Adopted a risk mitigation hierarchy approach; • Built on existing risk mitigation measures of ATR/BPN; • Mainstream community participatory processes in mapping and conflict resolution; • Provides a defined project implementation structure and safeguard support systems; • Provides analysis of social, environmental and governance risks; • Promotes community involvement throughout the project implementation.
Session 3: Discussions (NGO/CSO representatives)	KPA (Consortium for the Agrarian Reform) **First round of comments/feedback:** • The title of the project i.e. Program to Accelerate the Agrarian Reform needs to be revisited to reflect the scope of the project, which is mainly limited to PTSL. PTSL is only part of preparatory processes of the Agrarian Reform and therefore, needs to be reframed in such a way that does not create misinterpretation and misunderstanding. • The Government Regulation (PP No.10/1961) adopted village-by-village mapping. However, the regulation was somehow neglected. It is suggested to support a complete village-by-village mapping process, as

Sessions	Key points
	envisioned in the PP No.10/1961 to identify land that can distributed under the TORA scheme. • Placing villages with boundaries with conservation Forest Areas under "tier two" (red. due to possible eviction risks) does not serve the Agrarian Reform purposes, and therefore the rationale should be reversed to focus on forest-edge villages if the aim is to accelerate the Agrarian Reform; • PTSL may not address land distribution issues if the focus is on land titling and if the scope is limited to non-Forest Areas, which represents only 30% of the country's land mass (and even smaller in target provinces); • The project should also target villages with adjacent boundaries with HGU (non-forest plantation concessions) and ex-HGU areas since these areas are usually plagued with conflicts due to overlapping claims; • HGU certificates issued by ATR/BPN often show discrepancies with the actual land size being cultivated. Information pertaining to concession areas and permit granting processes is often not publicly available, thus has prevented public scrutiny. It is therefore suggested that the project supports accessibility and transparency of land information, which is an instrument to minimize conflicts; • To avoid criminalization against ATR/BPN's staff for alleged erroneous titling in Forest Areas, it is suggested that ATR/BPN proposed the PTSL as a national strategic program to provide some level of immunity to the staff from criminal charges by other agencies (i.e. MOEF). • The project should provide further clarity with regards to the handling of *Adat* claims, which have continued to evolve. The field PTSL taskforces need to be trained on topics such as *Adat* recognition as well as measures to prevent elite capture; • Large project areas, speed of project implementation, capacity constraints present governance risks which could lead to future conflicts/disputes. Lack of engagement was reported to result in resistance and rejection in some villages. **Second round of comments/feedback:** • The title of the project will need to be revised and the programmatic positioning of the PTSL under the Agrarian Reform will need to be clarified: whether this project is to support the target nine million hectares under the Agrarian Reform, or PTSL in general terms. The project should focus on landless people. • Despite the target set by Bappenas, the project should not be curtailed to only serve ATR/BPN's routine targets, which may compromise the spirit of the Agrarian Reform that the project is expected to support. It is also expected that the project is not bogged down to technical issues and ignore the key principles and spirits of the Agrarian Reform. • The project should aim to target HGU areas, including detailing the mechanisms and working arrangements to address conflicts and tenure settlements in HGU. If this role rests with *Kantah* (district land offices), there is a possibility that resolution of conflicts may reach an impasse; • KPA has previously submitted proposed locations, amounting to 600,000 hectares that can be potentially allocated to the Agrarian Reform, of

Sessions	Key points
	which 200,000 falls under the responsibility of ATR/BPN. The project should make efforts to build synergy with civil society initiatives; • Question with regards to how the project enable a bottom-up process for PTSL (i.e. identification of potential land that can be re-distributed); • The representation of ATR/BPN's team during consultations was skewed towards the mapping team, with no representation from other relevant units responsible for the Agrarian Reform. **Third-round of feedback:** • The project represents efforts to support improvements in land administration services; • The project's efforts to push village-by-village/systematic and complete mapping is appreciated, but it is important to clarify its road-map to ensure past mistakes (e.g. Land Administration Program, with the issuance of Government Regulation No. 24) are not repeated; • Complete land data will enable informed decision making; • If PTSL can demonstrate success, the project can provide a firmer ground for some reform, including proposals to incorporate the DG Planology (currently under MOEF) into ATR/BPN to ensure harmonized governance structures and streamlined functions;
	KEMITRAAN • ATR/BPN was expected to have stronger political levers following the incorporation of the agrarian and spatial plan DG (red. used to be under the Public Works) to address land related issues, including Forest Areas. However, it was felt that status quo (red. dualism in land administration) remains; • Based on an earlier inventory by the Bureau of Statistics (BPS) and MOEF, there are around 25,000 villages mapped within the Forest Areas. This includes villages in transmigration areas that have been previously titled by ATR/BPN. Forest Area designation often took place in areas that have been occupied and gazettment was enacted although boundary demarcation remains incomplete (*temu gelang*). The project should include these villages as a priority for registration; • The project should engage with champions in MOEF such as those in the multi-party task force (*gugus tugas multi-pihak*) for forest tenure settlements. It was suggested that ATR/BPN also establishes a similar taskforce.
	SAMDHANA • The consultation period should be extended; • The project fails to make a reference to the decree by the People Assembly (also known as TAP MPR No. IX/2001)[49] which serves as a main reference to the Agrarian Reform; • Similarly, there is also no reference to the guideline of the Agrarian Reform published by the President Staff Office (KSP), as well as the Presidential Regulation No.45/2016 which outlines five pillars of the

[49] The People Assembly or *Majelis Permusyawaratan Rakyat* (MPR) issued a decision (TAP MPR no. IX/2001) on Agrarian Reform and Natural Resources Management (*Pembaruan Agraria dan Pengelolaan Sumber Daya Alam – PA- PSDA*). This decision contains essentially two mandates: first, for the Parliament (or *Dewan Perwakilan Rakyat*-DPR) to draft a bill on the subject within the shortest possible time, and second, for the President/Government to execute the content of the decision.

Sessions	Key points
	Agrarian Reform priorities. Key aspects of these pillars include 1) identification of potential areas, including those proposed by the civil society, 2) conflict and dispute resolution, 3) and redistribution and certification. This project bypassed these fundamental steps by jumping into legal recognition of claims (red. certification). Another key document that was not referenced is KSP's document on the synchronization of TORA and social forestry (village-to-village identification and coordinated by district governments); • The anticipated draft law on *Adat* Communities (RUU MHA) needs to be accommodated, particularly in light of recognition of rights.
	Indonesia Surveyor Association (Ikatan Surveyor Indonesia) • Difficulties that are often encountered often stem from lack of clarity between forest and non-Forest Areas, particularly with regards to their functions as it is often the case that Forest Areas are no longer forested; • Question with regards to the progress of the revisions of the Draft Agrarian Law; • Expressing targets in the number of parcels could create perverse incentives to split parcels into smaller units and such risks need to be considered under the project. • In support to the Agrarian Reform, it is expected that the project could also target land under disputes (not only K1 parcels); • It is suggested to include a contour layer (3D) in the working maps to ensure capture land viability (i.e. vulnerability to disaster risks, slope, etc.) • PTSL is envisioned as an instrument to enable distribution of welfare and financial inclusion. There is a question whether or not the ATR/BPN's research department has conducted any assessment with regards to PTSL impacts on poverty reduction;
ATR/BPN's responses	• PTSL is the first step to accelerate land registration and the project is expected to bring about gradual reform in land administration since business as usual would suggest that it will take 80 years to complete registration across the country; • It is acknowledged that on-going conflicts often stem from unclear/contested forest boundaries and overlapping claims; • Three main features of PTSL include: add (*menambah*), fix (*membenahi*), and settle (*menyelesaikan*). The PTSL, different from earlier PP 10/1961 has an in-built mechanism to address lands that do not meet titling criteria (classified as K2, K3) as well as flying parcels (K4) resulting from sporadic mapping in the past. K1-K4 classification also serves as a management instrument to address agrarian issues in non-Forest Areas; • The project will target rural and forest border areas by providing working maps for the resolution of agrarian issues in areas often classified as "buffer zones" • Therefore, the broader strategy should be viewed from three inter-connected steps: a) provisions of cadastral maps (land use and certification), b) identification of land use that can be allocated for TORA, c) land distribution. This project is part of the overall strategy. • The project only provides support to mapping activities, whereas land registration and titling will be financed from the state budget (APBN);

Sessions	Key points
	• The discrepancies between HGU certificates and actual land sizes often stem from the different use of database, where certificates are issued on the basis of location permits issued by district governments, whereas actual land use is based on the size of Forest Areas released by the MOEF which are often not accessible and/or shared with ATR/BPN; • The current Forest Area maps (scale of 1:250,000) cannot be integrated into the ATR/BPN's database since ATR/BPN uses large scale maps (1:5000). Through the provisions of large scale working maps, especially on the forest boundary demarcation, the project will enable a seamless process between PTSL and PPTKH (led by the MOEF). • PP 10/1961 is the basis for the development of PP 24/1997 on land registration, which is currently being implemented under PTSL; • The project should clarify the position of the PTSL under the broader Agrarian Reform, and agreed that the PTSL represents the preparation stage of the reform. However, it is also important to note that large-scale reform in the land sector will only happen gradually. The current Presidential Regulation No.88 on PPTKH still represents a dichotomy between MOEF/Provincial Forestry Agencies and ATR/BPN; • It is expected that the ESMF provides measures and working arrangements to address agrarian issues; • Public access to information is crucial under the One Map Policy (OMP). The OMP requires provisions of data, including HGU, HGB, and HPL to the acceleration team of the policy under KSP. These requirements also apply to data on spatial plans and customary territories that have been issued by ATR/BPN. OMP data are expected to be launched in August 2018.

Afternoon session : Consultation with Government Agencies

Sessions	Key points
Session 1: Opening Remark and ESMF Presentation	ATR/BPN team explained the purpose of the project and the working arrangements for the ESMF, which is spearheaded by the ATR/BPN's Research Department. The project is expected to continue following its completion. The presentation also explained the details of the project design as well as component activities it supports. The session was followed by a detailed presentation of the ESMF by the Research Department. In general, the ESMF: • Adopted a risk mitigation hierarchy approach; • Built on existing risk mitigation measures of ATR/BPN; • Mainstream community participatory processes in mapping and conflict resolution; • Provides a defined project implementation structure and safeguard support systems; • Provides analysis of social, environmental and governance risks; • Promotes community involvement throughout the project implementation
Session 2: Discussion	**BIG (Geospatial Information Agency)** BIG is part of the implementing agency and one of the relevant component is installation of CORS infrastructure. Although the

Sessions	Key points
	potential environmental risks are minor, the ESMF should also mention the management of risks associated with CORS installation
	MOEF • Currently, forest boundary demarcation has achieved 80% of the RPJMN target. For PTSL target locations under the project, how would boundary densification/stake-out would be addressed since the scale of maps used by MOEF is different (1: 25,000 versus 1: 5,000)? How would differences on the ground would be consolidated? • A question with regards to the participation of MOEF and a clarification whether the project areas have maps with a scale of 1:5,000.
	BAPPENAS • The ESMF does not provide specific mitigation measures to address land speculation; • Questions of how the project would address lack of community participation and how PTSL would handle customary rights amongst *Adat* communities
ATR/BPN's responses	• Past experiences show that collaboration is essential with MOEF through its Forest Area Designation Units (BPKH); • PPTKH is a different responsibility since it is led by the Provincial Forestry Agencies and MOEF; • Forest boundary densification would target Forest Areas with SK (have been gazetted); • In terms of collaboration with BIG, there needs to be identification within areas of interest in light of absence of base maps; • The ESMF will be further refined, with supplementary manuals/guidelines to ensure that the key measures included in the document are operational; • Handling of *Adat* rights would require a tailored approach, both in terms of facilitation and forms of recognition that may be different from other communities. A tailored approach also applies to nomadic communities who may not have fixed settlements. • The ESMF adopted good practices and lessons-learnt from PTSL implementation in other districts, including Grobogan and Tanggamus.

ESMF Public Consultation

Dates and Venue : 28 May 2018/ ATR/BPN Kuningan

List of participants : See Annex 11

Sessions	Key points
Introduction	• The purpose of the consultation is to seek further inputs to the ESMF, especially with regards to risk management of the project; • The position of the project within the broader context of Agrarian Reform has been clarified. PTSL can serve as a platform for the acceleration of the Agrarian Reform: cadastral mapping, asset legalization and identification of land parcels for TORA (land redistribution)
Presentation	• The importance of the Agrarian Reform and the role of the project with regards to: - Asset legalization - Redistribution • Systematic land registration is expected to assist preparatory processes to identify TORA/land distribution scheme (both objects and subjects); • The Parliament's Decree No. 9/2001 (Tap MPR) has been referenced in the ESMF and its enforcement is expected to address dualism in land administration towards single and complete cadastral maps; • The project will cover areas adjacent to forest estates and HGU/plantation concessions. PTSL therefore aims to facilitate not only TORA, but also identify land issues; • Concerns with regards to *Adat*/customary claims have been addressed. The document now stresses the need for informed understanding of MA characteristics to ensure that PTSL can accommodate *Adat* rights; • PTSL will also cover claims and settlements within HGU as well as prioritize areas on forest borders; • There is a need to establish a multi-stakeholder working group (*Tugas Gugus Multipihak*) to address issues which require policy decisions or land occupation on state lands; • Concerns from the World Bank's Regional Safeguards Secretariat (RSS) with regards to resettlement risks have been addressed and a Resettlement Policy Framework (RPF) and Process Framework (PF) have been incorporated. Resettlement risks are considered as downstream, which would require high-level resolution; • The ESMF has also incorporated an Indigenous Peoples Planning Framework (IPPF), which is well aligned with the PTSL business process, including: a. Screening and identification of *Adat* claims; b. Socialization and information dissemination; c. Establishment of facilitation teams at the local level; d. Development of an Indigenous Peoples Plan (RPP) at the district level; e. Joint-surveys (physical and legal data collection); f. Announcement and mediation in the event of disputes; g. Land registration (all land parcels will be certified and subsequently certified if claims are classified as K.1, with possibilities of communal titles); h. Monitoring and beneficiary satisfaction assessments

Sessions	Key points
	• The ESMF acknowledges that resettlement in forest areas would require commitments from MOEF. The RPF and PF were developed as a preventive measure and to ensure a due diligence process prior to location selection
Project design	**Consortium for the Agrarian Reform (KPA)** • The project is important to obtain accurate data on land holding, including Gini coefficient of land equalities, which will be essential as the foundation for the Agrarian Reform. However, the current design does not consider a measure to address land equalities once known. ATR/BPN's classification of K.1 (ready for titling) may formalize unequal land ownership through certification; • In addressing the above, the project needs to ensure that there is a screening process to identify eligible land (object) and beneficiaries (subject). Such a process will be needed to ensure that the Agrarian Reform initiatives are well targeted, particularly to address inequalities in land ownership. In the absence of a process to "rectify" land holding, asset legalization may be a form of legalizing "inequalities" and may favor large landholders, instead of small, landless farmers; • In the absence of restructuring of asset legalization, this project will only serve as a mechanism to accelerate asset legalization, but does not address inequalities as envisioned in the Agrarian Reform Program; • However, the current governing frameworks for land redistribution may not be well equipped to address landholding excess; • There is a need to establish a complete land information system as the basis for addressing land issues
Policy	**Consortium for the Agrarian Reform (KPA)** • Regulations on Agrarian Reform still overlap and are often not compatible (e.g. PPTKH and PTSL). There needs to be a high-level policy discussion to ensure synergy across sectors to implement the Agrarian Reform; • Addressing Adat claims in forest and non-forest areas would require high-level policy discussions **Sayogyo Institute** • Certification is not a new initiative. However, lessons-learnt from the past practices need to be considered to improve the current design; • Survey is not only a technical exercise, but it also entails political interests with regards to land control; • Good governance also needs to consider institutional arrangements and involvement of key stakeholders to address fundamental issues in the Agrarian Reform; • The project should also enable the public to be informed about the project development and progress;
Land Redistribution (TORA)	**DG *Penataan Agraria*, ATR/BPN** • TORA (land redistribution) is sourced from both forest areas and non-forest areas, with the former (4.1 million hectares) coming from MOEF and the latter (0.4 million hectares) coming from ATR/BPN; • The indicative maps of 1 million hectares for TORA that have been identified would need verification based on the shapefiles provided by the MOEF;

Sessions	Key points
	• PPTKH would require a pro-active collaboration between ATR/BPN and MOEF. A multi-stakeholder taskforce has been established at the provincial level as well as a manual recently issued by the Coordinating Minister of Economic Affairs (CMEA) No. 3/2018. One of the responsibilities of this taskforce is to synergize proposals for TORA that come from PPTKH and PTSL processes; • Confirmation of the TORA subjects/recipients will be the responsibilities of the local government. PTSL assists in the identification of potential objects (land parcels) for TORA; **Consortium for the Agrarian Reform (KPA)** • PPTKH scheme may further narrow down the scope of the Agrarian Reform since the policy does not cover the seven criteria for TORA/land distribution; • KPA has provided ATR/BPN with TORA proposals in 406 locations and MOEF under HGU licenses (in total 600,000 hectares), which will need to be considered as part of project implementation since the subjects (land holders) and the objects (the land) have been verified; • Unsuitable land, including land prone to natural disasters, not fertile, etc. may still be included in the indicative TORA maps (4.1 million hectares) by MOEF; • If empty, unclaimed land parcels are identified during project implementation, such lands can be prioritized for TORA **Forest Investment Program PMU** • PIAPS (indicative maps for social forestry) needs to be referenced; • There needs to have a more focused discussion about the Agrarian Reform and the use of PIAPS and indicative TORA maps to enable synergy
Addressing HGU land (non-forestry plantation concessions)	**Indonesia Surveyor Association (ISI)** • Overlapping claims and settlements within HGU land are well anticipated and addressing such issues would require data availability from ATR/BPN's side; **Consortium for the Agrarian Reform (KPA)** • Clarification whether the scope of the project also covers HGU/land under concessions and therefore registers occupation and/or settlements in those areas. Many unresolved land conflicts are reported to be found in HGU;
Forest boundary demarcation	**MOEF** • The project will assist in affirming forest boundaries that have been gazetted; • ATR/BPN will need to involve BPKH and local governments and each information collected will be recorded in a MOU; • Provincial Forestry Agencies will lead PPTKH verification process, with BPN as a member. Upon verification, land claims will be classified based on each scheme (social forestry and/or TORA). If there are villages, such areas will be released from the forest estates;
Project timeline	**Indonesia Surveyor Association (ISI)** • Clarification of the project timeline
Process	**AMAN**

Sessions	Key points
	Question with regards to what extent the consultation can inform and/or change the project design.
Addressing *Adat* claims	**AMAN** • In reference to TAP MPR, AMAN and its networks (including JKPP) have mapped around 9.2 million hectares of *Adat* customary claims, which have been handed over to the GoI (including MOEF, BIG, MOHA) as custodians of the maps produced. The World Bank previously supported such initiatives through a grant financing to AMAN. However, the current document (ESMF) failed to reference these maps, which raised a concern since the project is also being financed by the World Bank; • There was an earlier MOU between AMAN and ATR/BPN with regards to the incorporation of *Adat* maps into the One Map database, which has not materialized; • Characteristics of land occupation in both Kalimantan and Sumatra are similar since many *Adat* communities have claims in forest estates, which were considered as "free land" by the GoI; • The Agrarian Reform should follow the Constitutional Court Ruling MK.35 which recognizes *Adat* communities as right holders. There are approximately 600,000 hectares of *Adat* territories that have been recognized through district regulations (Perda), which needs to be accommodated by the project; • The ATR/BPN's Ministerial Regulation No. 10 on Communal Rights has not been followed since ATR/BPN has been to date issued individual certificates in areas claimed by *Adat* communities; • There are administratively recognized villages (*desa definitif*) within forest areas; • AMAN is ready to provide data on *Adat* claims, which have been collected since 1990s; • Improvements in the current regulations will be needed prior to the start of the project since there is a lack of clarity with regards to regularization of communal rights and how to address individual versus communal titles in a manner that does not exacerbate existing conflicts; • Issues often appear in villages whose village heads are not from *Adat* groups; • The project needs to be strengthened with an affirmative action for *Adat* communities, particularly for land claims under disputes/conflicts; **Consortium for the Agrarian Reform (KPA)** • Ministerial Regulation no.10 on communal titles could be interpreted differently, for instance in Tengger communities, individual titles were issued with a disclaimer that no transactions outside the communities are allowed; • Registration of customary territories is presently not clear with regards to the arrangements and forms of recognition; • There needs to be a high-level policy discussion to address *Adat* claims in forest and non-forest areas; • The ESMF is currently ambiguous with regards to recognition and protection of *Adat* claims. If K.1 land parcels (ready for titling) are found within *Adat* territories and subject to titling process, there are risks that the project may indirectly contribute to the dismantling of *Adat* characteristics.

Sessions	Key points
	There needs to be facilitation to enable recognition of communal land titles once *Adat* land claims have been identified; • Adat territories may also span across villages, which presents challenges if the scope of the project is at the village level; • The question is therefore how the project provides sufficient protection to maintain diversity which shapes the nation and address inequalities; **MOEF** • MOEF regulation No.32 on title forests would still require Adat communities to obtain legal recognition from the district governments (Perda) and this has been recognized as a bottleneck. **Forest Investment Program PMU** • Political commitment from the district governments will be key and therefore, it is critical to engage them. Such commitments can be attested through Prolegda (sub-national legislation program)
Concerns on involuntary resettlement	**AMAN** • 70 percent of *Adat* maps falls within forest estates (*Kawasan Hutan*), and many of such claims can be found in protection and conservation areas. Therefore, when the government enacted Presidential Regulation No. 88/2017 where resettlement in an option raised a major concern since it will mostly affect *Adat* communities. In addressing these risks, the GoI should adopt a more humane approach in addressing forest tenure settlements; • The use of terminology "involuntary resettlement" needs to be revisited since it may have negative interpretation **Consortium for the Agrarian Reform (KPA)** • Implementing resettlement as per-Presidential Regulation No. 88 does not only have a small chance of success, but is also expensive. Land swaps can be a cheaper alternative, unless such resettlements are carried out for community safety reasons (e.g. occupation in disaster prone areas). Furthermore, regularizing tenure settlements for nomadic communities, such as *Suku Anak Dalam*, may deny their claims and human rights; • Villages in HGU areas are governed by the rules set by concession holders, instead by the government. This raises a question with regards to addressing land claims in HGU e.g. enclave/release or negligence. The latter will not only allow issues to evolve and spread but may also expose communities to actions imposed by concession holders (e.g. evictions) since there is a legal framework on addressing nuisance in HGU areas, often through violence by security apparatus; **Forest Investment Program PMU** • If resettlement is inevitable, a framework to enable good governance and fair practices will need to be established. One example is the planned resettlement in KPH Rinjani Barat where the process so far has involved affected community members.
Responses from ATR/BPN	**General**

Sessions	Key points
	• It has been agreed that synergy will need to be built to implement the Agrarian Reform and Social Forestry. The PMU needs to build collaboration with the Social Forestry Task Force; • The consultation process has a strategic position to inform the project design and is a requirement for the project's appraisal. In the absence of measures to mitigate social risks, the project can be considered not ready and may jeopardize the subsequent processing; • The existing government budget is sufficient to accelerate PTSL with the set targets. However, cooperation with the World Bank is aimed to enhance good governance within the land administration system by ATR/BPN. Certification is not included in the project scope to enable an informed focus on the Agrarian Reform and good governance; • The ESMF and project design will need to be improved to accommodate the inputs provided during the consultations and address key issues identified. **Project design** • PTSL will cover identification of all objects, both in forest areas, HGU, *Adat* territories and transmigration sites; • To do the above correctly, there needs to be a clear definition of "objects" of land holding, since many of the land claims are not occupied and/or utilized, including occupation on river banks; • The first-year pilot (50,000 parcels) will allow learning and experiments in addressing tenure issues prior to scale-up in the following years (Year 2 – 4); • Although the project does not finance land certification, the ESMF covers all risks, both direct, indirect and downstream; • Delineating village boundaries will also enable better land administration since many HGU boundaries were not drawn with clear understanding of village boundaries, which have led to conflicts; • The project has mainstreamed lessons-learnt from the previous projects, i.e. RALAS. It has been agreed that the project should address inequalities; • On governance, the PMU will be strengthened with provincial units in Kanwil as well as safeguards taskforces to manage risks identified during project implementation; **Forest boundary demarcation** • In forest areas whose boundaries are presently only "designated", BPKH needs to be involved. For gazetted forest borders (with decrees/SK from MOEF), ATR/BPN's *Contradictoire Delimitatie* can be applied*;* • In the case of Riau, a new provincial regulation on spatial plans (RTRW) has been issued, however this is pending on the shapefiles of forest and non-forest boundaries. The absence of clarity of forest boundaries will create issues with regards to addressing tenurial claims. **Policy** • The component 3 of the project will allow improvements of the current policy and regulatory frameworks to address challenges identified during the consultation, including strengthening the Presidential Regulation No. 88 as well as affirmative actions for *Adat* communities **Addressing Adat land claims**

Sessions	Key points
	• The project design and ESMF have incorporated communal rights in non-forest areas in reference to the Ministerial Regulation No. 10; • Presidential Regulation No. 88 on forest tenure settlements and Ministerial Regulation No.10, and earlier regulation No.5/1999 may not offer a complete solution and therefore, would need further improvements which can be supported under Component 3 of the project; • Earlier database on *Adat* claims (9 million hectares) can be referenced and assessed with regards the specific locations in the seven target provinces to inform areas of interest (AOI). The project, as part of implementation, will need to compile existing data on land claims submitted by CSOs/NGOs; • Recognition of Adat claims falls in the purview of District Heads to confirm land claimants (subjects), and therefore, PTSL may not be a complete process for *Adat* recognition process. This would require improvements in the current guiding procedures (e.g. reporting to district heads by PTSL taskforces); • Identification and registration of *Adat* claims can be done in parallel to expedite the process, which has been slow to date; • The project needs to be strengthened with affirmative measures to expedite recognition of *Adat* communities through Perda **TORA** • Collaboration with CSOs/NGOs will be required to further verify TORA indicative maps, particularly those coming from the one million hectar allocation of forest estate release; • There needs to be an additional assessment to provide further details of TORA allocation in the seven target provinces; • TORA shapefiles need to be shared with the provincial land offices (Kanwil) and Agrarian Infrastructure DG to assist with program and activity planning; • In the event that land occupation outside PIAPS (indicative social forestry maps) and indicative TORA maps is identified, the PTSL taskforces can only report to inform decisions but not necessarily make decisions; • Areas for mining concessions will also need to be identified since there are priority areas for mining utilization • There are many empty land plots that have been abandoned which can be potentially proposed for TORA (e.g. 10,000 ex-HGU land in Siak) **Community participation** • There is a need to strengthen community engagement and awareness raising of the benefits of the project to enhance their participation; **Resettlement** • The project does not directly lead to resettlement and have not ability to intervene third party actions. However, under the Component 3, the project can engage with CMEA to seek alternative mechanisms for forest tenure settlements; **Summary of Key Points** • The project needs to stress that PTSL is part of the implementation of TAP MPR in the context of the Agrarian Reform. Cadastral mapping and regulatory and institutional development under the project are expected to

Sessions	Key points
	address the current gaps between the provisions in the TAP MPR and their implementation; • The project is also expected to garner political support to improve existing governing frameworks in land administration both in forest and non-forest areas; • The project will capitalize on the existing and on-going participatory mapping efforts spearheaded by CSOs/NGOs; • Under the Component 3, focus will not only be placed on policy development of PTSL but broader on the Agrarian Reform • Collaboration will be needed to enhance collaboration between ATR/BPN and MOEF to establish indicators on Agrarian Reform achievement;

ANNEX 11: LIST OF CONSULTATION PARTICIPANTS FOR ESMF WORKSHOPS

ESMF Focus Group Discussion
Dates and Venue : January 16 – 17 2018/Santika Serpong, West Java

No.	Name	Institution
1	IWAN GUNAWAN	WB
2	Pelapor	ATR / BPN
3	Gabriel Tri Wibawa	ATR/ BPN.
4	IDA PUTRA	LITBANG ATR/BPN
5	Wismulorato S.	DAL ATR/BPN
6	EMBUN SARI	ATR/BPN
7	Lucy Mitchell	World Bank.
8	Agus Wahyudi	ATR/BPN
9	Iskandar Syah	ATR/BPN
10	krishnan	Bank Dunia
11	Sudarman H	ATR/BPN-Tanggamus
12		
13	Ariphoerti Dwi W.	WB
14	Yosapat Ari. L.	ATR/BPN - Dirjen PPR PT
15	Romi Nugroho	ATR/BPN - PUSLITBANG
16	Putri Mersarah	PPIT - BIG
17	Abdul Jamil.	BIG.
18	Dian Ayu Wulandari	ATR/BPN - TARU
19	Dwi Hardiyanto	ATR/BPN - DD. TR.
20	Aulia Lahi	ATR/BPN - Puslitbang
21	Shivaram	WB.

No	Name	Institution
22	Septina Marryanti	litbang - BPN
23	Kevin Putri Bunga	ATR /BPN
24	Linda Sariasih	Perencanaan - BPN
25	Emmy Sliman	Dit PPHT & PPAT
26	MAKMUR A. SIBORD	LITBANG - ATR/BPN
27	ARI PM	ATR / BPN
28	Agus susmiyanto	ATR/BPN
29	Isa Suryo A	ATR/BPN
30	Endang S	Dit Binda / ATR BPN
31	Muhamad Abdullah	ATR/ BPN
32	Lucy Mitchell	Bank Dunia
33	SHIVALUMA	WB
34	Rika Mandhega V.	BIG
35	noor asyhadi	BIG

ESMF Focus Group Discussion

Dates and Venue : February 15 – 16 2018/Grand Kemang Jakarta

NO.	NAMA	UNIT KERJA
1		
2		
3	Iskandar Syah	
4	Embun Sari	IK ATR BPS
5	Ade K. Mulyana	PPRT - BIG
6	MIKA TORHONEN	WB
7	ASWICAKSANA	TRP BAPPENAS
8	Fadlah A. Ulfah	TRP Bappenas
9	Mega S.	TRP Bappenas
10	ADY MUCHTADI	BIRO UMUM x TUP
11	Gatot Bramono	BIG
12	M. Sochib Jufri	Kanwil Prov Kal. Sel.
13	A. Fahdi Marsani	Kabid I. Pom. Ria
14	Dongkyu Kwak	WB
15	Rika Mandhega V	BIG - Biro PKH
16	FAJAR TRIADY. M	BIG - Biro PKH
17	Achmad Yulian	BIG
18	M. Al Kautsar	BIG
19	Seto Baruno	BIG
20	SHIVAKUMAR.	W. B.
21	Aulia Latif	Puslitbang
22	Asmali Adna	Orpeg ATR/BPN
23	Mujahidin Maruf	Kabid IP. BPN Kal
24	Kartono Agustiyanto	Kabid IP. BPN JAMBI
25	Hendro Prastowo	Dit. PPK
26	Firman A S	Dit. PPD
27	Hevi Dwi Oktaviani	Sesditjen Penataan Agrarian
28	Sara Nominika	Dit. LR
29	Roestomo Eko	Kanwil BPN Kalbar
30	Marda Khoirna Fajari	BIG

NO.	NAMA	UNIT KERJA
31	B. Wisnu	PPRT - BIG
32	Tensa Nurdiyan	ATR - BPN
33	Tinbul Sinaniya	Kabul Setdiy Pant
34	Kusmana	Kabid II Kalpeng
35	Michael P	WB
36	Ayu Nadiapiyani	
37	Kevin Rhi Bugi.	Biroen.
38	Linda Sariasih	BPN
39	M. Abdullah	—

NO	NAMA	UNIT KERJA
1		
2		
3		
4		
5		
6	Sryamto	Biro Keu & BMN
7	EMBUN SARI	IIC ATR BPN
8	ADY MUCHTADI	Baro Umum & TUP
9	Agus W	PPD - ATR
10	B. Wikma	PPMT - BIG
11	Rika Mandhega V	Biro PKH - BIG
12	M. Sochib Jufi	BPN Kanwil Kal Sel
13	Noor Asyhad	Biro PKH - BIG
14	Marda Khoiria F.	PPMT BIG
15	Agus Susaniyanto	Dir PPU Dir IU
16	Hendro Prastowo	Dir. PPK
17	Sora Nominiko	Kso 10 LR
18	Kartono Agustiyanto	Kabid IP. Jambi
19	Mujahidin M.	— " — Kalfin
20	A. [illegible]	Kabid IP Kal
21	KUSMANA	Kabid IP Kalkung
22	Avila Latif	Pustirbang
23	Hendry Yuli Wibowo	Dir PPD dirjen IU
24	SHIVA KUMAR	
25	Michael	WB
26	VLADIMIR EUTIMOV	WB - FAO
27	Dongkyu Kwak	WB
28	Maruli Hutabarat	LEI
29	Neil Pullar	LEI
30	M. Abdullah	Biro Perencanaan
31	Ayu Nadiariyani	BIRO Perencanaan
32	Linda Sarlasih	
33	Fajar Drali	

ESMF Public Consultation

Dates and Venue : 19 April 2018/ ATR/BPN Sisingamangaraja

NO	NAMA	UNIT KERJA
1	MARKUS A. SIBOCO	Kabid PP Pusdiklat
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4	[illegible]	Pusdiklat
5	Wijayanto H	Perwakilan Agraria
6	Michael	WB
7	TRI MAHMUDI	Canadian Embassy
8	[illegible]	Kom/Ker
9	IWAN MURDIN	KPA
10	Fajar Ojeh	WB
11	Pardamto Agribana	Dir SPT
12	Martvanto S	Sekretariat

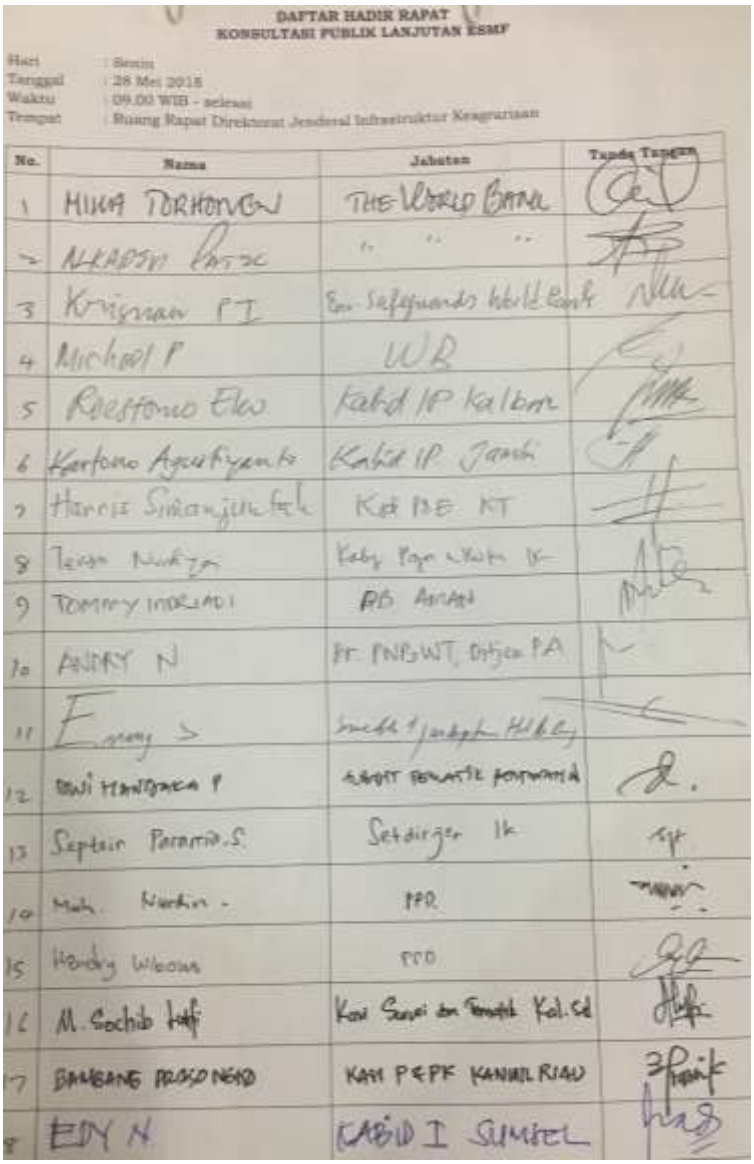
NO	NAMA	UNIT KERJA
13	Firman A Siagaridu	Pusdiklat
14	HARTO W	IBI
15	SHIVAKUMAR	WB.
16	Bagus Rhama	Dit PPK
17	Kevin Rikin Bangun	Biro Perencanaan
18	ADRIAT HARIS	BAPPENAS. KEMEN
19	Nurung Setiawati	KLHK
20	Grande Sihombing	Kadastral
21	Ibnam Khalik	Bappenas
22	NUKEWAGEN	BIG
23	Sumadi K.	Biaren
24	Shopi Luthfiyah	Biroren
25	Nila Febriani	Biroren

NO	NAMA	UNIT KERJA
26	Azam	Humas
27	Mukia Septiana	Perwakilan Agraria
28	IWAN GUNAWAN	WB
29	Nugroho M. Sunjoto	WB
30	Hendry Y. Wibowo	Dir. PPD – ATR/BPN
31	Agus N	Dir. PPD
32	M. Nurdin.	Dir PPD
33	Rudianto P.S	Biro Hukum & Humas
34	Dewi Kartika	KPA
35	PUNI ANJUNGSARI	WB
36	Aida Lara	Pokjabay
37	Surti Handayani	PCM Indonesia

NO	NAMA	UNIT KERJA
38	Siti Hajar	
39	Roni	B. Umum
40	[illegible]	
41	Maskun	
42	[illegible]	
43	[illegible]	
44	[illegible]	
45	Meya S.	Dit TRP Bappenas
46	Danang R	Ristek
47	Nila Ratna	Biroren
48	Linda Saniasih	
49	Ayu Nofiariyani	Biroren
50	Iskandar Syah	

ESMF Public Consultation

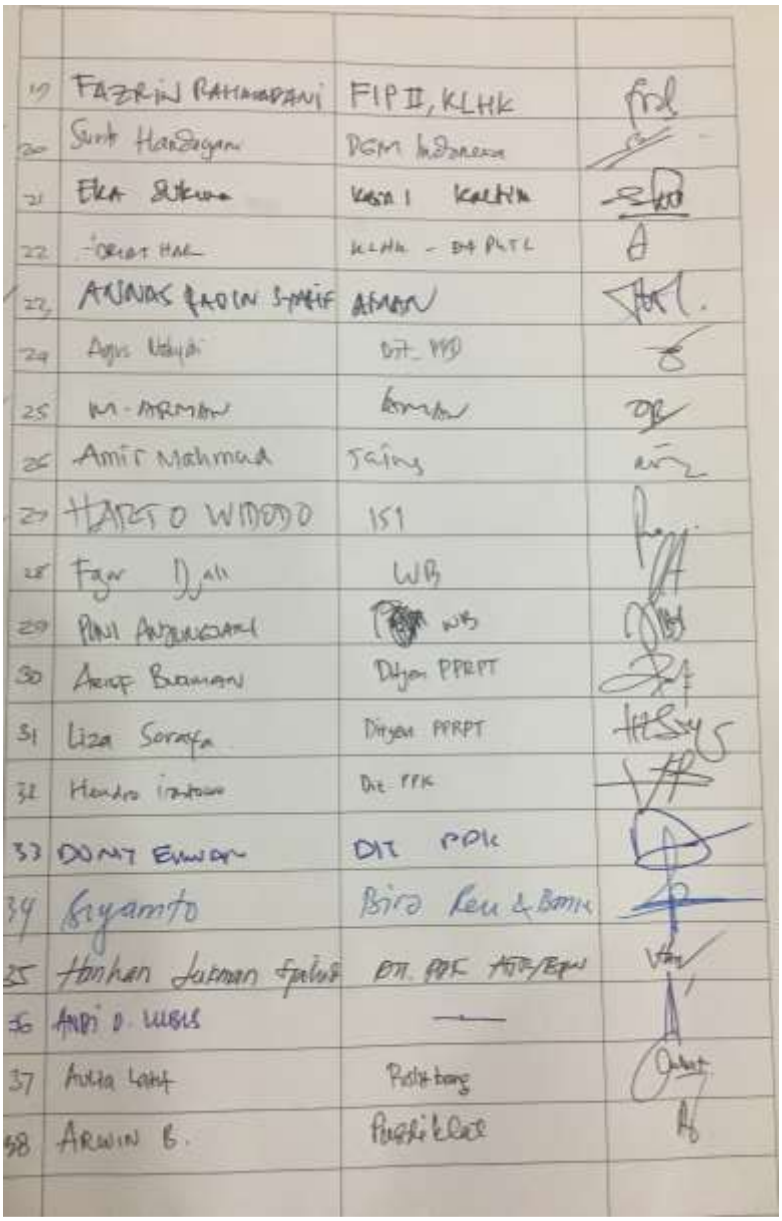
Dates and Venue : 28 May 2018/ ATR/BPN Kuningan



DAFTAR HADIR RAPAT
KONSULTASI PUBLIK LANJUTAN ESMF

Hari : Senin
Tanggal : 28 Mei 2018
Waktu : 09.00 WIB - selesai
Tempat : Ruang Rapat Direktorat Jenderal Infrastruktur Keagrariaan

No.	Nama	Jabatan	Tanda Tangan
1	MIKA TORHONEN	THE WORLD BANK	
2	ALKADSH PATSE	" " "	
3	Krisnan PI	Esr. Safeguards World Bank	
4	Michael P	WB	
5	Roestomo Elw	Kabid IP Kalbar	
6	Kartomo Agustiyanto	Kabid IP Jambi	
7	Harris Simanjuntak	Kab PDE KT	
8	Teresa Nurdiya	Kabg Pgn Wkpn IK	
9	TOMMY INDRIADI	RB AMAN	
10	ANDRY N	Dr. PNBWT, Ditjen PA	
11	Emmy S	Sekdit Jenderal HHBG	
12	DEWI HANDAKA P	SUBDIT PEMATIK PERTANAH	
13	Septain Parasrio S	Setdirjen Ik	
14	Mah. Nurdin	PPD	
15	Hendry Wibowo	PPD	
16	M. Sochib Lutfi	Kasi Sunai dan Tematik Kal. Sel	
17	BAMBANG PROSONGKO	KAH P&PK KANWIL RIAU	
18	EDY N	KABID I SUMSEL	



19	FAZRIN RAHMADANI	FIP II, KLHK	
20	Sunk Handayani	DGM Indonesia	
21	EKA Sukma	KBAI KALTIM	
22	ORIAT HAL	KLHK - DIT PKTL	
23	ANNAS RADIN SYARIF	AMAN	
24	Agus Nahyadi	DIT PPD	
25	M. ARMAN	Aman	
26	Amir Mahmud	Jaing	
27	HARTO WIDODO	ISI	
28	Fajar Djali	WB	
29	PINI ANJUNGARI	WB	
30	Arief Buaman	Dityen PPRPT	
31	Liza Soraya	Dityen PPRPT	
32	Hendro Irastoro	Dit PPK	
33	DONY EUWAN	DIT PPK	
34	Siyamto	Biro Reu & Bank	
35	Hanhan Lukman Fajar	DIT. PPK ATR/BPN	
36	ANDI D. LUBIS	—	
37	Aulia Latif	Pusit bang	
38	ARWIN B.	Pusdiklat	

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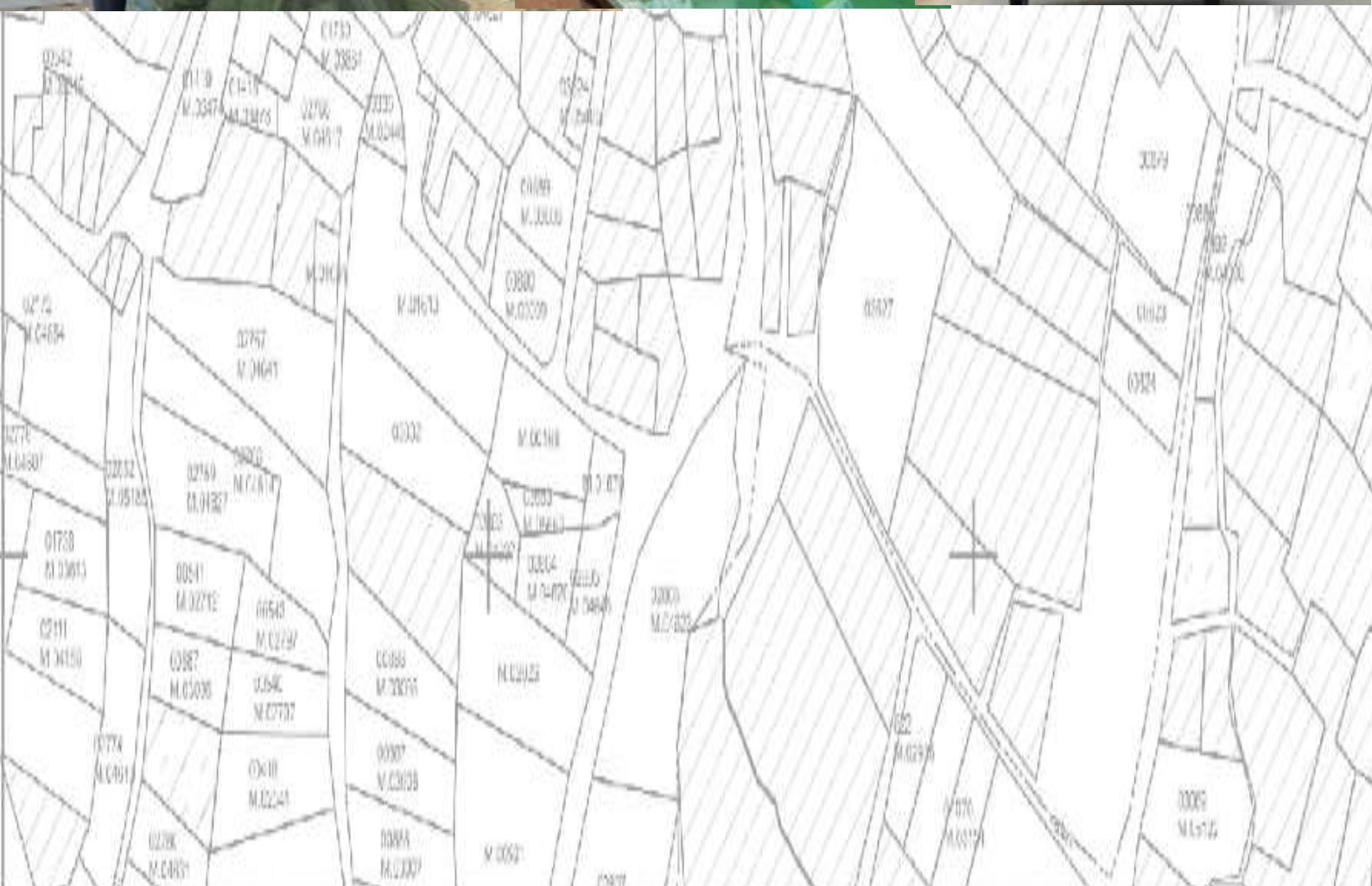
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