

**Rights and Resources Initiative
Advisory Group Meeting
International Land and Forest Tenure Facility**



**March 20, 2015
Washington D.C., USA**

**Advisory Group Meeting | International Land and Forest Tenure
Facility Friday, March 20, 2015
Washington D.C.
Objectives & Agenda**

Meeting Objectives

1. Review and advise on the status of incubation
2. Review and advise on pilot project program and the two projects prepared to date
3. Review and advise on the candidate cities for the location of the Tenure Facility
4. Identify agenda, date, and location of next Advisory Group meeting

Meeting Agenda

Chair: Arvind Khare

- | | |
|-------|--|
| 9:30 | Welcome, Introductions, Review of Agenda Arvind Khare <i>10 minutes</i> |
| 9:40 | Review of the Minutes-First Advisory Group Meeting in Gothenburg Arvind Khare <i>10 Minutes</i> |
| 9:50 | Overview of the Status of the Inception Phase Andy White <i>30 Minutes</i> <ol style="list-style-type: none">a. Activities Underwayb. Funding statusc. Discussion |
| 10:20 | Coffee Break <i>10 Minutes</i> |
| 10:30 | Overview of Pilot Project Program Janis Alcorn and Andy White <i>30 Minutes</i> <ol style="list-style-type: none">a. Candidate Countriesb. Criteria and Parametersc. Policies and Procedures Manuald. Role of RRG, Indufor, and local Proponentse. Lessons to date |
| 11:00 | Presentation of the Pilot Project Proposals (2) and Concept (1) Janis Alcorn, Tapani Oksanen, and Jim Smyle <i>1.5 Hours</i> <ol style="list-style-type: none">a. Proposals (Panama, COONAPIP; Indonesia: AMAN)b. Concept (Cameroon) |

| | |
|-------|--|
| 12:30 | Lunch |
| 1:30 | Assessment of the three Pilot Projects Arvind Khare <i>45 Minutes</i> <ul style="list-style-type: none">a. Comments/advice on proposals (consistency with criteria, feasibility, etc)b. Lessons to-date on preparation and selection criteria |
| 2:15 | Review Candidate Locations for Facility Andy White <i>45 Minutes</i> <ul style="list-style-type: none">a. Presentation of MDY analysisb. Discussion and advice |
| 3:00 | Coffee Break <i>15 Minutes</i> |
| 3:15 | Next AG Meeting Andy White <i>30 Minutes</i> <ul style="list-style-type: none">a. Location and dateb. Proposed agenda |
| 3:45 | Summary of next steps and closing remarks Arvind Khare <i>25 minutes</i> |
| 4:00 | Meeting Adjourns |

Pilot Project Proposal
International Land and Forest Tenure Facility
National Coordinating Body of Indigenous Peoples in Panama (COONAPIP)
Rights and Resources Initiative

Contents

| | |
|--|-------------------------------------|
| GLOSSARY | II |
| 1 SUMMARY TABLE | 1 |
| 2 DESCRIPTION OF THE PROJECT | 2 |
| 2.1 SUMMARY OF THE PROJECT | 2 |
| 2.2 RELEVANCE OF THE PROJECT..... | 3 |
| 2.2.1 Relevance to the objectives/sectors/themes/specific priorities of the ILFTF | 3 |
| 2.2.2 Relevance to the particular needs and constraints of the target country, region(s) and/or relevant sectors (including synergy with other similar initiatives and avoidance of duplication) | 3 |
| 2.2.3 Beneficiaries | 3 |
| 2.2.4 Particular added-value elements..... | 8 |
| 2.3 DESCRIPTION OF THE PROJECT | 9 |
| 2.3.1 Overall and Specific Objectives | Error! Bookmark not defined. |
| 2.3.2 Expected Results | Error! Bookmark not defined. |
| 2.3.3 Activities | Error! Bookmark not defined. |
| 2.3.4 Operating modality and approaches | Error! Bookmark not defined. |
| 2.3.5 Monitoring and evaluation | Error! Bookmark not defined. |
| 2.3.6 Sustainability of the Action and Risk Assessment | 17 |
| 2.3.7 Duration and indicative action plan for implementing the Action | 17 |
| 2.3.7 Logical Framework | 17 |
| 2.3.8 Budget, amount requested from the ILFTF and other expected sources of funding | 20 |
| 3 THE APPLICANT | 20 |
| 4 THE PARTNER(S) | 22 |
| 5 ASSOCIATES OF THE APPLICANT PARTICIPATING IN THE ACTION | 25 |
| 6 DECLARATION BY THE APPLICANT | 26 |

GLOSSARY

| | |
|--|--|
| Proponent (i.e., Executing Organization) | It is the main executing organization that is directly responsible for project implementation and all technical aspects –content, quality, outcomes – of the project as well as project preparation, implementation, coordination, management, monitoring, and reporting; it is not acting as an intermediary. The costs they incur are eligible in the same way as those incurred by the Applicant. It may implement the project with one or more Partner(s) and/or Associate(s). If they are not the Applicant, they will sign a Memorandum of Understanding with the Applicant, under which they will guarantee the faithful implementation of the terms of the contract. |
| Applicant | The entity formally submitting the project proposal, which may or may not be the main Executing Organization of the project. Signs the contract with the Contracting Authority, has fiduciary responsibility for the faithful implementation of the contract and financial management, auditing and reporting and, procurement. If it is not the Executing Organization, it will set out, sign and enforce with the Executing Organization a Memorandum of Understanding, in which is defined the roles and responsibilities of each and the terms and conditions of under which the faithful implementation of the contract will be ensured. |
| Co-Applicant, i.e. Partner(s) | Co-Applicant(s) (i.e. Partner implementing organization(s)) participate in designing and implementing the project, and the costs they incur are eligible in the same way as those incurred by the Applicant. Partners(s) must sign the Mandate indicated in the Section 5. |
| Associate(s) | Other organizations may be involved in the action. Such associates play a real role in the action but may not receive funding from the grant, with the exception of per diem or travel costs. |
| Contractor | The grant beneficiaries (i.e. implementing organizations) and their affiliated entities (i.e. Partner implementing organizations) are permitted to award contracts. Associates cannot be also contractors in the project. Contractors are subject to the procurement rules set out in the grant contract. |
| Project | Activities for which a grant may be awarded |
| Final Beneficiaries | Those who will benefit from the action in the long term at the level of the society or sector at large. |
| Contracting Authority | The entity with whom the contract is signed (RRG, ILTF or another instance e.g. an organization outsourced in the country where the project takes place). |

1. SUMMARY TABLE

| | |
|-----------------------------|---|
| Title of the action: | Pilot Project with the National Coordinating Body of Indigenous Peoples in Panama (COONAPIP) |
| Proponent | The National Coordinating Body of Indigenous Peoples in Panama (COONAPIP) |
| Applicant | Organization of Embera and Wounaan Youth of Panama (OJEW) |
| Partner(s) | Traditional authorities (Congresses & Councils) of participating indigenous territories |
| Associate(s) | <ul style="list-style-type: none"> • National Land Administration Authority (ANATI); • National Environmental Authority (ANAM) • National Commission for Political and Administrative Limits • National Geographical Institute "Tommy Guardia" |
| Location(s) of the project: | Panama: Panama City and up to 12 indigenous territories |
| Total duration | 15 months (12 month operational phase plus 3 months for administrative closing) |
| ILFTF financing requested | USD _____ |
| % ILFTF total financing | _____ % |
| Objectives of the project | <p><u>Overall objectives:</u></p> <ol style="list-style-type: none"> 1. The collective rights (land, forest and, water) of Panama's Indigenous Peoples are consolidated and protected. 2. The design of the International Land and Forest Tenure Facility is tested and the lessons learned in pilot project cycle are systematized for the benefit of the Facility's design. <p><u>Specific objectives:</u></p> <ol style="list-style-type: none"> 1. Existing opportunities with the Government of Panama capitalized upon to accelerate processes of land titling, registry and conflict resolution and strengthen governance of indigenous territories. 2. Institutional capacity developed to support the full exercise and protection of indigenous territorial rights. |
| Final beneficiaries | <ul style="list-style-type: none"> • Indigenous peoples, communities and their traditional authorities (Congresses/Councils) • COONAPIP |
| Estimated results | <ul style="list-style-type: none"> • COONAPIP's capacity is strengthened for the provision of legal services in support of Indigenous Peoples full enjoyment, exercise and protection of their rights to land, water and forests. • Traditional indigenous authorities are educated on priority issues of indigenous rights and have permanent and continuous access to legal advice and services in support of the advancement of indigenous rights and territorial governance. • The Collective Territories of Bajo Lepe and Pijibasal are titled, registered and the title documents provided. • Significant progress is achieved in the legal and administrative processes for the titling of the Territory of Maje Embera Drúa. |
| Main activities | <ol style="list-style-type: none"> 1. Technical services – comprising legal, technical and professional services; studies and specific research (field and desk); meetings and workshops 2. Capacity-building – organization and launch of COONAPIP's Legal Clinic; training of traditional authorities, indigenous technical staff (national, indigenous organizations and local (Congresses and Councils), women and youth, indigenous lawyers; formation of para-legals in indigenous law and rights; provision of office and field equipment. 3. Communication – comprising political advocacy; orientation of government officials (national, local); development of media for promotion/dissemination and for inter-institutional coordination; provision of equipment for communication 4. Project management and coordination – comprising project management and coordination; financial management, procurement and auditing; Monitoring and evaluation of (i) physical and financial progress and reporting, (ii) project impact evaluation, process documentation and learning systematization. |

2. DESCRIPTION OF THE PROJECT

2.1 SUMMARY OF THE PROJECT

Background, project preparation. Project preparation was initiated on 19 January 2014, with a joint RRI and INDUFOR mission to Panama. A project identification workshop was held from 22-24 January 2015 with COONAPIP. The workshop identified a universe of potential project outcomes for further discussion with COONAPIP's members and Board of Directors (See Annex ____, Exhibits 1 and 2). Subsequently, the INDUFOR team consolidated the workshop results into a conceptual framework document and presentation for COONAPIP's internal review and discussions. COONAPIP presented the project concept to its General Assembly on 7 February 2015 and received comments (See Annex ____, Exhibit 3). A second workshop was held on 23-24 February 2015 with representatives of the traditional authorities of the involved indigenous territories and the COONAPIP Board of Directors and technical staff to finalize the project concept, i.e., its objectives, scope and expected results (See Annex ____, Exhibit 4). A draft project document was developed by the INDUFOR consultants, based on the outcomes from this process and submitted on 12 March 2015 for translation into Spanish for COONAPIP's review during the period from 21 to 30 March 2015. INDUFOR and RRI also reviewed the draft and their comments were translated and passed to COONAPIP. An updated draft was developed for review by the IFLTF Advisory Group on 20 March 2015. Comments and suggestions from all parties were incorporated into a second draft proposal that was translated into Spanish and reviewed in detail and approved by COONAPIP's Board of Directors during a two-day working session on 18 and 19 April 2015. The proposal was updated to reflect the Board's inputs and COONAPIP submitted the final proposal to RRI on 24 April 2015.

Explanation of project objectives. The project sets out to (i) strengthen the National Coordinating Body of Indigenous Peoples in Panama (COONAPIP) as a provider of legal services to its membersⁱ; (ii) strengthen the understanding and capacity of traditional authorities and communities to exercise their legal rights and avail themselves of legal remedies as needed and; (iii) to speed up and advance specific, ongoing land titling and conflict resolution processes and cases associated with indigenous territories and their governance.

Panama is recognized internationally as a country with a superior legal framework as regards land regularization and indigenous rights. Yet there are many serious challenges associated with the implementation of the country's legal framework. As observed by one of the traditional authorities, "*the overwhelming majority of our time and efforts as traditional authorities is taken up by the defense of our territorial rights*". It is for this reason that the project would support the creation of an indigenous "Legal Clinic" which, among others, would take up and advance the resolution of a number of specific land titling, conflict resolution and territorial governance issues. In particular, these would be those cases where recent events – for example, agreements with the new government administration, favorable rulings by the Inter-American Court of Human Rights and the Panama Supreme Court, among others – offer the most promising and feasible opportunities for moving forward on titling of indigenous lands. However, as all of the twelve indigenous territorial Congresses and Councils are heavily engaged in legal proceedings with external parties or with resolution of internal governance issues requiring legal support, the Clinic would be assisted to develop the capacity to provide outreach and demand-driven, legal services more broadly.

Key stakeholder groups perceptions. As detailed above, there were a series of discussions, working sessions and consultations with COONAPIP's members (i.e., the traditional authorities of nine indigenous territories) and staff, from which the current proposal was developed. From these emerged a clear consensus on the high priority and urgent need for legal support, services and advocacy to advance, protect and guarantee the full exercise of their land rights. It is also important to note that what is proposed here represents the continuation of efforts that have been underway by the indigenous authorities for many years now. As such the proposal is fully consistent with this stakeholder groups' views of both what is required of the project and what is required to achieve the project's ends. Discussions with other stakeholders – the National Environmental Authority's Indigenous People's focal point, the Vice-Minister of Indigenous Affairs of the Ministry of Government and, the Rainforest Foundation US representativeⁱⁱ – also confirmed the importance of developing the capacity at the national-level to systematically provide legal support and services.

Project timeframe. The project duration – 15 months – is constrained by the maximum time allotted within the overall timeframe for the development and roll out of the ILFTF. The project implementation period would be 12 months, with an additional 3 months to be allotted after operational closing for the administrative closing (i.e., closing of project books and final accounting). The project start date would be the date of contract signing, which would be the same date as project effectiveness.

2.2 RELEVANCE OF THE PROJECT

2.2.1 Relevance to the objectives/sectors/themes/specific priorities of the ILFTF

Relevance to the ILFTF. The proposed project is relevant to and consistent with the objectives and priorities of the ILFTF in two, distinct fashions. Firstly, there are the Facility's objectives to invest in actions that can go to scale in securing local tenure rights in a demand-driven, opportunistic fashion. In the Panama context, where a strong legal framework exists, the principal opportunities for securing and enhancing local tenure rights are through that same legal framework. At the same time, among the greatest weaknesses to achieving those ends are the indigenous communities' lack of knowledge and capacity to claim and exercise their legal rights. And, among the greatest threats to those rights, are those posed by non-indigenous actors who would ignore, misinterpret or circumvent the existing laws. Thus, project support to develop a demand-driven mechanism at national-level that systematically provided legal services in support to all the country's indigenous peoples' and territories (existing and claimed) would directly respond to this first set of ILFTF objectives.

Secondly, as an opportunity for a learning pilot to inform the final design of the ILFTF, the Panama proposal is high value. One, the context for the project – a country recognized for its progressive legal framework for indigenous rights and a project applicant that comprises the only national-level space in which the traditional authorities of the seven Indigenous Peoples of Panama come togetherⁱⁱⁱ – offers a learning experience for operation in places with more mature, and thus quite distinct, institutional conditions. Two, the challenges faced and the short term opportunities for catalyzing tenure change (as will be discussed in greater detail below) long term are highly promising in Panama. It is essential during the pilot phase that the initial projects are both feasible and reasonably successful if the ILFTF is to maintain interest and credibility among potential financiers and supporters. The proposed Panama pilot, while challenging and not without its risks, would well support the objectives of this phase of the ILFTF's development.

2.2.2 Relevance to the particular needs and constraints of the target country, region(s) and/or relevant sectors (including synergy with other initiatives and avoidance of duplication)

Overview of relevant background and context. Panama is a country with a legal framework that is perceived as being a model for innovation and effectiveness in its approach to indigenous land rights; one that is respectful of indigenous autonomy and supportive of community initiative (Ortega 2004). A broad and progressive Constitution protects and guarantees the collective land rights of indigenous peoples and makes clear that, among others, the underlying purpose is to protect and preserve indigenous cultures. It is this clarity of purpose which, according to some authors (González 2014), explicitly guarantees the inalienability of indigenous lands. Between 1938 and 2000, in what has been acknowledged as one of the foremost achievements in terms of the protection of indigenous rights in the world, the Government established five *Comarcas*, or indigenous territories: Gunayala, Emberá-Wounaan, Madungandi, Ngöbe-Buglé and Wargandi (Anaya 2014). Then, in 2008 with the passage of Act No. 72 (República De Panamá 2008) for the titling of indigenous lands outside of *Comarcas* as *Tierras Colectivas*, all of the necessary

Table 1. The five Indigenous Comarcas

| Comarca | Establishing Legislation and Year |
|----------------|-----------------------------------|
| Gunayala | Law #2-1938 |
| Embera-Wounaan | Law #22-1983 |
| Madungandi | Law #24-1996 |

| | |
|-------------|--------------|
| Ngäbe-Buglé | Law #10-1997 |
| Wargandi | Law #34-2000 |

legal and institutional frameworks and instruments for the collective titling of indigenous lands became available to Government (González 2014).

Despite the lack of legal impediments, there has been a history of slow and interrupted titling of indigenous lands; a history which some authors (González 2014) ascribe to political factors and competing economic interests. Table 1. demonstrates the sixty-two year period required to legally recognize and constitute the five existing *Comarcas*. Since 2000 there has been little progress in the titling of indigenous lands. The Naso and Bribri Tjërdi *Comarcas* still remain to be titled and, since the passage in 2008 of the law for establishment of *Tierras Colectivas*, more than 22 formal requests have been made (González 2014). The first two collective titles were given under this new law in 2012, with a third issued the following year. In total, the three collective titles cover an area of 26.9 km²; 1% or less of the indigenous lands that remain to be titled. Table 2 and Figure 1 provides an overview the current situation as regards indigenous land titling.

Table 2. Indigenous lands in Panama (González 2014)

| | | |
|---|--------|---------------------------|
| Total area Panama: | 75,717 | km ² |
| Total Area Legally Titled Indigenous Lands: | 16,662 | km ² |
| Titled indigenous Lands as % of Panama's total area: | 22.0% | |
| Estimates of total indigenous territory:* | 18,929 | to 23,742 km ² |
| Estimates of area for future titling/recognition of rights: | 2,267 | to 7,265 km ² |

* Varies estimated as 25% (González 2014) and 31.6% (Vergara-Asenjo and Potvin 2014) of national territory.

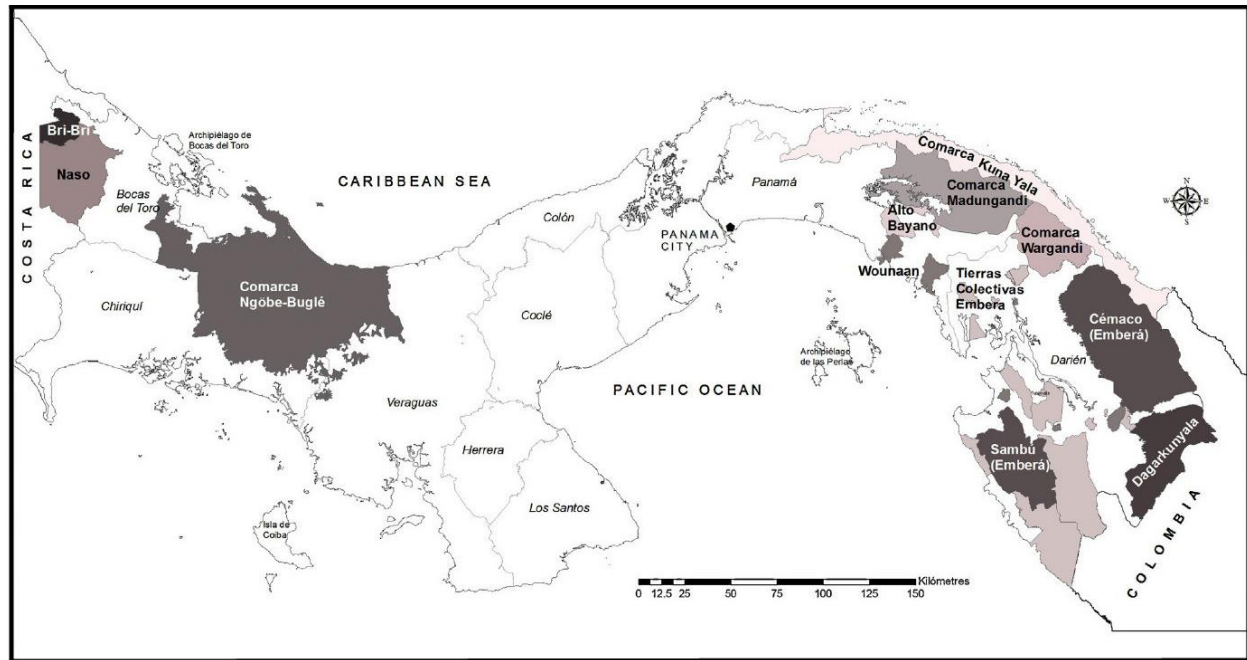
Legal and institutional landscape. The Panamanian Constitution provides guarantees that the lands required by indigenous communities to ensure their economic and social well-being will be set aside and that their collective ownership of those lands will be maintained. The laws providing for the establishment of the *Comarcas* set forth the right of indigenous peoples to collective ownership of land within the *Comarcas* and contain other provisions regarding natural resources, governance, the administration of justice, economic activity, culture, education and health. Each *Comarca* has its charter. These charters were adopted by executive decree and govern internal affairs as well as relations between the Government and the traditional authorities (Anaya 2014).

The indigenous land rights system was strengthened in 2008 with the promulgation of Act No. 72 on the establishment of a special procedure for granting collective title to indigenous lands outside the *Comarcas*. Under this special procedure, the authorities of the indigenous group or community in question are to submit an application to the National Directorate for Agrarian Reform (DINRA). The National Authority for Land Administration (ANATI) organizes, with the National Commission for Political-Administrative Limits (CNLPA), the required studies for delimitation of the area and, if there are disputes, also organizes and conducts the dispute resolution commissions. The National Environmental Authority (ANAM) becomes involved wherever there are overlaps between indigenous territories and Protected Areas (or other areas with special conservation status). The land title awarded to communities through this procedure is collective, indefinite, non-transferable, irrevocable and inalienable. The Government and third parties are obliged to coordinate with traditional authorities in order to obtain their free, prior and informed consent for the roll-out of projects on their collective lands (Anaya 2014).

Indigenous peoples have a certain degree of decision-making power with respect to the preservation and development of their natural resources. In the case of renewable resources, some of the laws governing indigenous *Comarcas* contain provisions authorizing the development of natural resources under certain conditions, which include the mandatory preparation of impact studies and the obligation to obtain the authorization of the indigenous authorities. Forestry laws stipulate that government agencies are to work in conjunction with the relevant indigenous congresses when granting licenses for forestry development. Indigenous authorities have less control over the development of non-renewable resources, except in

Ngöbe-Buglé *Comarca* where recent reforms required revenue from the development of such resources be shared with the *Comarca* (Anaya 2014).

Figure 1. Map of indigenous territories across Panama showing the five *Comarcas* and six indigenous land claims. (Vergara-Asenjo and Potvin 2014)



Panama is a party to major international treaties such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. At the regional level, Panama has ratified the American Convention on Human Rights and has recognized the competence of the Inter-American Court of Human Rights. The Government also voted in favor of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007. Panama has not, however, ratified the International Labor Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (no. 169). In 2010, the Government constituted a working group to analyze the historical, social, legal and political implications of ratifying this Convention. Their final report concluded that there would be no disadvantages to joining the Convention and so recommended ratification. However, in 2013 (under the prior presidential administration), the Government stated that it would not ratify ILO 169 for constitutional, economic, political, administrative, social, legal and environmental reasons (Anaya 2014).

Table 3. Key characteristics of indigenous land tenure in Panama (Ortega 2004)

| Land Tenure Regime | Territorial Recognition | Natural Resources Rights | Tenure Security | Autonomy | Legal Recourse |
|--------------------|---|---|--|--|--|
| Fee simple | Not legally defined, but in practice indigenous lands function as territories | No clear legal definition. In practice, wide power to administer and use natural resources on their lands | Very strong tenure security, since each <i>Comarca</i> is created by its individual law. | Legal incorporation of indigenous groups within <i>Comarcas</i> is recognized; wide powers to administer their lands and internal affairs according to customary law; recognition of <i>Comarcas</i> as political and administrative entities. | <i>Comarca</i> authorities are public servants and can initiate judicial actions. Various institutions charged with defending indigenous rights. |

Opportunities for catalyzing tenure change. In recent years threats to recognized and demarcated indigenous lands have proliferated. In addition to land invasions, non-indigenous actors and interests have taken to the courts, seeking to alienate lands and resources. In those areas under indigenous land claims, which are not as yet legalized, invasions have also proliferated as have the emergence of highly suspect land titles. Large-scale mining and hydroelectric projects have been approved in indigenous territories by Government without adequate prior consultation process. Where the constitutional order associated with indigenous lands and their inalienability would have the State establish and implement legal guarantees in the face of such invasions and development projects impacting indigenous lands – such as forestry, mining, hydroelectric schemes, the creation of protected areas and projects related to climate change, e.g., UN REDD/REDD+, instead there has been a lack of attention by national governments to such legal obligations. This overall situation is exerting significant, serious and continuing pressure on the indigenous territories, leaders and traditional authorities (González 2014).

Some of the other obstacles found by indigenous peoples to the effective exercise of their rights to land include:

- The apparent lack of understanding by Government of the scope of the common property regime as defined by the constitution and thus of the obligations of the State.
- More than 100 indigenous communities that still lack collective title to their lands.
- All of the legally titled and demarcated indigenous territories have suffered invasions by non-indigenous peoples (González 2014).
- The courts have tended to favor non-indigenous squatters on indigenous lands. They have been slow to respond to formal complaints and at times have ruled in favor of the colonists, even when there is no legal basis for doing so.
- The legislation on indigenous lands not establish adequate safeguards for the protection of land, particularly as regards legal recourse in the face of illegal occupation of titled indigenous territories. The existing framework lacks the administrative procedures and sanctions that would permit indigenous authorities, in concert with local authorities^{iv} to exercise their rights to effectively exclude third parties from their territories (Lopez Hernández 2015). In cases when indigenous groups have tried to take the law into their own hand, the police have been quick to press charges against them.

With the recent change of Government administrations, however, as well as several other relevant occurrences, there appears to be a significant opportunity at this time to make positive progress across a range of outstanding issues associated with titling and security of indigenous lands, legal reforms and land administration and governance. Where Government administrations in years past have demonstrated little interest, the current administration appears to be much more open to dialogue on indigenous issues than its predecessors. One indication of this is that, during 2014, the traditional authorities and COONAPIP were able to successfully position several high priority issues with the new administration of President Juan Carlos Varela Rodríguez and the National Assembly.

First, COONAPIP sponsored the *2014-2019 Presidential Candidates Forum* in April of 2014, in which all of the major candidates for the presidency participated. A concrete result of the Forum was the signing

by all of the candidates (including the now President-elect) a formal commitment to pursue three aims: (i) comprehensive and effective participation of indigenous peoples in the *Plan for Government 2014-2019*; (ii) the guarantee that all public investments within the *Comarcas* and other indigenous territories would be developed and implemented in a fashion that was respectful of the traditional indigenous peoples governance structures and channels and, (iii) that all Government actions (programs and projects) would follow and apply the principles of free, prior and informed consultation (FPIC).

Secondly, in September of 2014, an agreement was signed between the traditional indigenous peoples authorities and the President of the Commission for Indigenous Affairs of the National Assembly, the Minister of Government and the United Nation's Resident Coordinator. This agreement committed the parties, among others, to: (i) promote and support the creation of a "Ministry of Indigenous Peoples"; (ii) promote the ratification of ILO Convention 169 and, (iii) grant territorial security to the Bribri and Naso Tjërdi peoples, whose territories still lack legal recognition and designation as *Comarcas*.

In addition, there are several other factors in play at this time that bode well for encouraging progress towards the resolution of issues still outstanding in respect of indigenous peoples land rights. These include:

- A recent ruling^v by the Inter-American Court of Human Rights on indigenous rights in Panama (Inter-American Court of Human Rights 2014) and the 2014 report^{vi} by the UN Special Rapporteur on the Rights of Indigenous Peoples in Panama (Anaya 2014) which have created pressure on government.
- Recent rulings by Panama's Supreme Court regarding the re-establishment of the territorial integrity of the Comarca Emberá y Wounaan and on the titling as *Tierras Colectivas* of Arimae y Emberá Puru.
- The 2008 collective lands law is a relatively favorable legal framework for additional titling (República De Panamá 2008).
- The indigenous population, which represents some 12.3% of total population (2010 Census), constitutes an important voting-block in the country's multi-party democracy, giving indigenous organizations a greater voice in political decisionmaking.

Synergies and avoidance of duplication. At present there are very few international organizations or programs that focus on land administration and indigenous rights in Panama. In the past decade, both the World Bank and the Inter-American Development Bank have implemented and completed land administration programs that had elements of support to the regularization of indigenous lands. Since their closure, neither of the two multilaterals have re-engaged nor do they have pipeline projects.

The two main organizations working in the areas of indigenous land rights in Panama are international NGOs: Bosques Del Mundo and The Rainforest Foundation US. Both of these organizations attended the Project Concept Validation Workshop, held in Panama City on 23 and 24 February 2015, and gave brief presentations on their proposed areas of work. Subsequently, preliminary discussions were held on mechanisms for coordination and avoidance of duplication of efforts. Transparency and information sharing during the preparation and implementation processes are essential elements to achieve this as are supporting COONAPIP's capacity to plan, coordinate and ensure synergies between the three sources of financing.

Bosques del Mundo, a Danish NGO, is planning on broadly supporting the titling of collective lands throughout Panama beginning in 2015. They are in their planning stage at this time, but conceptually they will be seeking to support the vision of all currently untitled indigenous territories being titled within four years. Among others, they foresee working with all 12 indigenous Congresses and Councils and utilizing the processes for titling and defense of indigenous territories as a basis for also working with and strengthening COONAPIP. Preliminary indications are that their efforts would begin at the strategic level, with a participatory process to define an overarching strategy for titling that, *inter alia*, would review the current land claims to see if there may not be opportunities to expand the individual claims into contiguous blocks or territories for titling on a larger-scale.

The Rainforest Foundation US (RF-US), which has just finalized its plan and proposal for the coming years, is directing its efforts in two areas: (i) directly assisting the Embera and Wounaan Collective Lands Congress (CGTCEW) and the National Wounaan Congress (CNPW) to receive title to the majority of their remaining, untitled collective lands and to manage their lands effectively and; (ii) supporting COONAPIP in achieving its advocacy goals, and in becoming an effective technical resource for indigenous

communities throughout Panama. Specific to the latter, they are proposing to assist COONAPIP to develop and maintain a documentation center where all relevant maps, studies, diagnostics, etc. may be safeguarded and kept available. In general, RF-US will be providing direct technical support to all three organizations on organizational strategy, advocacy, mapping, and land management planning. The Rainforest Foundation US has shared its detailed proposal and budget with the team working on the development of the ILFTF pilot and specific, complimentary investments have been identified (and incorporated into the current design) for those thematic and geographic areas where there would be overlap between the ILFTF pilot and the Rainforest Foundation US efforts.

A number of other organizations are supporting work on REDD and climate change in Panama, these include UN-REDD and FAO and NGOs including PRISMA, the Environmental Defense Fund, IUCN, and Smithsonian/McGill University. World Wildlife Fund is supporting forest management in the Embera Wounaan Comarca, and has expressed interest in expanding their work to collective lands in the Darien. The ILFTF proposal does not have any direct linkages or results associated with REDD+ or technical management of forests. To the extent that the ILFTF is successful, it would indirectly support all of these initiatives by strengthening indigenous peoples land rights and governance.

2.2.3 Beneficiaries

The direct beneficiaries of the project would be (i) local level - the twelve indigenous territorial Congresses and Councils and their associated communities and (ii) national-level – COONAPIP. Indirect beneficiaries would include those agencies of government – ANATI, ANAM, Ministry of Government – whose actions would be facilitated by the strengthening of indigenous communities capacity and ability to more fully participate in the administrative processes and procedures associated with land titling, conflict resolution and territorial governance.

The direct benefits at the local level would accrue primarily from (i) capacity building to increase knowledge of legal rights and administrative procedures and processes for their implementation; (ii) empowerment through enhancement of their technical capacity to engage directly with local and national government officials on issues related to territorial integrity, governance, titling processes and procedures; (iii) political and institutional advocacy support to advance their specific interests and agendas with government at the local and national-levels and; (iv) access to legal support and services for their individual defense and representation in cases where judicial proceedings are pending or underway on issues of territorial limits and integrity, for follow up to ensure the implementation of existing court orders and, as well as for advancing titling and conflict resolution processes around those lands where titling is still pending. At the national-level, COONAPIP would benefit directly through the building of its capacity (i) as a provider of legal services in support of indigenous peoples exercise and protection of their rights to land, water and forests and; (ii) to represent the interests of its members in national-level policy and legal reform dialogue that impacts indigenous land rights and territorial governance.

Indirect benefits would accrue to government agencies involved in titling processes and in the management of lands under “Special Regimes”^{vii} that overlap with indigenous land titles, around which there is an ongoing debate between government and the affected indigenous on how to resolve the conflict between the indigenous land rights and government’s regulatory/conservation objectives. These benefits would be in the form of the facilitation of processes and informed dialogue from the side of the affected indigenous communities thus, at least notionally, leading to more efficient and effective consultation, participation and negotiation processes and more durable solutions.

2.2.4 Particular added-value elements

Efforts have been underway by indigenous communities and authorities for many, many years to promote policies and legal reforms that would allow for the advancement, consolidation and protection of indigenous peoples territorial rights throughout Panama. That experience, which contains notable successes, such as the passage of Act 72 of 2008 that provides for titling of collective territories outside of Comarcas, has been instructive as to where strategic priorities lie and how to go about pursuing them. At this juncture, thus, there appears to be a reasonably clear consensus that among the highest priority, strategic needs are for the legal support and services required to encourage the full implementation of the

existing legal framework. Within this context the more noteworthy, value-added elements of the ILFTF pilot project, include:

- **Legal Clinic.** The current capacity and approach for provision of legal services and support is fragmented and ad hoc. The number of indigenous rights lawyers to provide those services are limited. Resources for paying for such assistance are scarce. The too limited degree of knowledge and understanding of the existing laws and administrative processes and procedures among the traditional authorities and their technical support personnel is an impediment to the exercise of their rights. A mechanism for systematically and efficiently utilizing existing capacity while simultaneously contributing to an enhanced, future capacity is needed. The organization and successful launch of the proposed Legal Clinic would contribute significantly toward meeting these needs by providing a critical, missing instrument for advancing indigenous rights. The Clinic – essentially be a knowledge management network with outreach capacity – would provide a platform and the means by which traditional authorities could be educated on priority issues of indigenous rights and have permanent and continuous access to legal advice and services in support of the advancement of indigenous rights and territorial governance.
- **Advocacy services.** Political and institutional advocacy comprise another set of needs associated with ensuring the implementation and application of the existing legal framework. The proposed project would strengthen COONAPIP's existing advocacy and outreach capacity by assisting them to focus in a programmatic fashion on support to local initiatives that require government agencies to carry out their legal mandates and/or to ensure that appropriate participation and consultation processes are contemplated as part of government actions. Specifically, it would allow COONAPIP to engage with the current government administration and the responsible government agencies within the context of a national level, advocacy agenda that reflected the broader territorial and land rights priorities of COONAPIP's members (as well as that of the other three, non-member Congresses, to the extent they wish to participate).
- **Respect for and support to implementation of FPIC principles.** The implementation modality proposed is bottom-up and demand-driven to ensure that the project strategy and support services respond to the priorities of the participating indigenous territorial congresses and councils. An upfront process will be carried out to orient participants on the project's goals and its "menu" of services, followed by a process for participatory development of the broader, programmatic service provision strategy and the identification of the specific services and support required by each participating territorial congress and council during the project lifetime. The support and services provided through the project (including that proposed at the implementation level to ensure the informed participation of affected communities, e.g., when territorial limits are reviewed and established in the field) would also contribute to ensuring the informed participation of the traditional authorities and communities within the administrative processes and procedures that define how their rights are exercised within law.
- **Timing.** While the current situation in Panama appears favorable, as in all countries, the nature of a "political moment" is highly ephemeral. It is thus of great importance that the project preparation and implementation could come online during this first year of the new administration^{viii}. The project provides COONAPIP and the traditional authorities the wherewithal to effectively follow up and attempt to ensure that the agreements with Government, judicial rulings and UN Special Rapporteur recommendations remain visible and among the political priorities of Government. In this way, the traditional authorities would also have the needed leverage to request that the relevant government institutions comply with their respective policy and technical mandates as regards resolving pending land tenure, tenure security and territorial governance issues.

2.3 DESCRIPTION OF THE PROJECT

It was made clear during the course of project preparation that the scope and complexity of the needs associated with the advancement of indigenous land rights and territorial governance across Panama are far beyond whatever assistance might be offered through the proposed pilot project. However, in discussions on how to prioritize potential areas for project support and assess the feasibility of achieving desired results, two particular concerns of the indigenous authorities repeatedly came to the fore: (i) the very high demand and urgent need for legal services, education and training in indigenous law and rights and (ii) the strong concern that factors of limited time, resources and capacity would result in the definition

of a project proposal that was overly exclusionary. The concept of a “Legal Clinic” (*Clínica Jurídica*) had been introduced earlier, by COONAPIP, as part of a longer term vision of the organization. In recent years, discussions of such a facility had been broached with several national and international Universities (e.g., Sta. Maria La Antigua and the Universities of Oklahoma and Saskatchewan), who had expressed interest in working with them on its development. Thus, the opportunity offered by prioritizing the Legal Clinic not only offered a resolution to the repeated concerns of the traditional authorities but it also offered an opportunity for the pilot to have a durable impact beyond its short time horizon.

The option of supporting the organization and development of the Legal Clinic also allows for the pilot to operate along two strategic tracks: (i) from the outset, to initiate efforts in support of titling processes and titling in two specific territories where history and current advances make it reasonably certain that within the project timeframe, concrete results can be achieved and (ii) organize and launch the Legal Clinic within five to seven months, so that in the second half of the project period it can provide demand-driven services that have been prioritized through a more deliberate and consultative process than that offered by the relatively tight timeframe for the development of the pilot itself. Relevant to this latter, the activities and results that were prioritized by the traditional authorities for consideration within the pilot, but which were judged to be non-feasible to achieve within the project timeframe (See Annex ____, Exhibit ____), thus become the examples of the types of services and actions that the Clinic would support during the project’s second half.

2.3.1 Overall and Specific Objectives

The *overall objectives* for the proposed pilot project are that:

1. The collective rights (land, forest and, water) of Panama’s Indigenous Peoples are consolidated and protected.
2. The design of the International Land and Forest Tenure Facility is tested and the lessons learned in the pilot project cycle are systematized for the benefit of the Facility’s design.

In order to achieve these more general objectives, the *specific objectives* of the project are to:

1. Existing opportunities with the Government of Panama capitalized upon to accelerate processes of land titling, registry, conflict resolution and governance of indigenous territories strengthened.
2. Institutional capacity developed to support the full exercise and protection of indigenous territorial rights.

2.3.2 Expected Results

The principal results expected from the pilot comprise the following:

1. COONAPIP’s capacity is strengthened as a national-level service provider for the provision of legal services in support of Indigenous Peoples full enjoyment, exercise and protection of their rights to land, water and forests.
2. The traditional authorities of the twelve territorial Congresses and Councils are educated on priority issues of indigenous rights and have permanent and continuous access to legal advice and services in support of the advancement of indigenous territorial rights and governance.
3. The Collective Territories of Bajo Lepe and Pijibasal (General Congress of the Collective Territories Emberá and Wounaan) are titled and registered.
4. Significant progress is achieved within the legal and technical-administrative processes for the titling of the Territory of Maje Embera Drúa (Emberá General Congress of Alto Bayano).

2.3.3 Activities

The project structure is organized around the main instruments and technical/operational areas that would be necessary to achieve project objectives and expected results, as follows:

Technical Services. Here the project would finance those (i) legal, technical and professional services; (ii) research, studies and field work and; (iii) meetings/workshops required for advancing land titling, resolving disputes over land, supporting traditional authorities in judicial proceedings and for strengthening indigenous territorial governance (including revision and reform of internal statutes and

laws). The specific services to be provided would be identified by the local traditional authorities. Assuming the participation of all 12 indigenous territorial Congresses and Councils, there will be 12 distinct action plans developed and implemented over the course of the project. Each Congress and Council will be assigned a fixed budget for purposes of their planning and programming. In the first phase of the project (organizational and project launch phase), only the Collective Territories of Bajo Lepe and Pijibasal and the Territory of Maje Embera Drúa would be supported. The participatory planning activities to identify the services required by these two would begin within the first 3 months of project startup.

During the project organizational and planning phase – expected to occupy the first 20 to 25 weeks following project startup – a series of four regional workshops^{ix} will be held with representatives of all the territorial Congresses and Councils. There will be two workshops held in each region, approximately 6 to 8 weeks apart. The first workshop would be to provide an orientation on the project and to carry out a preliminary, participatory diagnostic and identification of priority needs and demands for technical and capacity building services. Subsequently, the participants would validate the preliminary diagnostics with their own Congresses and Councils, update them as necessary and return for a second regional workshop whose purposes would be to finalize the diagnostic of needs and demands. The four regional diagnostics would then form the basis for the development of an overall strategy for provision of technical and capacity building services during the second phase of the project. Based on the strategy, the relevant, direct technical assistance would be provided to the individual Congresses and Councils and, working with their technical staff, develop their individual action plans to utilize their assigned budgets for service provision during the second phase of the project. Overall responsibility for the planning, organization and functioning of the technical services provision would lie with the Project Coordinator.

Specific examples of the types of activities and costs eligible to be financed through the Technical Services are:

- For titling and registry of the Collective Territories of Bajo Lepe and Pijibasal (General Congress of the Collective Territories Emberá and Wounaan): (i) legal assistance for monitoring and compliance with all legal and administrative procedures leading to titling; (ii) professional services associated with processing of title requests and registration; (iii) publication of edicts; (iv) participation in and support to field-level delimitation studies and processes as carried out (through ANATI) by relevant government agencies; (v) workshops and meeting required for operational-level planning, coordination, consultation and conflict resolution and; (vi) operational costs for transport and per diems.
- For advancing the legal and technical-administrative processes for the titling of the Territory of Maje Embera Drúa: (i) legal analysis, development of legal briefs and presentation of legal arguments demonstrating the relevance and linkages between the Inter-American Court of Human Rights (IAHCR) 2014 rulings on the other territories of Alto Bayano as precedents for titling the communities of Maje Cordillera and Emberá Union; (ii) legal assistance for monitoring and reporting of Government of Panama's compliance with the IAHCR rulings; (iii) legal analysis, studies and reports as required for establishment of territorial limits; (iv) technical studies and reports as required to develop community land use and watershed management plans for community management of their lands within the Maje Cordillera Hydrologic Reserve; (v) professional services associated with processing of title requests; (vi) publication of edicts; (vii) participation in and support to field-level delimitation studies and processes as carried out (through ANATI) by government agencies; (viii) workshops and meeting required for operational-level planning, coordination, consultation and conflict resolution and; (ix) operational costs for transport and per diems.

Capacity-building. The project would provide training and capacity building support to strengthen and enhance indigenous peoples' opportunities to fully exercise and enjoy their constitutional and legal rights to their land, resources and self-governance. Specifically, the project would finance: (i) the organization and launch of the Legal Clinic and of the project's capacity building program; (ii) training for traditional authorities, technical personnel at national (of indigenous organizations) and local (of Congresses and Councils) levels and organized groups of indigenous women and youth in indigenous laws and rights and, limited technical training for technical personnel in their roles within titling processes (e.g., field surveys and mapping with GPS); (iii) professional training for 30 indigenous lawyers on indigenous rights,

including for diploma courses (*diplomados*) for two lawyers; (iv) the formation of 24 para-legals at the local level (Congresses and Councils) and; (v) the provision of limited office and field equipment at local-level, as justified and necessary to support those technical and capacity building processes supported by the pilot project.

For the organization of the Legal Clinic, a first step would be the nomination and organization of a “Legal Clinic Advisory Council”. The Council would comprise some 6 members drawn from COONAPIP’s Board of Directors, Panama’s College of Lawyers, a well-known and respected national-level CSO, the law faculty of the University of Panama, the UN High Commissioner for Human Rights and, a well-known and respected Constitutional lawyer. Among others the Council would: (i) assist to define responsibilities and selection criteria for the Legal Clinic Coordinator; (ii) approve the TOR and short-list of candidates for the Clinic Coordinator; (iii) provide advice on the preliminary definition of scope, capacities, and services to be provided by the Clinic; (iv) monitor, orient and, advise the Clinic Coordinator in the development of the strategy, plan and budget for the launching of the Clinic and, (v) provide comments and suggestions to the Project Steering Committee. Once hired, the Legal Clinic Coordinator would participate in the design, organization and implementation of the 4 regional workshops (discussed above) to obtain from them the outputs required for the development of the strategy for the organization and launch of the Clinic in function of the priorities and demands established by the territorial Congresses and Councils. From the strategy, a detailed plan and budget for the launch of the Clinic would be developed and approved by the Project Steering Committee. The final step before the launch of the Clinic would be taken in conjunction with the development of the individual, technical service action plans (described above), to define the direct legal services to be provided through the Clinic to the Congresses and Councils.

The development, organization and launch of the of the project-supported training program would follow a very similar path as that for the establishment of the Legal Clinic. A Capacity Building Coordinator would be selected and hired. They would be responsible, with the assistance of the Legal Clinic Coordinator, to design, organize and implement the 4 regional workshops to obtain the outputs required for the development of the capacity building strategy and design of the program for training of traditional authorities, technical personnel at local levels and organized groups of indigenous women and youth. The development of the training program for indigenous lawyers and para-legals would be done directly with the Legal Clinic Advisory Council and the Legal Clinic Coordinator, utilizing a series of workshops with key stakeholder groups to define priority needs, specific course offerings and sources for the provision of course offerings (existing or to be developed).

Specific examples of the types of activities and costs eligible to be financed under the Capacity Building activities are: (i) technical assistance and studies; (ii) operational costs for meetings and activities of the Legal Clinic Advisory Council; (iii) costs associated with participatory diagnostics and evaluation of stakeholder priorities and demands; (iv) workshops; (v) curriculum and course development; (vi) training of trainers; (vii) 100% of training and course costs and materials for traditional authorities, technical personnel at local levels (including para-legals) and organized groups of indigenous women and youth and 75%? of the costs for legal professionals; (viii) office equipment, such as computers, printers, scanners, software packages, desks, tables, chairs, shelves, blackboards, etc. and; (ix) field equipment and maintenance costs for such items as GPS units, radios, digital cameras, hiking & camping equipment, etc.

Communications. Through this area of support the project would finance activities and costs related to (i) political and institutional advocacy; (ii) orientation of government officials (executive and judiciary; national and local) on relevant topics of indigenous rights, law, customs and culture as required to ensure they are fully informed of their legal responsibilities and duties as well to better understand the cultural context and dimensions in which they are exercising them; (iii) development of mechanisms and instruments/media for promotion, diffusion, dissemination and inter-institutional coordination; (iv) provision of equipment for communication.

The “communications agendas” would be developed along two tracks. The first track would be to provide the advocacy, orientation, coordination, and promotion/dissemination inputs required at the local level to support each of the (up to) 12 distinct action plans developed by participating indigenous territorial Congresses and Councils and for the titling of the Collective Territories of Bajo Lepe and Pijibasal and advancing titling processes for the Territory of Maje Embera Drúa. These inputs would be developed

through the local level planning processes. The second track would to support COONAPIP's national program of advocacy, orientation, coordination, promotion/diffusion/dissemination; for which COONAPIP would develop a communications strategy and plan during the project organizational phase.

Specific examples of the types of activities and costs eligible to be financed are: (i) advocacy-related events, meetings, workshops, conferences, press conferences, presentations, working sessions, etc.; (ii) specialized trainings, field exercises, learning interchanges/tours, events & presentations; (iii) consultancies and services for the development, production, publication and distribution of publications, technical guides, presentations, posters, videos, exhibitions, websites, blogs, apps, etc; (iv) technical assistance and consultancies for development and implementation of communications strategies for traditional and social media; (v) equipment and maintenance, e.g., digital cameras; software packages; graphic arts equipment; voice recorders, sound system, etc. and; (vi) operational costs for transport and per diems.

Project management, coordination and administration. The project would finance the incremental costs associated with:

- (i) Project coordination and management – this would include the contracting of a full-time Project Coordinator and project assistant at the national level, within COONAPIP; the contracting of full or part-time implementation assistants (as needed) at the local-level; technical assistance and consultancies required for design and implementation of strategies and other project implementation needs; office expenses (rent, light/water, internet, phone, equipment, furniture, software, materials & supplies) and; operational expenses (transportation, per diems).
- (ii) Financial management, procurement and auditing – this would include the contracting of a full-time assistant accountant and a contracts/procurement assistant; office overheads (rent, light/water, internet), office expenses (phone, equipment, furniture, storage cabinets, software, materials & supplies); operational expenses (transportation, per diems) and; consultant/professional services for the design and integration of the project accounting system and; project audit expenses.
- (iii) Monitoring and evaluation – the M&E system would have two modules. One module, would be developed for tracking and reporting of physical and financial progress. It would be implemented jointly by COONAPIP and the financial manager. For this module the project would finance the design, development, installation and maintenance of the system; the training of the system managers as well as all other users and participants in the functioning of the system and; operational costs for its implementation including transport, per diems, training and workshops. The second module would be for the independent and participatory evaluation of project impacts, process documentation and, the systematization and reporting on project experiences and learning. For this module the project would finance technical assistance for the development of TORs and review of the technical quality of proposals and; the service contract for the implementation of the independent and participatory M& E contract.

2.3.4 Operating modality and approaches

The project is designed to be a flexible, demand-driven instrument to achieve the stated objectives and expected results. The preparation process was utilized to identify those broadly recognized priorities and needs related to indigenous land rights and, around which, there was (i) already substantial consensus and (ii) where current conditions and opportunities offered a reasonable level of security that the expected results could be achieved within the project time frame and existing capacities. Based on these priorities (expected results) and needs (actions to achieve expected results) it was possible to identify and conceptualize the main instruments and technical/operational areas required, which are detailed above. To organize and deploy these instruments through a demand-driven process, the project is conceived as being implemented in four phases:

- Pre-implementation phase – This phase should take no more than 30 to 45 days, following project approval. Once completed, the project contract could be signed and the project declared effective. During this phase the roles and responsibilities of all project actors would be formally agreed among the key implementation stakeholders; internal arrangements for decision making, oversight and conflict resolution would be specified and formally agreed; a short-list of eligible

candidates for project coordinator developed; members of the Project Steering Committee (a sub-committee of the COONAPIP Board of Directors) and the Committee for Evaluation and Selection of consultants and contracts would be identified and confirmed and; a separate bank account opened for the deposit of project funds once all of the above is completed.

- **Organizational phase** – It is estimated that this phase would take between 20 to 25 weeks to complete. During this phase: (i) the Project Steering Committee will be established and the Committee for Evaluation and Selection will be organized and begin the process of selecting project consultants for the national level coordination, management and financial management; (ii) project consultants for the national level coordination, management and financial management will be hired and the Legal Clinic Advisory Group will be organized; (iii) financial management and monitoring and evaluation systems will be developed, installed and put into function; (iv) a general, six month work program, with a detailed three month action plan and budget will be developed and approved by the COONAPIP Board; (v) participatory planning and consultation processes will be carried out for defining the priorities and needs, strategies and action plans for the technical services, Legal Clinic, capacity building and, communications; (vi) participatory planning and consultation processes will be carried out for defining the priorities and needs and action plans for the technical services, capacity building and, communications in support of the Collective Territories of Bajo Lepe and Pijibasal and the Territory of Maje Embera Drúa; service delivery will begin as soon as the action plans and budgets are completed and approved; (vii) the individual, territorial-level action plans will be finalized and approved as will the action plans for the launch and implementation of the Legal Clinic and (viii) all hiring, orientation, training, and planning/budgeting for purposes of project implementation will be completed.
- **Operational phase** – It is estimated that this phase have between 27 to 32 weeks available to complete its activities; it would end one year after project contract signing and effectiveness. During this phase the approved actions plans for the participating Congresses and Councils, the Legal Clinic, capacity building and communications would be implemented by COONAPIP and the local technical units/groups of the participating Congresses and Councils. Supervision would be exercised by the participating Congresses and Councils and COONAPIP's Board of Directors. The main responsibilities at the COONAPIP Board-level will be divided between the Board and Project Steering Committee (established as a subcommittee of the Board). The former would review and approve the general project and the six-monthly work programs and budgets and meet quarterly to be informed on physical and financial progress and take decisions on needed changes and adjustments to the project. The latter would take a more operational role to review and approve terms of reference and short-lists, detailed 3 month plans and budgets, strategies and action plans for overall implementation, coordinate between the implementation actors, resolve conflicts and implementation issues. All deliverables under project contracts would have to be completed and delivered by this date.
- **Administrative closing** – A maximum of 3 months would be allowed for administrative closing. During this phase, all contracts would be closed out and paid, receipts collected and project books and accounts closed out. The final audit would be *___this remains to be specified as to whether a final project audit would be required or if the Facility would operate on the annual audit cycle of the fund administrator.*

Annex ___ contains detailed matrices of project institutional and implementation arrangements as well as of the roles and responsibilities of each of the individual implementation actors as regards their relations to and inter-actions with the other implementation actors.

2.3.5 Monitoring and Evaluation

See Monitoring and Evaluation under Project management, coordination and administration (above) for general approach. A detailed M&E section is being developed

2.3.6 Sustainability of the action and risk assessment

Sustainability. All of the project actions, with the exception of the Legal Clinic, represent incremental support to COONAPIP and the traditional authorities (Congresses and Councils) to strengthen and make

more efficient their efforts for the recognition, formalization and protection of their land rights and defense and governance of their territories. The project does not invent new activities or approaches. It utilizes and builds up existing ones. It does not introduce new actors, but supports the existing ones. In this sense, the incremental gains made through the project will be durable. This is not only because they enhance the capacity, knowledge and effectiveness of the permanent actors in the pursuit of their permanent interests, but also because all gains made are made within an existing and reasonably well-defined and progressive legal framework that “consolidates” those gains once they are made. In the case of the Legal Clinic, as that does leave an incremental institutional burden and fiscal impact to sustain, it is important that the Clinic’s development be understood in a fashion which: (i) minimizes the post-project impact by understanding the Clinic to be essentially a knowledge management network with outreach capacity, i.e., a network whose power lies in its members and their shared vision and interests and which can adapt to changing levels of available resources – which primarily impact outreach capacity – without losing its nature and; (ii) maximizes its appropriation by the traditional authorities, COONAPIP, institutional partners (e.g., Universities, College of Lawyers, UN Human Rights Commissioner) and other supporting national and international organizations. In this way, the Clinic can be sustained as a virtual network and become rapidly engaged as other projects, programs and sources of finding become available and wish to capitalize on its knowledge. Thus, the sustainability of the Legal Clinic is predicated initially upon its success in attracting the participation of the right individuals and institutional partners and, subsequently, on its successful implementation under the project to prove its worth and value to the traditional authorities and to the institutions that would sustain it through their participation within it and/or financing of its activities.

Risks.

| Assumption | Risk Mitigation Measures | Risk with Mitigation |
|---|---|----------------------|
| To project objectives & expected results | | |
| The political will exists within the current Panamanian government administration to accelerate processes of titling & conflict resolution associated with indigenous territories | The project would systematically invest in communications, political advocacy (both by COONAPIP & traditional authorities) & coalition building with & between indigenous authorities, indigenous peoples organizations & potential, non-indigenous allies among international NGOs & institutions in order to maintain dialogue & pressure on Government to move forward on indigenous land & land rights issues. | Substantial |
| There exist the openness & willingness among &, the budgetary resources for, the relevant agencies of the Government of Panama to carry out their mandates in order to accelerate processes of titling & conflict resolution in indigenous territories. | Mitigation of this risk relies on (i) success with the above, to engender & maintain political will such that government agencies have an incentive to do their part; (ii) the project will invest in institutional advocacy to maintain dialogue & pressure upon government agencies &; (iii) to some extent project resources supporting the local level efforts could make the administrative processes & procedures move forward more efficiently & effectively, thus creating the opportunity for the government agencies to more efficiently carry out their role (an incentive). | Substantial |
| There must be a shared vision & consensus among COONAPIP's members on priorities (issues, needs & actions) in regard to titling, conflict resolution & territorial governance that provides a coherent & harmonious context within which the project can be carried out successfully. | The project is designed as a flexible, demand-driven instrument. It would support processes that provide for the informed participation of affected groups (e.g., through orientation workshops and information sharing) and, subsequently, for participatory planning processes to tailor project support to local priorities. All local level actions would be approved by identified, conceptualized and approved by local traditional authorities within in pre-defined budgetary envelope. | Low |
| To specific outcomes | | |
| As a conditions for successful implementation of project activities, project to adequately strengthen technical & administrative capacity of COONAPI, OJEMP & COONAPIP partners to ensure the quality & effectiveness of the implementation process & to achieve expected results | The project would: (i) support COONAPIP's use of a partner organization with proven capacity & experience for financial management & procurement aspects; (ii) provide needed training & support for building capacity of COONAPIP & its implementation partners; (iii) hire technical staff at the local level, as needed, to support & build the capacity of the local authorities & indigenous organizations, among others, to handle project administrative, technical, organizational & logistical requirements as well as to assist in supervising technical services, capacity building & communications activities. | Moderate |
| Overall Risk Rating | | Moderate |

2.3.7 Duration and indicative action plan

As described in detail above (see *Section 2.3.4*, total project duration would be 15 months. It is proposed that the official start date be the date of contract signing and that this date be conditioned on having met conditions for project effectiveness. These conditions are detailed both in *Section 2.3.4* and the project logframe.

An indicative action plan is being developed.

2.3.7 Logical Framework

| | Project Logic | Objectively verifiable indicators of achievements | Sources & means of verification | Assumptions |
|---------------------------|---|--|---|--|
| General objectives | <p>1. The collective rights (land, forest &, water) of Panama's Indigenous Peoples are consolidated & protected.</p> <p>2. The design of the International Land & Forest Tenure Fund is tested & the lessons learned in pilot project cycle are systematized for the benefit of the Fund's design.</p> | <p>1. Concrete progress in titling, conflict resolution & governance of indigenous territories.</p> <p>2. Lessons from the processes & experiences of preparation & implementation of the Panama pilot project are integrated in the design of the International Land & Forest Tenure Fund.</p> | <p>1. Physical & financial quarterly progress reports; quarterly progress reports from the Project Coordinator; newspaper articles; semi-annual & final project reports from the independent project evaluator; final project report.</p> <p>2. Final report of the independent project evaluator; RRI's internal reports</p> | |
| Specific objective | <p>3.Existing opportunities with the Government of Panama capitalized upon to accelerate processes of land titling, registry and conflict resolution and governance of indigenous territories strengthened.</p> <p>4.Institutional capacity developed to support the full exercise and protection of indigenous territorial rights.</p> | <p>1.1 Collective Territories of Bajo Lepe & Pijibasal titled</p> <p>1.2 Commission for Compliance with the Inter-American Court for Human Rights Judgment No. 12.354 effectively engaging with Panamanian Ministry of External Relations to promote the Government of Panama's full implementation of the IACHR's Decision 12.354 in favor of the communities of the Territory Maje Embera Drúa.</p> <p>2 COONAPIP's Legal Clinic organized and providing quality, demand-driven services to those territorial Congresses and Councils requesting eligible assistance.</p> | <p>1 Physical & financial quarterly progress reports</p> <p>2 Quarterly progress reports from the Project Coordinator</p> <p>3 Articles from newspapers & other media sources.</p> <p>4 Semi-annual & final project reports from the independent project evaluator</p> <p>5 Final project report.</p> | <p>1 The political will exists within the current Panamanian government administration to accelerate processes of titling & conflict resolution associated with indigenous territories.</p> <p>2 There exist the openness & willingness among &, the budgetary resources for, the relevant agencies of the Government of Panama to carry out their mandates in order to accelerate processes of titling & conflict resolution in indigenous territories.</p> |
| Expected results | <p>1.COONAPIP's capacity is strengthened for the provision of legal services in support of Indigenous Peoples full enjoyment, exercise & protection of their rights to land, water & forests.</p> <p>2.Traditional indigenous authorities are educated on priority issues of indigenous rights & have permanent & continuous access to legal advice & services in support of the advancement of indigenous rights & of territorial governance.</p> <p>3.The Collective Territories of Bajo Lepe & Pijibasal are</p> | <p>1. COONAPIP's Legal Clinic providing services in areas of:</p> <p>1.1. Training on indigenous rights (traditional authorities, technicians, women & youth): ___ courses; ___ persons trained.</p> <p>1.2. Provision of legal opinions to Traditional Authorities (titling, legal framework, territorial governance, Annex Areas); ___ legal briefs.</p> <p>1.3. Publications on relevant laws & indigenous rights for lay persons: ___ publications</p> <p>1.4.Training of 30 lawyers, formation of 24 para-legals, & support for 2 diploma courses in indigenous rights law (50% women).</p> <p>1.5. 12 legal consultancies to Congresses/Councils in response to priority needs that they identify for legal support in areas of titling, conflict resolution & territorial governance.</p> <p>2.1 Capacity building plan on indigenous law & rights developed & implemented through a highly participatory process, with 75% of local authorities holding a favorable/very favorable opinion of its utility & value.</p> <p>2.2 Other projects/program (NGO, bilateral, multilateral) supporting indigenous peoples' rights utilizing the Legal Clinic as a service provider & thereby</p> | <p>1 Physical & financial quarterly progress reports</p> <p>2 Quarterly progress reports from the Project Coordinator</p> <p>3 Articles from newspapers & other media sources.</p> <p>4 Semi-annual & final project reports from the independent project evaluator</p> <p>5 Final project report.</p> | <p>There must be a shared vision & consensus among COONAPIP's members on priorities (issues, needs & actions) in regard to titling, conflict resolution & territorial governance that provides a coherent & harmonious context within which the project can be carried out successfully.</p> |

| | Project Logic | Objectively verifiable indicators of achievements | Sources & means of verification | Assumptions |
|-------------------|--|--|---|---|
| | <p>titled, registered & the title documents provided.</p> <p>4.The communities of Maje Cordillera & Union Embera (Territory of Maje Embera Drúa) achieve concrete progress towards the titling of their territory.</p> | <p>financing its continued .</p> <p>3. Traditional Authorities of the Bajo Lepe & Pijibasal Collective Territories & their Congresses have access to the additional support required for ensuring that the process of titling & title registration proceeds at the most efficient pace possible (legal support, political advocacy & communication &, in close coordination with the Rainforest Foundation US program, participatory delimitation & conflict resolution).</p> <p>4. ANATI & ANAM carrying out the required field operations & studies in order to advance the titling process for the Territory of Maje Embera Drúa.</p> | | |
| Activities | <p>A. Technical services:</p> <p>A1. Legal services</p> <p>A2. Technical services</p> <p>A3. Professional services</p> <p>A4. Studies & specific research (field & desk)</p> <p>A5. Meetings/workshops</p> <p>B. Capacity-building</p> <p>B1. Organization & launch of Legal Clinic</p> <p>B2. Training:</p> <p>B2.1 Traditional Authorities</p> <p>B2.2.Technicians at national (indigenous orgs.) & local (Congresses & Councils) levels &, women & youth</p> <p>B2.3 Indigenous lawyers</p> <p>B2.4 Formation of para-legals</p> <p>B3. Provision of office & field equipment.</p> <p>C. Communication</p> <p>C1. Political advocacy</p> <p>C2. Orientation of government officials (national, local)</p> <p>C3. Development of media for promotion/dissemination/ diffusion & for inter-institutional coordination</p> <p>C4. Provision of equipment for communication</p> <p>D. Management & coordination</p> <p>D1. Coordination & project</p> | <p>A. Technical services:</p> <p>A1. Number of consultancies & legal briefs</p> <p>A2. Number of consultancies & technical reports</p> <p>A3. Number of consultancies & end products</p> <p>A4. Number of studies & specific research & final reports</p> <p>A5. Number of meetings/workshops & memoranda from them</p> <p>B. Capacity-building</p> <p>B1. Legal Clinic Advisory Council organized; Legal Clinic Coordinator hired; plan & detailed budget for organization for Clinic; participatory diagnostics & evaluation of priorities & demand, with 4 regional workshops conducted; strategy for development of clinic validated by stakeholders & Advisory Council; plan & detailed budget for launch of Clinic approved; participatory planning/development of the Clinic's work program & budgets for legal services to the Congress/Councils finalized & validated.</p> <p>B2. Participatory training plans & strategies developed and validated by stakeholders & Advisory Council; modules (courses) developed; number of trained trainers; number of courses conducted; number of participants receiving course certification; gender of participants recorded.</p> <p>B3. Number of (i) computers, printers, scanners, software packages, desks, tables, chairs, shelves, blackboards, etc. and, (ii) GPS, radios, digital cameras, hiking & camping equipment, etc.</p> <p>C. Communication: Communications Coordinator hired; plan & detailed budgets for communications services in support of local activities; COONAPIP national communications strategy,</p> <p>C1. Number of advocacy-related events (events, meetings/workshops, conferences, press conferences, presentations, working sessions, learning interchanges/tours, etc.)</p> <p>C2. Number of specialized trainings/workshops, field exercises, learning interchanges/tours, events & presentations.</p> <p>C3. Number of publications, technical guides, presentations, posters, videos, exhibitions, strategy for social media & promotion programme, # hits & evaluation of users of social media sites.</p> <p>C4. Number of digital cameras; software packages; graphic arts equipment; voice recorders, sound system, etc.</p> <p>D. Management & coordination</p> <p>D1. Coordinator & assistant (national level) & implementation assistants (local) contracted; office expenses (rent, light/water, internet, phone, equipment,</p> | <p>1 Physical & financial quarterly progress reports</p> <p>2 Quarterly progress reports from the Project Coordinator</p> <p>3 Articles from newspapers & other media sources.</p> <p>4 Semi-annual & final project reports from the independent project evaluator</p> <p>5 Final project report.</p> | <p>1 Pre-conditions for initiation of project activities:</p> <p>1.1 Roles & responsibilities of all project actors agreed.</p> <p>1.2 Internal arrangements for decision making, oversight & conflict resolution identified & agreed</p> <p>1.3 Short-list of eligible candidates for project coordinator developed</p> <p>1.4 Members of Committee for Evaluation & Selection (for consultants and contracts) identified.</p> <p>1.5 Separate bank account opened</p> <p>2 As a conditions for successful implementation of project activities, project to adequately strengthen technical & administrative capacity of COONAPI, OJEW and COONAPIP partners to ensure the quality & effectiveness of the implementation process & to achieve expected results</p> |

| | Project Logic | Objectively verifiable indicators of achievements | Sources & means of verification | Assumptions |
|--|--|---|---------------------------------|-------------|
| | <p>management</p> <p>D2. Financial management, procurement & auditing</p> <p>D3. Monitoring & evaluation</p> <p>D3.1 Physical & financial progress & reporting.</p> <p>D3.2 Project impact evaluation, process documentation & learning systematization.</p> | <p>furniture, software, materials & supplies), operational expenses (transportation, per diems).</p> <p>D2. Assistant accountant & contracts/procurement assistant contracted; office overheads (rent, light/water, internet), office expenses (phone, equipment, furniture, storage cabinets, software, materials & supplies); operational expenses (transportation, per diems); design & integration of the project accounting system; project audit</p> <p>D3. Monitoring & evaluation</p> <p>D3.1 Design, installation & maintenance of system for monitoring physical & financial progress; training of users & participants in the system.</p> <p>D3.2 Contracting of independent evaluator (independent & participatory evaluation of impact, process documentation, & learning systematization.</p> | | |

2.3.8 Proposed Budget from the ILFTF and Other Expected Sources

Details of the budget and financing are still being developed

3. THE APPLICANT

Section 3 The Applicant and Section 4 The Partners remain to be completed. In the interim, the following information is offered.

Proponent and Partners. The proponent and executing organization for the project is the National Coordinating Body of Indigenous Peoples in Panama (COONAPIP). Founded on 21 January 1991, COONAPIP brings together the Traditional Authorities of the seven Indigenous Peoples of Panama, by means of their Congresses and Councils that are representative structures (made up of different authorities: Caciques, Sahilas, Reyes Boros and Noko), which as a whole comprise the General Assembly, the highest decision-making body. While all seven of Panama's indigenous ethnic groups are members of COONAPIP, as of this time only nine of the twelve traditional Indigenous Peoples' authorities are represented in COONAPIP. Nonetheless, this organizational structure, grounded in the ideal of the unity of all Indigenous Peoples in Panama and respect for their territorial rights, gives COONAPIP the necessary legitimacy to represent them and support their demands and proposals to the government and other actors (Cuellar, et al. 2013).

COONAPIP would be the main executing organization and directly responsible for project implementation and all technical aspects – content, quality, outcomes – of the project as well as project preparation, implementation, coordination, management, monitoring, and reporting. It would implement the project with a number of Partners, comprising the traditional authorities of the participating *Comarcas* and *Tierras Colectivas* and their technical staff.

However, as COONAPIP lacks legal status, as well as having limited financial management capacity, it will operate in collaboration with the Organization of *Emberá and Wounaan Youth (Organización de Jovenes Emberá y Wounaan de Panamá* or *OJEW*). COONAPIP has a longstanding relationship with OJEW and they have worked closely together previously under similar arrangements to that being proposed here. OJEW would be the entity formally submitting the project proposal (the Applicant) and signing the contract with the Contracting Authority. OJEW would have the fiduciary responsibility for the faithful implementation of the contract and financial management, auditing and reporting and, procurement. OJEW would sign a Memorandum of Understanding with COONAPIP, in which would be clearly defined the roles and responsibilities of each and the terms and conditions under which the faithful implementation of the contract would be ensured.

OJEW, founded in _____, has had significant experience in the project management, including financial management and procurement, for international organizations. Among others they have implemented projects for the Rainforest Foundation US, Bosques del Mundo (previously, NEPENTHES) and their financial management system is approved under EU standards, by Denmark. Their Board is comprised of _____. A review of their organization's prior three years of financial audits shows _____. ***To be completed.***

| | |
|---|--|
| Name of organization | |
| Name and Title of Legal Representative | |
| Contact Person for this Project (name, title, email) | |
| Legal Status | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Official Address | |
| Country | |
| Organization's Website | |
| Telephone Number: Country code + city code + number | |
| Fax Number: Country code + city code + number | |
| Is your organization linked with another entity? Example confederation / federation / alliance? | <input type="checkbox"/> Yes, parent entity: <input type="checkbox"/> No, independent |

Supplementary materials to be included for the Applicant:

1. Copy of registration, certification of non-profit status.
2. List of board of directors
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement.

4. The Partner(s)

This section must be completed for each Partner. You must make as many copies of this table as necessary to create entries for each additional Partner.

| | |
|---|--|
| | Partner no.1 |
| Name of Organization | |
| Name and Title of Legal Representative | |
| Partner's contact details for Project (name, title, email) | |
| | |
| Official address | |
| Country | |
| Organization's Website | |
| Telephone number: Country code + city code + number | |
| Fax number: Country code + city code + number | |
| Is your organization linked with another entity E.g. confederation / federation / alliance? | <input type="checkbox"/> Yes, parent entity: <input type="checkbox"/> No, independent |
| History of cooperation with the Applicant | |

Supplementary materials to be included for the Partner–

1. Copy of registration, certification of non-profit status.
2. List of board of directors
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement.

Important: This table must be accompanied by a signed and dated Mandate from each Partner, in accordance with the template provided below.

Mandate (for Partner(s))

The Partner(s) authorize the Applicant (*include name of the organization*) to submit on their behalf the present project document to the Contracting Authority, as well as, to be represented by the Applicant in all matters concerning this project.

I have read and approved the contents of the proposal submitted to the Contracting Authority. I undertake to comply with the principles of good partnership practice.

| | |
|-----------------|--|
| Name: | |
| Organization: | |
| Position: | |
| Signature: | |
| Date and place: | |

5. Associates of the Applicant for this Project

| | Associate 1 |
|---|-------------|
| Full legal name | |
| Country | |
| Address | |
| Contact person (name, title) | |
| Telephone number: country code + city code + number | |
| Fax number: country code + city code + number | |
| E-mail address | |
| Experience of similar actions, in relation to role in the implementation of the proposed Action | |
| History of cooperation with the Applicant | |
| Role and involvement in preparing the proposed Action | |
| Role and involvement in implementing the proposed Action | |

Supplementary materials to be included for the Associate

1. Copy of registration, certification of non-profit status or other status.
2. List of board of directors / institutional leadership.
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement if applicable

6. Declaration by the Applicant

The Applicant, represented by the undersigned, being the authorized signatory of the Applicant, in the context of the present funding mechanism, representing any Partners(s) in the proposed Action, hereby declares that:

- the Applicant has the sources of financing specified in the Budget of the Action;
- the Applicant has sufficient financial capacity to carry out the proposed Action or work program;
- the Applicant certifies the legal statues of the Applicant, of the Partner(s);
- the Applicant, the Partner(s) and the Associate(s) have the professional competences and qualifications required to successfully complete the proposed Action;
- the Applicant undertakes to comply with the obligations foreseen in the Partner's statement and with the principles of good partnership practice;
- the Applicant is directly responsible for the preparation, management and implementation of the Project with the Partner(s) and Associate(s), if any, and is not acting as an intermediary;
- the Applicant and each Partner (if any) is in a position to deliver immediately, upon request, any necessary supporting documents required by the Contracting Authority.

Signed on behalf of the Applicant

| | |
|-----------|--|
| Name | |
| Signature | |
| Position | |
| Date | |

ENDNOTES

- i All seven of Panama's indigenous ethnic groups are members of COONAPIP, however, at this time only nine of the twelve traditional Indigenous Peoples' authorities are members.
- ii These latter two both attended the Project Concept Validation Workshop of 23 and 24 February 2015.
- iii As stated previously, currently nine of the twelve traditional Indigenous Peoples' authorities are members of COONAPIP. In the most recent General Assembly of 7 February 2015 the following Comarcas and Tierras Colectivas were represented as members of COONAPIP: 1) General Congress of the Comarca Emberá-Wounaan, 2) General Congress of the Comarca Ngäbe-Bugle, 3) General Congress of the Comarca Guna de Wargandi, 4) General Congress of the Tierras Colectivas Emberá y Wounaan, 5) General Congress of Alto Bayano Emberá, 6) General Congress of the Ancestral Territory of Guna de Dagargunyala, 7) Council of the General Assembly of Naso Tjërdi, 8) General Council General Bribri and, 9) General Congress Buglé.
- iv Corregimiento (roughly, "county") government and police.
- v The Court issued a judgment, which declared the State of Panama to have violated the rights of the Guna of Madungandi and the Embera of Bayano to collective ownership of their lands by having failed to delimit, demarcate and title the lands allocated to the people of Madungandí (Guna) and the Embera communities of Ipetí and Piriati, and for failing to ensure the effective exercise of land rights under the collective ownership title of the Embera Piriati community.
- vi The report concludes with a comprehensive series of recommendations to Government related to, among others, the need to engage in a constructive, peaceful and ongoing dialogue to address indigenous peoples concerns; ratification of ILO No. 169; redoubling of efforts to protect the lands and natural resources located within the Comarcas and to resolve the pending titling issues (areas adjacent to the Ngäbe-Bugle Comarcas, pending applications of the Bribri, Emberá and Wounaan peoples for titling of Tierras Colectivas, the Naso people's Comarcas); working in coordination with indigenous authorities to prevent third parties from entering recognized or claimed indigenous territories and to punish persons illegally present on those lands; ensure that natural resource development projects are implemented on the basis of consensual agreements and; establish, in coordination with indigenous representatives, a governing framework for a system of consultations to be applied in the case of hydroelectric and extractive projects that have an impact on indigenous peoples.
- vii These include national parks and other protected areas such as forest and hydrologic reserves that have been declared, *inter alia*, for the protection of critical watersheds.
- viii The administration of President Varela entered office on 1 July 2014.
- ix Tentatively, the regional workshops would be located in Darien, Central Northern Panama, Veraguas and Bocas del Toro

Pilot Project Proposal
International Land and Forest Tenure Facility
Aliansi Masyarakat Adat Nusantara (AMAN)
Rights and Resources Initiative

Contents

| | |
|--|-----------|
| GLOSSARY | 3 |
| LIST OF ABBREVIATIONS | 4 |
| SUMMARY TABLE | 5 |
| DESCRIPTION OF THE PROJECT | 6 |
| 1. SUMMARY OF THE PROJECT | 6 |
| 2. RELEVANCE OF THE PROJECT | 7 |
| 2.1 Relevance to the objectives/sectors/themes/specific priorities of the ILFTF | 7 |
| 2.2 Relevance to the particular needs and constraints of the target country, region(s) and/or relevant sectors (including synergy with other initiatives and avoidance of duplication) | 7 |
| 2.3 Beneficiaries | 9 |
| 2.4 Particular added-value elements | 11 |
| 3. DESCRIPTION OF THE PROJECT | 12 |
| 3.1 Project design | 12 |
| 3.2 Operating modality and implementation approaches | 17 |
| 3.3 Monitoring and evaluation | 21 |
| 3.4 Sustainability of the Action and Risk Assessment | 23 |
| 3.5 Duration and indicative action plan for implementing the Project | 25 |
| 3.6 Logical Framework | 27 |
| 3.7 Proposed Budget from the ILFTF and Other Expected Sources | 37 |
| THE APPLICANT | 40 |
| THE PARTNER(S) | 41 |
| ASSOCIATES OF THE APPLICANT FOR THIS PROJECT | 43 |
| DECLARATION BY THE APPLICANT | 44 |
| ANNEX 1 STAKEHOLDERS CONSULTED DURING THE FORMULATION PROCESS | 45 |
| ANNEX 2 BRIEF ON FOREST TENURE POLICIES AND REFORMS IN INDONESIA | 46 |
| ANNEX 3 PRESIDENTIAL AGENDA ON INDIGENOUS PEOPLES (NAWA CITA) | 52 |
| ANNEX 4 BENEFICIARY ANALYSIS | 53 |
| ANNEX 5 ANALYSIS OF POTENTIAL SITES FOR THE PILOT PROJECT OF THE INTERNATIONAL LAND AND FOREST TENURE FACILITY (ILFTF) | 57 |

| | |
|---|-----------|
| ANNEX 6 ILFTF REPORTING AND INTERACTION BETWEEN STRATEGY GROUP AND IMPLEMENTING TEAM | 68 |
|---|-----------|

| | |
|--|-----------|
| ANNEX 7 ACTIVITY REPORTING CARD TEMPLATE FOR MONITORING | 69 |
|--|-----------|

LIST OF GRAPHS

| | |
|--|----|
| Graph 3.1 Key Elements of the ILFTF Pilot Initiative Logical Framework | 13 |
| Graph 3.2 Key Forest Tenure Policies and Processes and Positioning of the ILFTF Initiative | 14 |
| Graph 3.3 ILFTF Project Implementation Structure | 18 |

LIST OF TABLES

| | |
|---|----|
| Table 2.1 ILFTF Beneficiaries at the Local Level | 10 |
| Table 2.2 ILFTF Beneficiaries at the National Level | 10 |
| Table 3.1 Stakeholder Roles in Project Implementation..... | 20 |
| Table 3.2 Key Risks in Context of the Pilot Initiative..... | 24 |
| Table 3.3 ILFTF Pilot Initiative Activity Schedule | 25 |

Glossary

| | |
|--|---|
| Applicant, i.e. main implementing organisation | The entity submitting the project proposal, i.e. the main implementing organisation of the project. Signs the contract with the Contracting Authority and is directly responsible for the preparation, management and implementation of the project with the Partner(s) and Associate(s), if any, and is not acting as an intermediary. |
| Co-Applicant, i.e. Partner(s) | Co-Applicant(s) (i.e. Partner implementing organisation(s)) participate in designing and implementing the project, and the costs they incur are eligible in the same way as those incurred by the Applicant. Partners(s) must sign the Mandate indicated in the Section 5. |
| Associate(s) | Other organisations may be involved in the action. Such associates play a real role in the action but may not receive funding from the grant, with the exception of per diem or travel costs. |
| Contractor | The grant beneficiaries (i.e. implementing organisations) and their affiliated entities (i.e. Partner implementing organisations) are permitted to award contracts. Associates cannot be also contractors in the project. Contractors are subject to the procurement rules set out in the grant contract. |
| Project | Activities for which a grant may be awarded |
| Final Beneficiaries | Those who will benefit from the action in the long term at the level of the society or sector at large. |
| Contracting Authority | The entity with who the contract is signed (RRG, ILFTF or another instance e.g. an organization outsourced in the country where the project takes place). |

List of Abbreviations

| | |
|-----------|--|
| AMAN | Aliansi Masyarakat Adat Nusantara |
| CSO | Civil Society Organization |
| DGM | Dedicated Grant Mechanism |
| FIP | Forest Investment Program |
| FORCLIME | Forest and Climate Change Programme |
| ILFTF | International Land and Forest Tenure Facility |
| IP | Indigenous Peoples |
| IPO | Indigenous Peoples Organization |
| M&E | Monitoring and evaluation |
| MFP3 | Multistakeholder Forest Programme |
| NKB | Memorandum of Understanding on Forest Gazettement |
| RRI | The Rights and Resources Initiative |
| REDD+ | Reducing Emissions from Deforestation and Forest Degradation |
| RUU PPMHA | Draft Bill on the Recognition and Protection of Indigenous Peoples |
| SG | Strategy Group |
| SOP | Standard Operating Procedure |

Summary Table

| | |
|---|--|
| Title of the action: | ILFTF Pilot Initiative in Indonesia |
| Applicant | AMAN |
| Partner(s) | - |
| Associate(s) | - |
| Location(s) of the project: | Indonesia at national level 3 pilot districts selected in the beginning of the project |
| Total duration of the action | 12 months |
| ILFTF financing requested (amount) | <i>To be added</i> |
| ILFTF financing requested as a percentage of total budget of the project (indicative) | 100 % |
| Objectives of the project | <i>Overall objective:</i> Contributing to the legal recognition and protection of tenure rights of IPs <i>Specific objective(s):</i> 1. Increased readiness at the district level for legal recognition of the tenure rights of IPs 2. Strengthened legal and administrative instruments at the national executive and legislative levels towards the recognition and protection of tenure rights of IPs |
| Final beneficiaries | Indigenous communities, including women and marginalized groups within communities, in the project sites, IPOs and CSOs in the project sites (AMAN local chapters, associated IPOs, and local CSOs), District government, AMAN, CSOs, Public sector agencies relevant to forest tenure, Office of the President, National Parliament |
| Estimated results | <i>Component 1</i> Formalised, shared understanding on IPs' tenure rights in project district government institutions and district parliament; Improved skills in project sites in preparing legal drafts of district legislation and regulation on the recognition and protection of IPs' tenure rights; Draft of district legal and/or administrative instruments on the recognition and protection of tenure rights of IPs formulated; Process of generating sociocultural and land use data complementing existing participatory maps in project sites started. <i>Component 2</i> Increased executive commitment to establish the Presidential Task Force on IPs and/or the executive order to implement the Constitutional Court ruling no 35/2012; Increased understanding of the members of the National Parliament on the tenure rights of IPs; Developed commitment towards the establishment of the IPs caucus in the Parliament. |
| Main activities | <i>Component 1</i> Policy briefs, workshops, analysis of policy option and strategic action, joint action plan with district government and Parliament on the existing national and district legislations and regulations of the tenure rights of IPs peoples; Training, technical assistance, legal drafting, facilitation of public dialogue related to district legal and administrative instrument(s); Training and participatory production of sociocultural and land use data. <i>Component 2:</i> Policy briefs; facilitating technical meetings, workshops, dialogues; facilitating parliamentary debates and seminar; advocacy; technical working group facilitation. |

Description of the Project

1. Summary of the Project

The Rights and Resources Initiative (RRI) has established a process to design an independent International Land and Forest Tenure Facility (ILFTF) that aims to support community land and forest tenure. As a part of this process, in early 2014, country assessments analyzing potential value added for establishing the ILFTF were carried out in several countries, including Indonesia. The participatory country assessment analysis carried out in Indonesia revealed key thematic and funding gaps in securing community forest tenure rights. These thematic gaps were identified in context of legislative framework, advocacy and awareness, gender and capacities, participatory mapping and in technological innovation related to securing tenure rights. The funding gaps identified were limited financing available directed specifically to tenure rights and in limited availability of flexible and fast funding modalities.

This ILFTF pilot initiative aims to deliver against various key gaps identified in the Indonesia country assessment in 2014. The pilot initiative will also include learning elements that enable collection of lessons learned for the further development of the ILFTF. The pilot initiative design includes also a mechanism that allows stakeholders to come together to exchange information, coordinate, analyze the key policy options available and build a shared vision on strategic actions required to advance the tenure reform. This mechanism will also contribute to readiness for mobilizing further support from the ILFTF.

In the 2014 Country Assessment various stakeholder groups identified the legislative framework as one key bottleneck theme. The ILFTF pilot initiative in Indonesia will support, at national and local level, policy and legislative processes on the legal recognition and protection of indigenous tenure rights. There are various on-going policy and legislative processes relevant to securing indigenous peoples rights. The ILFTF pilot initiative supports, in the context of current policy options, strategic action by the indigenous people's organizations and their collaborators to attain the political momentum present.

Actions supported in the ILFTF pilot initiative aim to the operationalization and implementation of the Constitutional Court Decision 35/2012 that declared that indigenous territories are not part of state forest. Action both at national and local level are required for the operationalization of this key piece of legislation. The Overall Objective of the ILFTF pilot initiative in Indonesia is *"Contributing to the legal recognition and protection of tenure rights of indigenous peoples in Indonesia"*. The pilot initiative has two components: 1) Supporting the local level tenure recognition processes, with the purpose of *"Increased readiness at the district level for legal recognition of the tenure rights of indigenous peoples"* and 2) Supporting the national level policy processes in context of the legal recognition and protection of tenure rights of indigenous peoples with the purpose of *"strengthened legal and administrative instruments at the national executive and legislative levels"*.

In the Component 1 the support is targets the gap of translating the national level legislation and regulation into action at the local level. The project will directly benefit the target stakeholders in the selected project sites: indigenous communities, Indigenous Peoples Organizations (IPOs), civil society organizations (CSOs), as well local executive and legislative institutions. The support is generated through various activities such as awareness raising, capacity building, technical assistance, empowerment and preparedness to understand and engage in legislative processes that aim for tenure rights recognition as well as building shared understanding and vision on the importance of indigenous tenure rights and how to advance them.

In the Component 2 the pilot initiative will directly benefit the National Parliament, the Office of the President, sector agencies, IPOs and CSOs. The pilot initiative will provide the support through organization and facilitation of various activities that aim to increase the level of awareness, understanding and shared vision building with the national executive and legislative institutions as well as IPOs and CSOs. The aim of the support is to fill the gap in level of understanding on indigenous peoples and importance of tenure rights especially in the new Parliament that took office in late 2014 and to support the momentum of various policy and legislative instruments that have been established in recent years.

Duration of the pilot initiative is 12 months. Pilot initiative will be implemented by Aliansi Masyarakat Adat Nusantara (AMAN) and is fully aligned with the strategic priorities of the proponent. The pilot initiative formulation was carried out jointly by AMAN in cooperation with Indufor, technical service provider. The formulation was carried out in late February and early March 2015. Stakeholders consulted during the formulation process are listed in Annex 1.

2. Relevance of the Project

2.1 Relevance to the objectives/sectors/themes/specific priorities of the ILTF

The Rights and Resources Group (RRG) has taken responsibility for the development and launch of the International Land and Forest Tenure Facility (ILTF), with the goal that, once operational, the Facility would become an independent public-private-civil society partnership entity. The proposed Facility aims to fill institutional and market gaps and respond to demands coming from Indigenous Peoples and local communities, private sector actors, civil society and governments, to secure local land rights focusing on forest lands.

The ILTF aims to deliver services that are strategic, value adding, and flexible in terms of speed and procedures for funding, and provide concrete benefits for Indigenous Peoples and local communities. This ILTF initiative in Indonesia aims to test the provision of services consistent with the ILTF objectives and concept, and gather lessons learned to feed into for further development of the Facility.

The pilot initiative will address current strategically opportune policy processes in Indonesia allowing for strategic action as per ILTF aspiration. It will support tenure reform processes in Indonesia at national and local level focusing on Indigenous People's rights.

Pilot initiative will be implemented by Aliansi Masyarakat Adat Nusantara (AMAN) and is fully aligned with the strategic priorities of the proponent. In particular, it contributes to scaling up of Indigenous Peoples land and forest tenure security through policy engagement and strengthening the regulatory environment; supporting Indigenous Peoples communities (masyarakat adat) to enhance and formalize their land-related rights in project districts; and raising the capacity and awareness to facilitate the move towards establishing more secure land and forest tenure. The pilot initiative also tests flexible funding mechanism tied to the process of policy analysis to identify most strategic opportunities during the project period.

2.2 Relevance to the particular needs and constraints of the target country, region(s) and/or relevant sectors (including synergy with other initiatives and avoidance of duplication)

The pilot initiative is mobilizing support at the national and local levels to utilize current political momentum within the tenure reform agenda to advance the realization of rights of Indigenous Peoples. Forest tenure reform continues high on the political agenda in Indonesia and various forest tenure relevant processes are in progress (See Annex 2 "Brief on forest tenure policies and reforms in Indonesia"). President elected in 2014, Joko Widodo, included the tenure reform to his pre-election Presidential vision and mission known as "Nawa Cita", which was prepared during the campaign period. Nawa Cita explicitly lists six key action areas on protecting and advancing the rights of Indigenous Peoples, closely linked to land and forest tenure (See Annex 3). AMAN and Civil Society Organizations (CSOs) such as HuMa, Epistema, Sajogyo, WALHI and many others that work on land and forest tenure were involved in the development of Nawa Cita on Indigenous Peoples.

The proposed pilot initiative is strongly relevant at the national level because it directly strengthens six key agendas of Presidential Vision and Mission on the protection and the advancement of the rights of indigenous peoples in Indonesia. In addition to Nawa Cita on indigenous peoples, there has been a series of other important developments including a recent ruling of the Constitutional Court that opens new opportunities to advance the tenure reform agenda, and new regulations at both the national and district levels.

Indigenous people (known in Indonesia as masyarakat adat) and other local communities have been managing forest lands and resources by applying customary land and forest tenure systems arranged by customary laws. However, one of the key challenges is the lacking acknowledgement by the forestry laws of the land and forest tenure systems of both indigenous peoples and local communities. Indonesian CSOs have been working since late 1980s to advance the tenure reform and to intensively develop various strategic actions toward policy changes.

The Indigenous Peoples' Alliance of the Archipelago (Aliansi Masyarakat Adat Nusantara/AMAN), technically assisted by various organizations such as Huma, Epistema and Sajogyo Institute and others, challenged the forestry law in Indonesia's Constitutional Court by submitting an official request for a judicial review of the law on March 19 2012. The request for judicial review of the forestry law refers to the recognition of the rights of indigenous peoples in the Indonesian Constitution. The 2002 Amendment to the Indonesian Constitution recognizes the cultural identity and traditional rights of indigenous peoples as a basic human right. Other laws such as the 2007 law on the Management of Coastal Regions and Small Islands and the 2009 Environment Law recognize adat rights.

Responding to the judicial review, on May 16, 2013 the Constitutional Court of the Republic of Indonesia ruled that customary forests (hutan adat) are no longer part of state forests (hutan negara). Aside from submitting the Judicial Review over some articles in the Forestry Law No 41/1999 to The Constitutional Court, AMAN technically assisted by HuMa, Epistema and Sajogyo Institute, prepared the Draft Bill on the Recognition and Protection of Indigenous Peoples (RUU PPMHA), formally handed to the Head of the Indonesian Parliament during the National Congress of AMAN in May 2012. After a year drafting process, in April 2013 the General Assembly Meeting of Indonesian National decided the draft as official one and submitted it to the Indonesian President. The legislative process of this draft bill was interrupted by the legislative election that took place in early April 2014. AMAN and CSOs continue to intensively monitor the on-going parliamentary processes for this Draft Law as well as to lobby potential political actors to support it. In addition, AMAN and other groups, such as Epistema and HuMa, who work for policy advocacy efforts in the legislative process of this draft bill, have to put significant efforts to brief the newly elected members of the parliament.

Other the key efforts of CSOs and IPOs of recent years have been involved in preparing the international conference on land and forest tenure in 2011 in the island of Lombok, Indonesia (the Lombok Conference), in collaboration with the Indonesia's Ministry of Forestry, RRI and other institutions. The Indonesian CSOs and IPOs also decided to establish a working group on forest tenure reform and launched a document of the road map toward tenure reforms and tenure-related justices. In this road map, the group proposed three domains of change as a way to reform land tenure and forest policy. These three domains are: (1) improving policies and accelerating the process of gazettement of the forest zone, (2) addressing forest conflicts, (3) expanding community-managed areas and enhancing the welfare of Indigenous Peoples and other local communities. The CSO's road map on tenure reform was adopted by state-sponsored Memorandum of Understanding on Forest Gazettement (known as NKB) signed by 12 state institutions. Strengthening the IPOs and CSOs support to governmental forest tenure relevant processes and tenure reform agenda allows direct support to enhance the recognition and protection of indigenous peoples' tenure rights.

The most notable overarching themes in the forestry support are climate change, and timber legality related to the Voluntary Partnership Agreement. According to stakeholders the external donor financing is concentrated to 11 of the 34 provinces which are especially suitable for REDD+ relevant projects as they have high carbon stock and risk of deforestation. Communal tenure rights are addressed, but mostly indirectly, within the framework of these thematic areas. This pilot initiative aims to align with major donor support programs that are directly or indirectly relevant for forest tenure, such as Dedicated Grant Mechanism (DGM), Forest Investment Program (FIP) and Forest and Climate Change Programme (FORCLIME), Multistakeholder Forest Programme (MFP3) and responsible private sector company demand on tenure clarity. It facilitate creation of an enabling environment for greater tenure security that will in the long term contribute to the development of win-win-win solutions between responsible private sector companies, indigenous communities and the Government in Indonesia.

Box 1. Forest Tenure Relevant Key Donor Supported and Private Sector Processes

REDD+

Tenure reform is noted as key requirement for various high level policy processes in Indonesia. For example in Indonesia's REDD+ Strategy notes "*Land tenure reform is an important prerequisite to create the conditions required for successful implementation of REDD+*".

Timber legality

Clarifying the tenure rights is also crucial for the Indonesian timber legality assurance system. The UK supported Multistakeholder Forest Program Phase 3 (MFP3) supports industry-wide adoption of the SVLK timber legality assurance system. One of the work areas of MFP3 is community access to forest which works towards ensuring access to land and forest resources by communities and clarifying their tenure which further allows them to integrate to supply chains to meet industry demand, and national market and export targets for timber and non-timber forest products.

Private sector responsibility

Various large plantation companies and concessionaires have made zero deforestation and corporate responsibility commitments and clarifying tenure rights would strongly facilitate the responsible company operations and allow enabling investment environment for responsible investors.

Donor support programs

Forest Investment Program is currently (March 2015) in the consultation phase and not yet operational. The FIP financed directly tenure agenda relevant activities will focus on the institutional development for sustainable forest and natural resource management through the KPH system. In this context the FIP can support various activities related to empowerment and participatory planning and mapping at community level and around targeted KPHs.

In the Dedicated Grant Mechanism the scope of activities eligible for support (grants) include, among others, activities for securing and strengthening customary land tenure and resource rights. The National Implementing Agency is currently (March 2015) being selected and disbursement will likely start in 2016. Action will cover indigenous peoples and local communities. Support will include among others, grants and facilitation for developing proposals, organizational administration, thematic technical assistance.

Forest and Climate Change Program (FORCLIME financed by GIZ) supports, among other thematic areas, sustainable forest management through the KPH system and REDD+ demonstration activities including participatory land use planning and forest zoning. The program can support tenure right recognition e.g. through dialogue with the government and through participatory processes in context of REDD+ demonstration activities.

2.3 Beneficiaries

This pilot initiative will work both with local and national level stakeholders. In the Component 1 "Supporting the local level tenure recognition processes" the support is targeted to meet the gap or constraint of translating the national level legislation and regulation into action at the local (district) level. The project will directly benefit the target stakeholders in the selected project sites (districts): indigenous communities, Indigenous Peoples Organizations (IPOs), CSOs, as well local executive and legislative institutions, see Table 2.1. The support is generated through various activities such as awareness raising, capacity building, empowerment and preparedness to understand and engage in legislative processes that aim for tenure rights recognition as well as shared understanding and vision on the importance of indigenous tenure rights and how to advance them. (See Annex 4 for more details on beneficiary analysis).

Table 2.1 ILTF Beneficiaries at the Local Level

| <i>Beneficiaries</i> | <i>Pilot initiative contribution</i> |
|--|--|
| Indigenous communities, including women and marginalized groups within communities, in the project sites | Engaging in production of sociocultural and land use data to work towards meeting the technical mapping related requirements for legal recognition Participation to public dialogue on the draft of district legal and administrative instrument(s) on the recognition of tenure rights of IPs Building awareness and readiness of policy makers in district level on the legal recognition and protection of indigenous communities tenure rights will promote the tenure rights of the indigenous communities in the project sites |
| IPOs and CSOs in the project sites | Building comprehensive understanding on how to engage with district level legal processes and related public institutions Participation in the formulation process of the draft of legal and administrative instruments at district level Increasing capacities in the collection of gender sensitive socio-cultural and land use data Increasing coordination of efforts and synergies at the local level between different CSO stakeholders |
| Local executive and legislative institutions | Building comprehensive understanding on the legal recognition and protection of indigenous peoples tenure rights Building capacities and understanding on legal drafting related to indigenous tenure rights and related technical assistance Facilitating collaborative arrangements at district level for preparing and drafting legal and administrative instruments |

In the Component 2 “Supporting the national level policy processes” the pilot initiative will directly benefit the National Parliament, the Office of the President, sector agencies, IPOs and CSOs, see Table 2.2. The pilot initiative will provide the support through organization and facilitation of various activities that aim to increase the level of awareness, understanding and shared vision building with the national executive and legislative institutions as well as IPOs and CSOs. The aim of the support is to fill the gap in level of understanding on indigenous peoples and importance of tenure rights especially in the new Parliament that took office in late 2014 and to support the momentum of various policy and legislative instruments that have been established in recent years.

Table 2.2 ILTF Beneficiaries at the National Level

| <i>Beneficiaries</i> | <i>Pilot initiative contribution</i> |
|--|--|
| AMAN | Capacity building through training sessions and support on project management, financial management and M&E systems with the purpose of ensuring enhanced capacities for the management of the pilot initiative and in medium and long term to enabling fund mobilization to further support the tenure reform process |
| CSOs | Increasing coordination of efforts and synergies at the local and national levels between different CSO Building on shared vision on strategic actions required with the purpose of supporting coordination and readiness with mobilizing support from the ILTF |
| Public sector agencies relevant to forest tenure | Building comprehensive understanding on legal recognition and protection of indigenous tenure rights |
| National Parliament | Building an understanding, increase capacities and creating an enabling environment in the new Parliament on legal recognition and protection of indigenous tenure rights |
| Office of the President | Strengthening comprehensive understanding on legal recognition and protection of indigenous tenure rights and providing technical assistance |

In the long term, beyond the 12-month horizon of this project, the pilot initiative will benefit IPOs and the Indonesian society as a whole because it contributes at national and local level to key processes advancing the forest tenure reform. In the long term, this would include also the private

sector whose risk related to unsecure land tenure and potential land use conflicts would be reduced.

2.4 Particular added-value elements

The ILFTF pilot initiative will strengthen the strategic inputs to key policy processes supporting the tenure reform in Indonesia. To ensure strategic, value adding and synergistic action as per ILFTF aspiration, the initiative design has analysed current policy options and identified strategic action towards the legal recognition and protection of indigenous forest tenure rights. The pilot project has the following key value-added elements:

- The pilot initiative will provide value added by supporting a fast, flexible and strategic response by the IPOs in strategic collaboration with the CSOs to the recent opportunities in the policy environment for advancing forest tenure reform in Indonesia especially targeting the processes related to the Constitutional Court Ruling 35/2012, Draft Bill on the Recognition and Protection of the Rights of the Indigenous Peoples adopted by the National Parliament, and Presidential Vision and Mission (Nawa Cita).
- The pilot Initiative will provide value added through facilitating IPOs, CSOs and other stakeholders to form *a shared vision of strategic activities* required to advance the recognition and protection of indigenous people's rights. This will be carried out through the ILFTF pilot initiative Strategic Group. The Strategic Group will through its work and through facilitating meetings/workshops with key stakeholders will establish an analysis of the policy options and strategic action towards rights recognition.
- ILFTF pilot has also a strong learning aspect that allows *generation of lessons learned* for further development of the ILFTF Facility. Key lessons center on whether the Facility can generate services that are strategic, value adding, synergistic and flexible so that it allows fast response to changing operational environment and action on strategic opportunities. The lesson learning and recording is integrated in the pilot design and functions in monitoring and reporting, in evaluation and in external service provision for capturing lessons learned and provision of capacity building in applying the monitoring and reporting from lessons learning perspective.
- The pilot, although with relatively short with 12 months span, will provide value added for several national initiatives in the forest sector such as the REDD+ and timber legality initiatives, and private sector initiatives seeking to enhance sustainability of operations. The value added is realized through contributions to key national and local policy processes that aim to the recognition of indigenous tenure rights and to greater tenure clarity which are crucial elements in building an enabling environment for the initiatives in the forest sector.

3. Description of the Project

3.1 Project design

An overview of the pilot project, based on the logical framework, is shown diagrammatically in Graph 3.1. This shows how the main project activities are to produce the results (outputs) which will contribute to the achievement of the identified specific and overall objectives. The full logical framework matrix, including the indicators, is provided in section 3.6.

Overall Objective

The overall objective of the ILFTF pilot project is:

“Contributing to the legal recognition and protection of tenure rights of indigenous peoples in Indonesia”.

This is the long-term goal of Indonesian IPOs and CSOs that have worked since late 1980s towards the legal recognition of indigenous peoples and their rights, including land and forest tenure rights. Special attention will be paid to the rights of women and other marginalized groups.

Specific Objectives

The specific objectives of the ILFTF pilot initiative are:

1. *Increased readiness at the district level for legal recognition of the tenure rights of IPs*
2. *Strengthened legal and administrative instruments at the national executive and legislative levels towards the recognition and protection of tenure rights of indigenous people*

Graph 3.1 Key Elements of the ILFTF Pilot Initiative Logical Framework

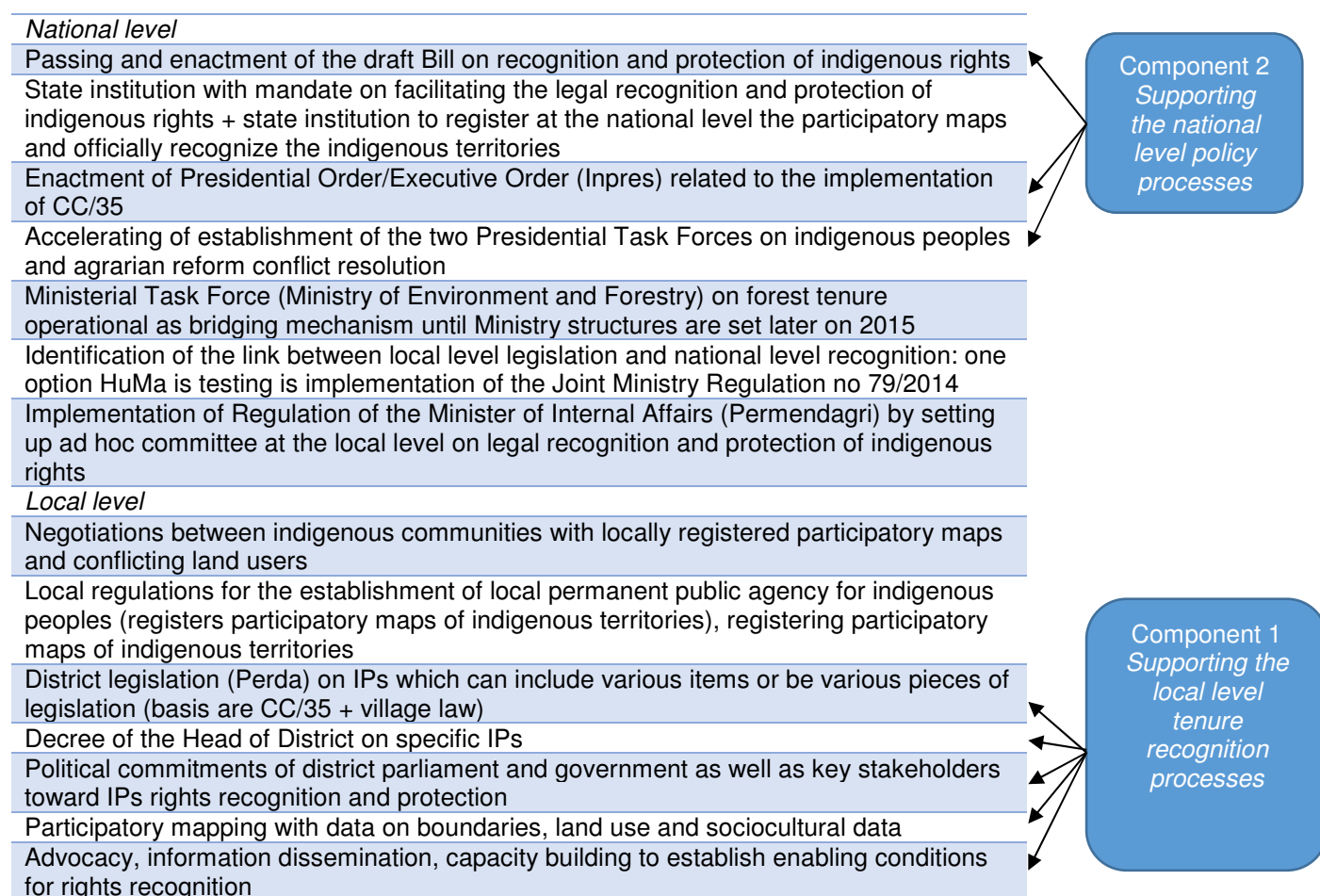


Positioning of the ILTF pilot initiative in the policy context

Based on the analysis (see Annex 2. Brief of Forest Tenure Policies in Indonesia) of key forest tenure relevant policy options to advance to the legal recognition of indigenous tenure rights two strategically important work areas, structured around two components, have been identified for this 12-month ILTF pilot initiative. These components aim to support the IPOs and their collaborators to attain the current political momentum present in Indonesia.

Graph 3.2 summarizes the key policy options and shows the positioning of the ILTF pilot initiative in the wider policy context. Action supported in the ILTF pilot initiative aims to the operationalization and implementation of the Constitutional Court Decision 35/2012 that declared that indigenous territories are not part of state forest. For the operationalization of this key piece of legislation action both at national and local level are required. At district level, the pilot supports various actions required to prepare and establish legal and regulatory instruments on indigenous peoples' tenure rights recognition. At the national level, the project supports the engagement with national legislative and executive bodies to advance at the national level implementation of the Constitutional Court decision via selected key processes see Graph 3.2.

Graph 3.2 Key Forest Tenure Policies and Processes and Positioning of the ILTF Initiative



Expected Results and Related Activities

Component 1: *Supporting the local level tenure recognition processes*

The Component 1 will provide value added through *facilitating IPOs – CSOs – state partnerships* and *shared vision* to advance the legal recognition and protection of indigenous tenure rights at the local (district) level. This will be carried out by developing a site-specific participatory analysis of the policy and legislative environment and options the strategic action needed towards securing and protecting indigenous legal tenure rights and through establishing a shared action plan based on the analysis of policy option and strategic action needed.

The component will *increase the level of understanding and capacities* of members of selected key stakeholders in the district level executive and legislative public institutions on the concept of legal and administrative instrument(s) on the recognition and protection of indigenous people's tenure rights. This provides strategic value added in the context of establishing a linkage and enabling environment for implementation of the national level legislation, especially the Constitutional Court decision 35/2012 and other related existing or draft legislation on legal recognition of indigenous tenure rights. This will be carried out through policy briefs, workshops and technical assistance.

The *expected key results* under this component are:

- Formalized, shared understanding on IPs' tenure rights in project district government institutions and district parliament
- Improved skills in project sites in preparing legal drafts of district legislation and regulation on the recognition and protection of IPs' tenure rights
- Draft of district legal and/or administrative instruments on the recognition and protection of tenure rights of IPs formulated
- Process of generating gender sensitive sociocultural and land use data complementing existing participatory maps in project sites started

Activities carried out under this work area include:

- Establishing and circulating a policy brief on the existing national and district legislations and regulations of the tenure rights of IPs peoples as well as land and forest tenure policies to key personnel at district government and legislative institutions and other key stakeholders
- Facilitating workshops on the IPs' tenure rights as well as legal recognition and protection of these rights targeting key personnel at district government and legislative institutions, IPOs, CSOs and other key stakeholders
- Analysis of the policy environment and options and strategic steps required to advance at the local (district) level the legal recognition and protection of the tenure rights of IPs. Organizing a workshop to discuss the results of the analysis attended by key stakeholders such as IPOs, CSOs, key personnel at district government and legislative institutions and other relevant stakeholders
- In the context of the above activities, development of joint action plan with district government and Parliament on the strategic steps toward legal recognition and protection of indigenous peoples tenure rights at the district level
- Training on legal drafting and technical assistance on the formulation process of the draft of district legislation and/or regulation at project sites and facilitating technical meetings on legal drafting at the district level by inviting experts and relevant resource persons
- Facilitating a series of public dialogue on the draft of district legal and administrative instrument(s) on the recognition of tenure rights of IPs to get political support on the draft and technical assistance for the further development of the draft of legal and administrative instrument(s) on the recognition of tenure rights of IPs at the district level

- Training on the participatory production of land use map and production of socio-cultural data that adopt gender perspective
- Participatory production of land use map, with gender perspective included, and ethnographic study in project sites, with gender perspective included, to produce historical and socio-cultural data on land and resources use histories, customary laws, traditional knowledge, and relevant issues in project sites
- Producing and circulating a policy brief about the concept of the Presidential task force on indigenous peoples and the executive order to implement the Constitutional Court Ruling No. 35/2012 to key personnel of Presidential Office, state institutions, national Parliament and other key stakeholders as well as media
- Organizing dialogues of key actors at the Presidential Office, other relevant state institutions, and key members of national parliament to get political support
- Intensive advocacy process and facilitating technical meetings of high level officers on the finalization of the draft concept of legal and administrative instruments: the establishment of the Presidential Task Force on IPs and the executive order to implement the Constitutional Court ruling no 35/2012
- Producing and circulating a policy brief on legal recognition and protection of the rights of IPs, including indigenous women and marginalized groups to parliament members, their expert staffs, and their political parties as well as public through mass media
- Facilitating workshops on the rights of IPs, including indigenous women and marginalized groups, to be attended by key Parliament members, their expert staffs and their political parties
- Establishment of a technical working group which consist of key personnel of AMAN and its strategic partners; this working group will facilitate series of intensive discussions among Parliamentarians (parliamentary debates)
- Facilitating meetings and advocacy process to get commitment of key members of the national Parliament on the establishment of the IPs caucus in the national Parliament

The target groups of these activities are district legislative and executive institutions, IPOs and indigenous communities. They will benefit through enhanced dialogue and increased capacities and skills that aim to allow establishment of shared vision and action in advancing the legal recognition and protection of indigenous peoples tenure rights at district level and further in engaging at national level legal and administrative processes.

Component 2: Supporting the key national level policy processes on legal recognition and protection of indigenous peoples forest tenure

The Component 2 will provide value added through promoting and strengthening partnerships and creating a shared vision to advance the legal recognition and protection of indigenous rights between IPOs, CSO and national level public sector institutions. The Component will provide value added through strengthening IPOs engagement and support to current key opportunities in the national level policy and legislative processes in order to advance the legal recognition and protection of indigenous peoples forest tenure rights.

The *expected key results* under this component are:

- Increased executive commitment to establish the Presidential Task Force on IPs and the executive order to implement the Constitutional Court ruling no 35/2012
- Increased formalised understanding of the members of the National Parliament on the tenure rights of IPs
- Developed commitment towards the establishment of the IPs caucus in the Parliament

The activities that aim to deliver these results are:

- Producing an circulating policy briefs about i) the concept of the Presidential task force on indigenous peoples and the executive order to implement the Constitutional Court Ruling No. 35/2012 and ii) on legal recognition and protection of the rights of IPs, including indigenous women and marginalized groups to key personnel of Presidential Office, state institutions, national Parliament and other key stakeholders as well as media
- Facilitating technical meetings of high level officers by inviting experts and relevant resource persons and organizing dialogues of key actors at the Presidential Office, other relevant state institutions, and key members of national parliament to get political support
- Intensive advocacy process on the finalization of the draft concept of legal and administrative instruments: the establishment of the Presidential Task Force on IPs and the executive order to implement the Constitutional Court ruling no 35/2012
- Facilitating workshops on the rights of IPs, including indigenous women and marginalized groups, to be attended by key Parliament members, their expert staffs and their political parties and establishment of a technical working group which consist of key personnel of AMAN and its strategic partners; through the working group facilitating series Parliamentary debates on indigenous tenure rights
- Facilitating meetings and advocacy process to get commitment of key members of the national Parliament on the establishment of the IPs caucus in the national Parliament

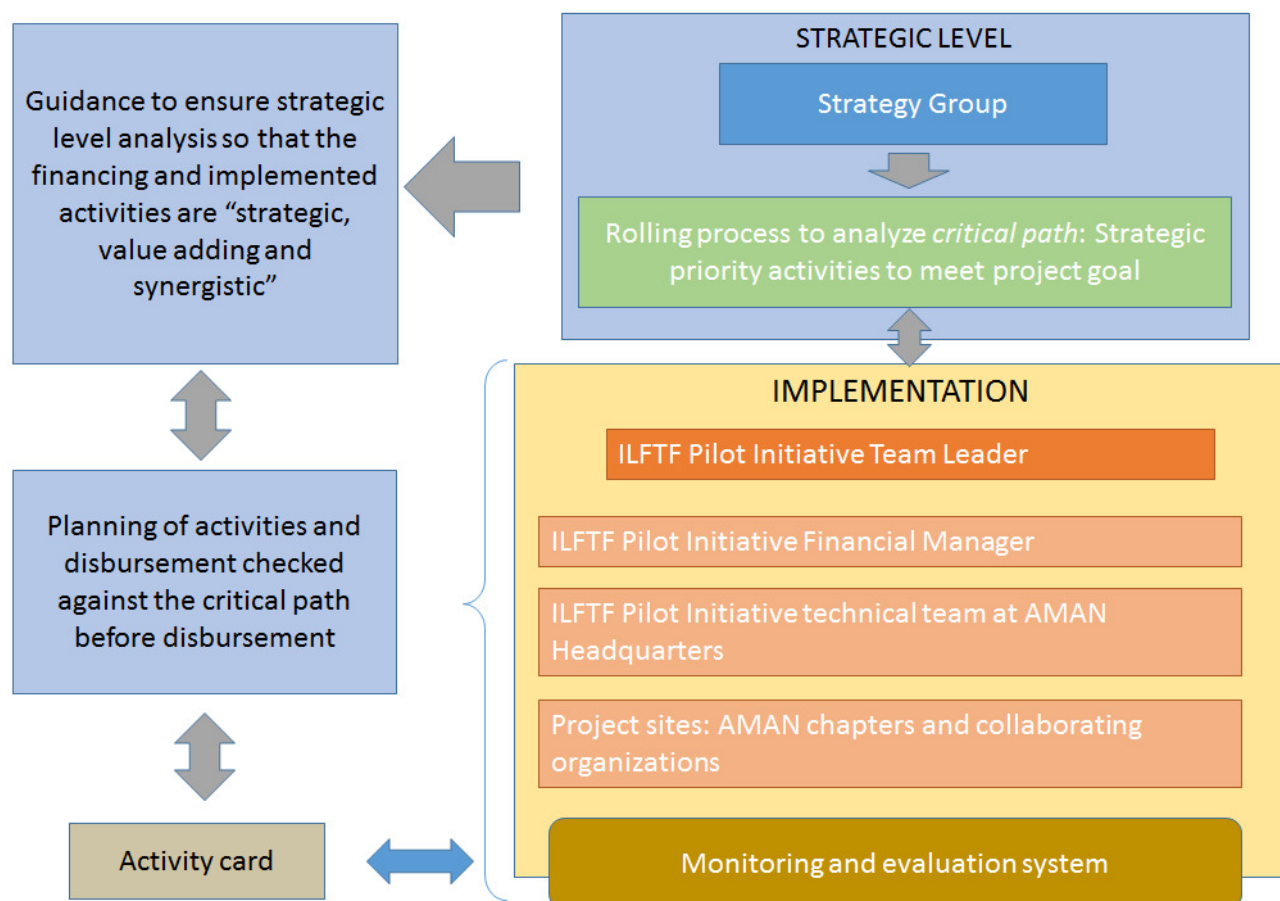
The target of these activities are the National Parliament and the Office of the President, both of which started operating after election in late 2014. These target stakeholders will benefit in increased understanding of indigenous peoples in general and specifically on the importance of indigenous tenure. The final beneficiaries are indigenous peoples and the Indonesian nation as a whole that will in the long-term benefit from advances in the tenure reform agenda into which this project, along with various other support and processes, aims to contribute to.

3.2 Operating modality and implementation approaches

Project structure and human resources

A project Implementing Team (IT) will be formed to be responsible for overall implementation. So-called Strategy Group (SG) will guide its work. The implementation arrangements are summarized in Graph 3.3.

Graph 3.3 ILFTF Project Implementation Structure



Strategy Group

The Strategy Group (SG) will include members from AMAN and other organizations (e.g. CSOs, academic organizations). The SG will be relative small, comprising 3-5 persons with long-term strategic level experience and solid understanding of the operational environment (policy and legislative processes and relevant thematic issues) for indigenous peoples' tenure rights. SG will meet and exchange information frequently in person, over Skype and email.

SG has two key tasks:

1. *Providing strategic guidance for project implementation.* SG will establish and frequently up-date an analysis on policy options and required strategic actions to secure the legal recognition and protection of indigenous tenure rights in the context of the changing policy environment. This analysis will allow the project to strategically adjust to changes in the policy environment and take on new strategic actions or adjust the planned actions if feasible.
2. *Facilitating dialogue and communication.* The SG will organize and facilitate a series of meetings convening groups of key stakeholders (e.g. IPOs, CSOs, academia, public sector institutions and private sector representatives). This process will prepare ground for the ILFTF functions in Indonesia by bringing key stakeholder together to discuss, share information, contribute to the policy options analysis, and form a *shared vision* and *strategic partnerships* in advancing the legal recognition of indigenous peoples and local communities' tenure rights. It can also act as forum for sharing lessons learned and identify future action.

The SG is facilitated by ILFTF project Team Leader acting as secretary to the SG and ensuring constant communication and link between the SG and the IT. Team Leader will ensure that SG analysis on policy options is kept up-to date and recorded and that SG meeting minutes are recorded by assigned person and these are saved in project drive.

Implementing Team

Pilot initiative Implementing Team (IT) will consist of AMAN headquarters team at the central level and local teams in selected project sites (districts). The IT is led by a recruited Technical Team Leader with proven track record and solid experience. The team will carry out activities as per project work plan that is to be established at the initiation of the project. The IT will mobilize the pool of expertise available outside the organization at both central and local levels when specific expertise is needed. The IT is to be supported by recruited Financial Manager with solid experience and track record.

Timely interaction between the SG and IT team is crucial and is ensured e.g. through:

- Technical Team Leader operating as secretary to the SG
- SG guidance in terms of analysis on policy options and strategic actions is used as basis for project planning, and it is tied to disbursement from the flexible funds budget line and to monitoring mechanism e.g. via the activity reporting card system (see M&E)
- Frequent meetings by Implementing Team and SG taking place at minimum at the initiation of the project and during months four and eight at project checkpoints.

Key operational approaches

In the beginning of the project and during the project, the Strategy Group updates and enhances the analysis of the policy options to secure legal recognition and protection of indigenous peoples and the required strategic action. The Implementing Team in cooperation with the SG monitor that the project activities are aligned with the analysis carried out by the SG and whether any changes in project activities or expected results are required.

In the beginning of the project, three project sites (districts) are selected as per proposed site selection criteria:

- Existing local level indigenous organization(s)
- Positive attitude by local government for rights recognition
- Existing participatory maps: As ready product as possible
- Existing district regulation (perda) or Head of the District degree
- Existing local level pool of expertise that can be mobilized (IPOs, NGOs, research institutions)
- Synergies with other initiatives by CSOs, government, other

Based on information available, a preliminary site analysis was carried out using following criteria: i) Status of the development of District Legislation and/or regulation, ii) Status of Participatory Mapping, and iii) Presence of Indigenous Peoples Organization(s). Based on afore mentioned criteria, six sites were identified to be most opportune potential candidate sites:

- Lebak in Banten
- Luwu in Sulawesi Selatan
- Indragiri Hulu in Riau
- Bulungan in Kalimantan Utara
- Sigi in Sulawesi Tengah

More information on analysis of potential sites in Annex 5.

After site selection, the implementing team at site and central level with guidance from the SG analyse the site-specific policy options, required key strategic actions at each site, and establish a work plan for each site.

The central level IT/Technical Team Leader will make frequent site visits to trouble shoot, assist in problem solving and provide internal capacity building and allow close communication between

implementers in the project sites and central level implementers. Good communication and quick problem solving are especially important in a short 12-month project to ensure smooth project management.

To allow efficient running of the M&E system and project implementation, the Technical Team Leader or another competent implementing team member will travel frequently to project sites for establishing a yearly work plan and for at least first monthly meeting to provide internal capacity building via learning by doing modality on project management, planning, M&E and financial management.

Roles

The roles in the project implementation are detailed in Table 3.1.

Table 3.1 Stakeholder Roles in Project Implementation

| <i>Name Organization/Institution/Stakeholder</i> | <i>Role</i> |
|--|--|
| AMAN's Headquarter | <ul style="list-style-type: none"> - Facilitating the Strategy Group - Managing the Project - Implementing the Project's activities |
| AMAN's local chapters | <ul style="list-style-type: none"> - Implementing the Project's activities |
| Indigenous Communities (both of AMAN's members and non-members) in project sites | <ul style="list-style-type: none"> - All indigenous communities will be the Project's beneficiaries - Indigenous communities of AMAN's members will become participants of relevant activities |
| District executive and legislative institutions | <ul style="list-style-type: none"> - Target groups - Partners in relevant activities |
| National Parliament | <ul style="list-style-type: none"> - Target group - Selected members of the national parliament identified as champions will become partners in relevant activities |
| Office of President | <ul style="list-style-type: none"> - Target group - Selected high officers of the Office of President identified as champions will become partners in relevant activities |
| CSOs and other organizations | <ul style="list-style-type: none"> - Selected representatives of CSOs will join the Strategy Group as members - Selected members of CSO will serve as technical associates in relevant activities (including providing technical assistance) - Organizational collaboration |
| Academia, researchers | <ul style="list-style-type: none"> - Join the Strategy Group or provide conceptual support for the strategy group (through a process that will be developed by AMAN) - Provide conceptual support in the development of syllabus of trainings |

Procurement

Pilot will use existing AMAN central and district level facilities and equipment. No major procurement of equipment is foreseen. For procurement of minor equipment (e.g. drive space for project) and services (e.g. recruiting project Technical Team Leader and Financial Manager, auditing services, external service providers for capturing lessons learned, and external service provider for final evaluation) the AMAN Standard Operating Procedure (SOP) is used.

Reporting

Main reports the project will produce are:

- Progress reports at months four and eight
- Final report at month 12
- Strategy Group update on policy options and strategic action which is established at least every second month
- Minutes of monthly project meetings

Project progress reports will be prepared based on the checkpoint meetings in the end of months four and eight. Progress report will include at least progress as per expected results, estimation whether the project will deliver on its purpose, whether there is need to change the LogFrame and project work plan and the changed work plan, challenges in project management and implementation and ways to solve these, analysis whether key risks have realized and if there are any changes regarding the key risks. A final report will be prepared in the end of the project on month 12. Final report will include description of delivery as per expected results using LogFrame indicators and other sources and project purposes, analysis of what allowed meeting the expected results and delivering on the purpose and in case these were not met analysis on the related reasons, key challenges faced and ways that they were solved, and lessons learned on project implementation and on functions of the SG.

In addition, there will be central and local level IT's monthly meeting minutes, meeting minutes by the SG, meeting minutes and workshop outcome reports of the stakeholder strategy meetings, and thematic reports and briefs produced by the project (see Annex 6).

Other key guidance documents supporting the pilot initiative implementation

At the initiation of the pilot initiative a brief and clear Anticorruption Policy will be developed, for example by further developing the AMAN Standard Operating Procedure (SOP), and disseminated among implementing team and all stakeholder involved in the implementation.

At the initiation of the project, an internal communication plan will be developed by the IT lead by the Technical Team Leader. The internal communication strategy will ensure that the implementing team and all stakeholders involved in the implementation are informed and understand the objectives and expected results of the initiative.

3.3 Monitoring and evaluation

The pilot initiative will use a simple but robust monitoring and evaluation (M&E) mechanism to ensure delivery as per planned results and connection between strategic level analysis and project implementation. The monitoring system will have three key elements:

1. Milestones

Work plan with monthly activities for the project period will be developed with monthly milestones linked to the delivery of project results. At the end of each month, a project meeting will be organized to check whether planned monthly milestones have been reached and there is a need to adjust planning and implementation accordingly. The activity is led by Technical Team Leader and includes internal capacity building via learning-by-doing modality on project management, planning, M&E and financial management.

The implementing stakeholders in each project site will prepare for each project site a 12-month work plan and milestones for each month. Before the end of the month, the central and local level IT will organize a teleconference via phone, Skype or alike system, or in-person meeting. In the monthly monitoring meeting, a report by the site level implementing team on the progress towards meeting the planned monthly milestones, key challenges and any needs to adjust the planning for the remaining project period and any other relevant issues and developments are discussed.

2. Check points

Check points at months four and eight with major milestones will allow to observe whether the pilot initiative is on course to reach its expected results and whether any major re-alignments need to be made. At project checkpoints, the project IT and SG meet to review progress to-date. Check point meetings are preplanned with key information on i) progress of the project to-date and progress on the expected results, ii) key challenges, and iii) financial information. Information gathering from the monitoring system, draft progress report and other materials for the meeting are prepared by the IT. A checkpoint report will be prepared and meeting minutes recorded.

Site level implementing team will establish similar reporting as per site and organize a checkpoint meeting with the implementing team and Technical Team Leader and SG members.

3. Activity report card

Reporting card per activity is established to secure link between Strategy Group and implementing organization. Reporting card is established in Annex 7. Activity implementers are responsible to establish activity-reporting card at the beginning of activity. In case of mobilizing flexible funds for strategic activities during the project implementation, the activity-reporting card will be used to check alignment of the proposed activity with the project goals and results. Technical Team Leader will assess the card and aforementioned alignment and activity can be financed from the flexible funds only after establishment of the card by implementing team members and approval of the card by the Technical Team Leader.

Purpose of the recording card is to ensure that all i) activities carried out in the project are directly relevant and aligned with the project objectives and expected results, ii) as a tool in decision making to use funds from the project's flexible funds line, iii) monitoring during the activity whether changes are required due to changes in the operational environment or other factors and recording of these, and iv) after completion of the activity to verify whether expected results are met. In case expected results are produced, a brief information of enabling factors. In case the expected results are not met, brief information on key reasons for the reasons that lead to the situation. The activity reporting cards can be established at central level or site level, depending on the nature of the activity. Reporting cards will be saved to the project drive at the time of establishment and updated when progress is reported half way to the implementation (not necessary for short activities) and after completion of the activity. Reporting cards are an important part of the monitoring mechanism and the Team Leader will review them monthly with the respected IT members working on the activity.

Evaluation to capture lessons learned

Capturing lessons learned is crucial to maximize the inputs from the pilot project to the development of the ILFTF operational modalities. A competent external Indonesian service provider (individual or an organization such as e.g. a research institution or a consultancy) will be contracted to capture lessons learned from the ILFTF pilot initiative. The purpose of the contracting is to allow the project proponent to concentrate on implementation and relieve the proponent from using time and effort to carry out detailed studies in lessons learned for further developing the operational modalities of the ILFTF.

The evaluation will be carried out and completed within two months after completing the 12-month project.

Auditing

An established competent service provider will audit the pilot initiative. Audit will be carried out after completing the project and the timing will be matched with AMAN's administrative schedule, at the end of the fiscal year in which the project ends (2016).

3.4 Sustainability of the Action and Risk Assessment

Sustainability of the action

The elements contributing to the pilot initiative's sustainability are following:

- *Pilot builds on existing efforts:* The project supports strategic action by the Indonesian IPOs and CSOs long-term work in advancing tenure reform and rights recognition that has been going on since late 1980s. Pilot initiative will support those processes that currently have opportunity and momentum to significantly advance the legal recognition and protection of indigenous peoples forest tenure rights. If support to establishment of Presidential Task Force on Indigenous Peoples and support to the process to enact the draft Bill recognition and protection of indigenous rights result with the establishment of the afore mentioned, the positive impacts on indigenous forest tenure are significant and long reaching.
- *In-built mechanism facilitating shared strategy building:* Pilot initiative aims to bring stakeholders together to exchange information, analyse the policy options for rights recognition and to build and strengthen a shared vision on priority strategic activities and partnerships required to advance the tenure reform. The coordination in terms of shared vision and strategic partnerships can build a long-term basis for such processes and can benefit the efforts to address the tenure reform agenda. These will also enable stakeholders to come together to mobilize further support for strategic action from the ILFTF.
- Project will apply engagement processes at district level and produce various materials, e.g. policy briefs, that can be used in AMAN's and collaborators' work to benefit current and future engagement activities in other provinces and districts

Risks

Key risks within the project horizon are identified in Table 3.2. Delay in key policy processes could affect the project activities being delayed or expected results not being met. However, the project implementation design includes through the project Strategy Group a rolling process to adjust project expected results and activities to the changes in the policy environment.

Project activities are also targeting maintaining the current momentum policy processes in the tenure reform agenda. Lacking political will can hinder attaining the project goals and results but to mitigate these project activities are target building and mobilizing political will both at the national level and at district level in pilot districts.

A key operational risk for the pilot initiative is a disconnect between pilot initiative Strategy Group's work and project implementation that would risk the strategic nature of project's activities mobilized from the flexible budget line and also lacking adjustment of the pre-planned project activities. To mitigate the risk the project operating design includes various mechanisms in the project monitoring, reporting and operating approaches to ensure a robust connection is maintained.

Table 3.2 Key Risks in Context of the Pilot Initiative

| <i>Risk identified</i> | <i>Type</i> | <i>Risk level</i> | <i>Mitigation measures</i> |
|---|-------------|-------------------|---|
| Delay in key policy processes | Political | Medium | Project Strategy Group is tasked with on-going analysis of the policy environment and necessary strategic action Project activities support maintaining the current momentum |
| Lacking political will to realize indigenous territorial rights | Political | Medium | Project activities |
| Disconnect between pilot initiative Strategy Groups work and project implementation | Operational | Medium | Mitigated through project design through M&E system, reporting system, internal capacity building, project operating modalities |

3.5 Duration and indicative action plan for implementing the Project

The duration of the ILFTF pilot initiative is 12 months. The activity schedule is established in Table 3.3. Based on experience, it is likely that the preparatory activities, such as recruitment of Technical Team Leader and Financial Manager, and those in the beginning of the project, such as internal organization, work planning, and site selection, take time to complete.

Table 3.3 ILFTF Pilot Initiative Activity Schedule

| Activity | Month | | | | | | | | | | | | Implementing organization |
|---|-------|---|---|---|---|---|---|---|---|----|----|----|-----------------------------------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | |
| Finalization of the recruitment of the Technical Team Leader and Financial Manager (preparatory activity) | | | | | | | | | | | | | Proponent |
| Project internal organization and work planning | | | | | | | | | | | | | Proponent |
| Project site selection | | | | | | | | | | | | | Proponent |
| A.1.1.1. A policy brief on the existing national and district legislations and regulations of the tenure rights of IPs peoples as well as land and forest tenure policies | | | | | | | | | | | | | Proponent with strategic partners |
| A.1.1.2. Circulating the policy brief stated in A.1.1.1. to key personnel at district government and legislative institutions and other key stakeholders | | | | | | | | | | | | | |
| A.1.1.3. Facilitating workshops on the IPs' tenure rights as well as legal recognition and protection of these rights | | | | | | | | | | | | | |
| A.1.1.4. Analysis of the policy options and strategic steps towards the legal recognition and protection of the tenure rights of IPs | | | | | | | | | | | | | |
| A.1.1.5. Discussion of the result of the analysis (of activity A.1.1.4) in a workshop attended by key stakeholders participating in activity A.1.1.3. at the project sites | | | | | | | | | | | | | |
| A.1.1.6. Development of joint action plan with district government and Parliament on the strategic steps toward legal recognition and protection of indigenous peoples tenure rights at the district level | | | | | | | | | | | | | |
| A.1.2.1. Training on legal drafting of policy makers at district level | | | | | | | | | | | | | |
| A.1.2.2. Technical assistance on the formulation process of the draft of district legislation and/or regulation at project sites | | | | | | | | | | | | | |

| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| A.1.3.1. Facilitating technical meetings on legal drafting_at the district level_by inviting experts and relevant resource persons | | | | | | | | | | | | | |
| A.1.3.2. Facilitating a series of public dialogue on the draft of district legal and administrative instrument(s) on the recognition of tenure rights of IPs to get political support on the draft | | | | | | | | | | | | | |
| A.1.3.3. Technical assistance in the further development of the draft of legal and administrative instrument(s) on the recognition of tenure rights of IPs at the district level | | | | | | | | | | | | | |
| A.1.4.1. Training on the participatory production of land use map that adopts gender perspective | | | | | | | | | | | | | |
| A.1.4.2. Training on participatory production of socio-cultural data that adopts gender perspective | | | | | | | | | | | | | |
| A.1.4.3. Participatory production of land use map, with gender perspective included, in project sites | | | | | | | | | | | | | |
| A.1.4.4. Ethnographic study in project sites, with gender perspective included, to produce historical and socio-cultural data on land and resources use histories, customary laws, traditional knowledge, and relevant issues | | | | | | | | | | | | | |
| A.2.1.1. Producing a policy brief about the concept of the Presidential task force on indigenous peoples and the executive order to implement the Constitutional Court Ruling No. 35/2012 | | | | | | | | | | | | | |
| A.2.1.2. Circulating the policy brief stated in A.2.1.1. to key personnel of Presidential Office, state institutions, national Parliament and other key stakeholders as well as media | | | | | | | | | | | | | |
| A.2.1.3. Facilitating technical meetings of high level officers by inviting experts and relevant resource persons | | | | | | | | | | | | | |
| A.2.1.4. Organizing dialogues of key actors at the Presidential Office, other relevant state institutions, and key members of national parliament to get political support | | | | | | | | | | | | | |
| A.2.1.5. Intensive advocacy process on the finalization of the draft concept of legal and administrative instruments: the establishment of the Presidential Task Force on IPs and the executive order to implement the Constitutional Court ruling no 35/2012 | | | | | | | | | | | | | |
| A.2.2.1. Producing a policy brief on legal recognition and protection of the rights of IPs, including indigenous women and marginalized groups | | | | | | | | | | | | | |

| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| A.2.2.2 Circulating the policy brief stated in A.2.2.1. to parliament members, their expert staffs, and their political parties as well as public through mass media | | | | | | | | | | | | | |
| A.2.2.3. Facilitating workshops on the rights of IPs, including indigenous women and marginalized groups, to be attended by key Parliament members, their expert staffs and their political parties | | | | | | | | | | | | | |
| A.2.3.1 Establishment of a technical working group which consist of key personnel of AMAN and its strategic partners; this working group will facilitate series of intensive discussions among Parliamentarians (parliamentary debates) | | | | | | | | | | | | | |
| A.2.3.2. Facilitating meetings and advocacy process to get commitment of key members of the national Parliament on the establishment of the IPs caucus in the national Parliament | | | | | | | | | | | | | |

3.6 Logical Framework

| LOGICAL FRAMEWORK FOR THE PILOT PROJECT | | | | |
|---|---|--|--|--|
| | Project Logic | Objectively verifiable indicators of achievement | Sources and means of verification | Assumptions |
| Overall Objectives (Over project horizon) | Contributing to the legal recognition and protection of tenure rights of IPs | <ul style="list-style-type: none"> Law on recognition and protection of the tenure rights of indigenous peoples, including women and marginalized group, established and implemented Implementing regulation on the Law on recognition and protection of indigenous rights established and implemented State institution with mandate on facilitating the legal recognition and protection of indigenous rights established | Presidential Office document repository National Parliament document repository | Political will in place at the executive and the legislative institutions at national and district levels No unexpected delay in key policy and legislative processes |
| Specific Objectives (purpose) Within project | <u>Specific Objective (SO) 1</u> Increased readiness at the district level for legal recognition of the tenure rights of IPs | <u>SO 1 indicator</u> <ul style="list-style-type: none"> In project districts an increased number of engagement activities with the district executive and legislative bodies in the preparation of the legal draft of district legislation and regulation | <u>SO 1 indicator sources</u> <ul style="list-style-type: none"> Document repository of the district executive and legislative bodies | <u>Risks</u> no political will at district level mitigation strategy is the project site selection |

| | | | | |
|-------------------------|---|--|---|--|
| horizon | <p><u>Specific Objective (SO) 2</u></p> <p>Strengthened legal and administrative instruments at the national executive and legislative levels towards the recognition and protection of tenure rights of IPs</p> | <p><u>SO 2 indicator</u></p> <ul style="list-style-type: none"> Adoption of the draft bill on the recognition and protection of the rights of IPs in the national legislative plan for 2016 | <ul style="list-style-type: none"> Documents produced by the engagement process e.g. legislative drafts, agreed legislative concept notes or alike document preparing for establishing legislation or regulation on the recognition and protection of indigenous tenure rights <p><u>SO 2 indicator source</u></p> <ul style="list-style-type: none"> 2016 national legislation plan of the National Parliament | <p>strategy in which political will is one condition</p> |
| Expected Results | <p><u>Expected Results of SO 1</u></p> <p>R.1.1</p> <p>Formalised, shared understanding on IPs' tenure rights in project district government institutions and district parliament</p> <p>R.1.2</p> <p>Improved skills in project sites in preparing legal drafts of district legislation and regulation on the recognition and protection of IPs' tenure rights</p> | <p><u>Indicators of Expected Results of SO1</u></p> <p>R.1.1 indicator</p> <p>Memorandum of Understanding established among IPOs, CSOs, district government and parliaments</p> <p>R.1.2 indicator</p> <p>Increased quality of the substance of the legal draft in project sites (districts)</p> | <p>R.1.1 source:</p> <p>Document of memorandum of understanding on the recognition and protection of the indigenous peoples tenure rights at the district level from the project repository</p> <p>R.1.2 source:</p> <p>Document of the draft of district legislation and/or regulation available at the repository of the district parliament</p> | <p>Political will to establish the Task Forces is maintained</p> <p>Other policy processes do not interfere with the establishment of the Task Forces</p> <p>Stakeholders (IPOs, CSOs, public sector) are willing to work together towards shared understanding</p> <p>Beneficiaries of capacity building are willing and have time to participate</p> |

| | | | | |
|--|--|---|---|---|
| | <p>R.1.3</p> <p>Draft of district legal and/or administrative instruments on the recognition and protection of tenure rights of IPs formulated</p> | <p>R.1.3 indicator</p> <p>Developed draft of district legislation and/or regulation on the recognition of the existence of indigenous peoples and their territories as well as district instrument to officially adopt the maps of customary territories resulting from participatory mapping process</p> | <p>R.1.3 source</p> <p>Document of the draft of district legislation and/or regulation at the repository of the district parliament</p> | <p>Willingness and availability of parliamentarians to participate to parliamentary seminar and debates</p> |
| | <p>R.1.4</p> <p>Process of generating sociocultural and land use data complementing existing participatory maps in project sites started</p> | <p>R.1.4. Indicator</p> <p>Gender-sensitive land use maps and socio-cultural data in project sites are available to complement existing maps produced from previous participatory mapping</p> | <p>R.1.4. source</p> <p>Document of advanced maps in the project sites, that have been completed with gender-sensitive land use map and socio-cultural data</p> | |
| | <p><u>Expected Results of SO 2</u></p> <p>R.2.1</p> <p>Increased executive commitment to establish the Presidential Task Force on IPs and/or the executive order to implement the Constitutional Court ruling no 35/2012</p> | <p><u>Indicators of Expected Results of SO2</u></p> <p>R 2.1.1 Indicator</p> <p>Finalized draft of the Presidential decree on the establishment of the task force on indigenous peoples</p> <p>R.2.1.2 indicator</p> <p>Advanced draft of the Executive Order to implement the Constitutional Court ruling no 35/2012</p> | <p>R.2.1.1 source:</p> <p>Document repository of the Presidential Office: Finalized draft Presidential decree on the establishment of the task force on indigenous peoples in the</p> <p>R.2.1.2 source:</p> <p>Document repository of the Presidential Office: Advanced draft of the Presidential executive order to implement the Constitutional Court ruling no 35/2012 in the</p> | |

| | | | | |
|-------------------|--|---|--|--|
| | <p>R.2.2</p> <p>Increased understanding of the members of the National Parliament on the tenure rights of IPs</p> <p>R.2.3</p> <p>Developed commitment towards the establishment of the IPs caucus in the Parliament</p> | <p>R.2.2. indicator</p> <p>Strengthened ideas and plan of actions among Parliament members toward recognition and protection of the tenure rights of indigenous peoples, including indigenous women and marginalized group</p> <p>R.2.3.indicator</p> <p>Document of agreement of Parliament members to establish the indigenous peoples caucus in the parliament</p> | <p>R.2.2 source</p> <p>Report/minutes of meetings and or dialogues between AMAN and members of the National Parliament</p> <p>R.2.3 source</p> <p>Minutes of meetings on the plan to establish the indigenous peoples caucus in the Parliament</p> | |
| Activities | <p><u>Activities for Expected Result R.1.1</u> (Formalized, shared understanding on IPs' tenure rights in project district government institutions and district parliament)</p> <p>A.1.1.1.</p> <p>A policy brief on the existing national and district legislations and regulations of the tenure rights of IPs peoples as well as land and forest tenure policies</p> <p>A.1.1.2.</p> <p>Circulating the policy brief stated in A.1.1.1. to key personnel at district government and legislative institutions and other key stakeholders</p> | <p><u>Strategic Means Required for Activities</u></p> <p>A.1.1.1. strategic means</p> <ul style="list-style-type: none"> Policy analysis <p>A.1.1.2. strategic means</p> <ul style="list-style-type: none"> Communication strategy | <p><u>Sources of information on action progress</u></p> <p>A.1.1.1 source of progress</p> <ul style="list-style-type: none"> Printed document of policy brief <p>A.1.1.2 source of progress</p> <ul style="list-style-type: none"> Numbers of stakeholders reached | |

| | | | | |
|--|--|---|--|--|
| | <p>A.1.1.3. Facilitating workshops on the IPs' tenure rights as well as legal recognition and protection of these rights</p> <p>A.1.1.4. Analysis of the policy options and strategic action required towards the legal recognition and protection of the tenure rights of IPs</p> <p>A.1.1.5. Discussion of the result of the analysis (of activity A.1.1.4) in a workshop attended by key stakeholders participating in activity A.1.1.3. at the project sites</p> <p>A.1.1.6. Development of joint action plan with district government and Parliament on the strategic steps toward legal recognition and protection of indigenous peoples tenure rights at the district level</p> | <p>A.1.1.3. strategic means</p> <ul style="list-style-type: none"> • Strategic agenda of the workshop • Workshop facilitation strategy <p>A.1.1.4. strategic means</p> <ul style="list-style-type: none"> • Assessment of existing legislation and/or regulation as well as existing commitments and/or initiatives in each project site • Engagement among stakeholders if done in participatory manner to allow shared vision <p>A.1.1.5. strategic means</p> <ul style="list-style-type: none"> • Strategic discussion method to gain constructive inputs during workshop <p>A.1.1.6. strategic means</p> <ul style="list-style-type: none"> • Strategic facilitation method to allow participation of high-level key personnel in district government and parliament. | <p>A.1.1.3. source of progress</p> <ul style="list-style-type: none"> • Workshop reports <p>A.1.1.4 source of progress</p> <ul style="list-style-type: none"> • Document of analysis of the policy options and strategic action required towards legal recognition and protection of the tenure rights of indigenous peoples, including indigenous women and marginal groups within communities <p>A.1.1.5 source of progress</p> <ul style="list-style-type: none"> • Minutes of meeting <p>A.1.1.6. source of progress</p> <ul style="list-style-type: none"> • Document of joint action plan on strategic steps | |
|--|--|---|--|--|

| | | | | |
|--|--|---|--|--|
| | <p><u>Activities for Expected Result R.1.2.</u> (Improved skills in project sites in preparing legal drafts of local legislation and regulation on the identification of IPs' tenure rights)</p> <p>A.1.2.1. Training on legal drafting of policy makers at district level</p> <p>A.1.2.2. Technical assistance on the formulation process of the draft of district legislation and/or regulation at project sites</p> <p><u>Activities for Expected Result R.1.3.</u> (Draft of district legal and/or administrative instrument(s) on the recognition and protection of tenure rights of IPs)</p> <p>A.1.3.1. Facilitating technical meetings on legal drafting at the district level by inviting experts and relevant resource persons</p> <p>A.1.3.2. Facilitating a series of public dialogue on the draft of district legal and administrative instrument(s) on the recognition of tenure rights of IPs to get political support on the draft</p> | <p>A.1.2.1. strategic means</p> <ul style="list-style-type: none"> • Training syllabus <p>A.1.2.2. strategic means</p> <ul style="list-style-type: none"> • Method of the technical assistance that allows shared vision and mission of stakeholders to be included in the formulation process of the draft of district legislation and/or regulation <p>A.1.3.1. strategic means</p> <ul style="list-style-type: none"> • Meeting facilitation method that allows intensive participation of district government officers and district parliament members <p>A.1.3.2. strategic means</p> <ul style="list-style-type: none"> • Communication strategy • Strategic facilitation method | <p>A.1.2.1 source of progress</p> <ul style="list-style-type: none"> • Report of the training <p>A.1.2.2 source of progress</p> <ul style="list-style-type: none"> • Report of the technical assistance <p>A.1.3.1. source of progress</p> <ul style="list-style-type: none"> • Report of the technical meeting <p>A.1.3.2 source of progress</p> <ul style="list-style-type: none"> • Report of public dialogue | |
|--|--|---|--|--|

| | | | | |
|--|---|---|---|--|
| | <p>A.1.3.3.</p> <p>Technical assistance in the further development of the draft of legal and administrative instrument(s) on the recognition of tenure rights of IPs at the district level</p> <p><u>Activities for Expected Result R.1.4</u> (Developed complimentary data on the existing participatory map in project sites, which include the production of gender-sensitive land use map and socio-cultural data)</p> <p>A.1.4.1.</p> <p>Training on the participatory production of land use map that adopts gender perspective</p> <p>A.1.4.2.</p> <p>Training on participatory production of socio-cultural data that adopts gender perspective</p> <p>A.1.4.3.</p> <p>Participatory production of land use map, with gender perspective included, in project sites</p> <p>A.1.4.4.</p> <p>Ethnographic study in project sites, with gender perspective included, to produce historical and socio-cultural data on land and resources use histories, customary laws, traditional knowledge, and relevant issues</p> | <p>A.1.3.3. strategic means</p> <p>Method of the technical assistance that allows shared vision and mission of stakeholders to be included in the formulation process of the draft of district legislation and/or regulation</p> <p>A.1.4.1. strategic means</p> <ul style="list-style-type: none"> • Training syllabus that adopts gender perspective • Strategic partnerships <p>A.1.4.2. strategic means</p> <ul style="list-style-type: none"> • Trainer syllabus that adopts gender perspective • Strategic partnership <p>A.1.4.3. strategic means</p> <ul style="list-style-type: none"> • Well trained facilitators of participatory land use mapping with gender perspective <p>A.1.4.4. strategic means</p> <ul style="list-style-type: none"> • Well trained field researchers | <p>A.1.3.3 source of progress</p> <ul style="list-style-type: none"> • Report of technical assistance <p>A.1.4.1. source of progress</p> <ul style="list-style-type: none"> • Report of training <p>A.1.4.2. source of progress</p> <ul style="list-style-type: none"> • Report of training <p>A.1.4.3. source of progress</p> <ul style="list-style-type: none"> • Document of land use map that has gender perspective <p>A.1.4.4. source of progress</p> <ul style="list-style-type: none"> • Report of ethnographic study of each project site with gender perspective | |
|--|---|---|---|--|

| | | | | |
|--|---|--|---|--|
| | <p><u>Activities for Expected Result R.2.1</u></p> <p>A.2.1.1. Producing a policy brief about the concept of the Presidential task force on indigenous peoples and the executive order to implement the Constitutional Court Ruling No. 35/2012</p> <p>A.2.1.2. Circulating the policy brief stated in A.2.1.1. to key personnel of Presidential Office, state institutions, national Parliament and other key stakeholders as well as media</p> <p>A.2.1.3 Facilitating technical meetings of high level officers by inviting experts and relevant resource persons</p> <p>A.2.1.4. Organizing dialogues of key actors at the Presidential Office, other relevant state institutions, and key members of national parliament to get political support</p> <p>A.2.1.5. Intensive advocacy process on the finalization of the draft concept of legal and administrative instruments: the establishment of the Presidential Task Force on IPs and the executive order to implement the Constitutional Court ruling no 35/2012</p> | <p>A.2.1.1. strategic means</p> <ul style="list-style-type: none"> • Policy analysis • Institutional arrangement analysis <p>A.2.1.2. strategic means</p> <ul style="list-style-type: none"> • Communication strategy <p>A.2.1.3. strategic means</p> <ul style="list-style-type: none"> • Meeting facilitation method that allows intensive participation of high level officers <p>A.2.1.4. strategic means</p> <ul style="list-style-type: none"> • Selected method of the dialogues that enable significant political support • Strategic networks <p>A.2.1.5. strategic means</p> <ul style="list-style-type: none"> • Selected method of advocacy that enable significant political support • Strategic networks | <p>A.2.1.1. source of progress</p> <ul style="list-style-type: none"> • Printed document of the policy brief stated in A.2.1.1. <p>A.2.1.2 source of progress</p> <ul style="list-style-type: none"> • Compiled information of media coverage <p>A.2.1.3. source of progress</p> <ul style="list-style-type: none"> • Minutes of each meeting • Report of each meeting <p>A.2.1.4. source of progress</p> <ul style="list-style-type: none"> • Minutes of each meeting • Report of each meeting <p>A.2.1.5. source of progress</p> <ul style="list-style-type: none"> • Report of the advocacy process | |
|--|---|--|---|--|

| | | | | |
|--|--|--|--|--|
| | <p><u>Activities for Expected Result R.2.2</u></p> <p>A.2.2.1 Producing a policy brief on legal recognition and protection of the rights of IPs, including indigenous women and marginalized groups</p> <p>A.2.2.2 Circulating the policy brief stated in A.2.2.1. to parliament members, their expert staffs, and their political parties as well as public through mass media</p> <p>A.2.2.3. Facilitating workshops on the rights of IPs, including indigenous women and marginalized groups, to be attended by key Parliament members, their expert staffs and their political parties</p> <p><u>Activities for Expected Result R.2.3</u> (Developed commitment towards the establishment of the IPs' caucus in the Parliament)</p> <p>A.2.3.1 Establishment of a technical working group which consist of key personnel of AMAN and its strategic partners; this working group will facilitate series of intensive discussions among Parliamentarians (parliamentary debates)</p> | <p>A.2.2.1. strategic means</p> <ul style="list-style-type: none"> • Policy analysis <p>A.2.2.2. strategic means</p> <ul style="list-style-type: none"> • Communication strategy <p>A.2.2.3. strategic means</p> <ul style="list-style-type: none"> • Workshop agenda • Experienced workshop facilitator(s) <p>A.2.3.1. strategic means</p> <ul style="list-style-type: none"> • Shared vision and mission of the group members | <p>A.2.2.1 source of progress</p> <ul style="list-style-type: none"> • Printed document of the policy brief stated in A.2.2.1. <p>A.2.2.2 source of progress</p> <ul style="list-style-type: none"> • Compiled information of media coverage <p>A.2.2.3. source of progress</p> <ul style="list-style-type: none"> • Report of each workshop <p>A.2.3.1 source of progress</p> <ul style="list-style-type: none"> • Report of the establishment of the technical working group | |
|--|--|--|--|--|

| | | | | |
|--|---|--|--|--|
| | <p>A.2.3.2.</p> <p>Facilitating meetings and advocacy process to get commitment of key members of the national Parliament on the establishment of the IPs caucus in the national Parliament</p> | <p>A.2.3.2. strategic means</p> <ul style="list-style-type: none"> • Selected method of the dialogues that enable significant political support • Strategic networks | <p>A.2.3.2. source of progress</p> <ul style="list-style-type: none"> • Report of the meetings and advocacy process | |
|--|---|--|--|--|

3.7 Proposed Budget from the ILFTF and Other Expected Sources

Work Sheet 1: Summary Budget for the Project Duration - 12 Months

| | Total |
|--|-------|
| Salaries, stipends, honoraria, consultants | |
| Transportation, lodging, and food | |
| Equipment | |
| Workshop, documentation, and materials | |
| Office Expenses | |
| Administration | |
| Project Audit | |

Project Total

Budget By Activity

| Name of Activity: | Total |
|--|-------|
| Salaries, stipends, honoraria, consultants | |
| Transportation, lodging, and food | |
| Equipment | |
| Workshop, documentation, and materials | |
| Office Expenses | |
| Administration | |
| Project Audit | |

Total

| Name of Activity: | Total |
|--|-------|
| Salaries, stipends, honoraria, consultants | |
| Transportation, lodging, and food | |
| Equipment | |
| Workshop, documentation, and materials | |
| Office Expenses | |
| Administration | |
| Project Audit | |

Total

| Name of Activity: | Total |
|--|-------|
| Salaries, stipends, honoraria, consultants | |
| Transportation, lodging, and food | |
| Equipment | |
| Workshop, documentation, and materials | |
| Office Expenses | |
| Administration | |
| Project Audit | |

Total

Work Sheet 2: Justification of the Budget

| Budget Activity(ies) | Justification |
|----------------------|---------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Worksheet 3: Expected Sources of Funding and Summary of Estimated Costs

| Expected Sources of Funding | | Amount in USD | Percentage % |
|--|-------------------------|---------------|--------------|
| | | | |
| ILFTF's contribution sought in this application (A) | | | |
| | | | |
| | | | |
| Other Contributors (Applicant, Other Donors etc) | | | |
| Name | Conditions ¹ | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Expected Total Contributions | | | |
| | | | |
| | | | |
| Estimated Costs | | | |
| | | | |
| | | | |
| Estimated Total Eligible Costs (B) | | | |
| | | | |
| ILFTF's contribution Expressed as a percentage of total eligible costs (A/B x 100) | | | |
| | | | |
| Estimated Total Accepted Costs (C) | | | |
| | | | |
| ILFTF's contribution expressed as a percentage of total accepted costs (A/C x 100) | | | |
| | | | |
| Expected Total Contributions | | | |

¹ Financial contributions specifically assigned by the donors to the financing of the same eligible costs financed by this Contract. Other conditions may apply depending on the contract, such as that the grant may not produce a profit for the Applicant(s).

The Applicant

| | |
|---|--|
| Name of organisation | |
| Name and Title of Legal Representative | |
| Contact Person for this Project (name, title, email) | |
| Legal Status | |
| Official Address | |
| Country | |
| Organization's Website | |
| Telephone Number: Country code + city code + number | |
| Fax Number: Country code + city code + number | |
| Is your organisation linked with another entity? Example confederation / federation / alliance? | <input type="checkbox"/> Yes, parent entity: <input type="checkbox"/> No, independent |

Supplementary materials to be included for the Applicant:

1. Copy of registration, certification of non-profit status.
2. List of board of directors
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement.

The Partner(s)

This section must be completed for each Partner. You must make as many copies of this table as necessary to create entries for each additional Partner.

| | Partner no.1 |
|---|--|
| Name of Organisation | |
| Name and Title of Legal Representative | |
| Partner's contact details for Project (name, title, email) | |
| | |
| Official address | |
| Country | |
| Organization's Website | |
| Telephone number: Country code + city code + number | |
| Fax number: Country code + city code + number | |
| Is your organisation linked with another entity E.g. confederation / federation / alliance? | <input type="checkbox"/> Yes, parent entity: <input type="checkbox"/> No, independent |
| History of cooperation with the Applicant | |

Supplementary materials to be included for the Partner–

1. Copy of registration, certification of non-profit status.
2. List of board of directors
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement.

Important: This table must be accompanied by a signed and dated Mandate from each Partner, in accordance with the template provided below.

Mandate (for Partner(s))

The Partner(s) authorise the Applicant (*include name of the organisation*) to submit on their behalf the present project document to the Contracting Authority, as well as, to be represented by the Applicant in all matters concerning this project.

I have read and approved the contents of the proposal submitted to the Contracting Authority. I undertake to comply with the principles of good partnership practice.

| | |
|-----------------|--|
| Name: | |
| Organisation: | |
| Position: | |
| Signature: | |
| Date and place: | |

Associates of the Applicant for this Project

This section must be completed for each associated organisation, including government agencies. You must make as many copies of this table as necessary to create entries for more associates.

| | Associate 1 |
|---|-------------|
| Full legal name | |
| Country | |
| Address | |
| Contact person (name, title) | |
| Telephone number: country code + city code + number | |
| Fax number: country code + city code + number | |
| E-mail address | |
| Experience of similar actions, in relation to role in the implementation of the proposed Action | |
| History of cooperation with the Applicant | |
| Role and involvement in preparing the proposed Action | |
| Role and involvement in implementing the proposed Action | |

Supplementary materials to be included for the Associate

1. Copy of registration, certification of non-profit status or other status.
2. List of board of directors / institutional leadership.
3. Most recent annual report or summary of overall accomplishments.
4. Last available audited financial statement if applicable

Declaration by the Applicant

The Applicant, represented by the undersigned, being the authorised signatory of the Applicant, in the context of the present funding mechanism, representing any Partners(s) in the proposed Action, hereby declares that:

- the Applicant has the sources of financing specified in the Budget of the Action;
- the Applicant has sufficient financial capacity to carry out the proposed Action or work program;
- the Applicant certifies the legal statues of the Applicant, of the Partner(s);
- the Applicant, the Partner(s) and the Associate(s) have the professional competences and qualifications required to successfully complete the proposed Action;
- the Applicant undertakes to comply with the obligations foreseen in the Partner's statement and with the principles of good partnership practice;
- the Applicant is directly responsible for the preparation, management and implementation of the Project with the Partner(s) and Associate(s), if any, and is not acting as an intermediary;
- the Applicant and each Partner (if any) is in a position to deliver immediately, upon request, any necessary supporting documents required by the Contracting Authority.

Signed on behalf of the Applicant

| | |
|------------------|--|
| Name | |
| Signature | |
| Position | |
| Date | |

Annex 1 Stakeholders Consulted During the Formulation Process

| No. | Name | Institution/Organization |
|--|---------------------------------|--|
| 1. | Mr. Abdon Nababan | Secretary General of AMAN |
| 2. | Ms. Rukka Sombolinggi | Deputy 1 of AMAN's Secretary General |
| 3. | Ms. Mina Susetra | Deputy 2 of AMAN's Secretary General |
| 4. | Mr. Arifin Monang Saleh | Deputy 3 of AMAN's Secretary General |
| 5. | Mr. Yoga Kipli | AMAN's Mapping Unit |
| 6. | Ms. Rainny Situmorang | AMAN's Director of Finance and Operational Management |
| 7. | Ms. Silvy Motoh | Executive Secretary of Perempuan AMAN |
| 8. | Ms. Dion Dharmarini | Finance Manager, AMAN's SicoLife Project |
| 9. | Mr. Eko Cahyono | Executive Director of Sajogyo Institute |
| 10. | Mr. Adi Bahri | Researcher of Sajogyo Institute |
| 11. | Mr. Denny | Director of the Network of Participatory Mapping (JKPP) |
| 12. | Mr. Imam Hanafi | Senior Facilitator for Participatory Mapping of JKPP |
| 13. | Mr. Kasmita Widodo | Coordinator of Customary Territory Registration Agency (BRWA) |
| 14. | Ms. Betty Nababan | Staff of BRWA |
| 15. | Prof. Dr. Hariadi Kartodihardjo | Professor of Forestry, Bogor Agricultural University; Member of Expert Team of NKB |
| 16. | Ms. Nonette Royo | Executive Director of Samdhana Institute |
| 17. | Mr. Martua Sirait | Fellow of Samdhana Institute |
| 18. | Mr. Yance Arizona | Researcher of Epistema Institute |
| 19. | Ms. Dahniar Andriani | Executive Director of HuMA |
| 20. | Mr. Widiyanto | Researcher of HuMA |
| 21. | Mr. Erwin Dwi Kristianto | Researcher of HuMA |
| 22. | Mr. Tandiono Bawor | Researcher of HuMA |
| 23. | Dr. Ujjwal Pradhan | Southeast Asia Regional Coordinator of the World Agroforestry Center (ICRAF) |
| 24. | Ms. Hening Parlan | UNDP's consultant (previously with BP-REDD) |
| 25. | Mr. Rakhmat | UNDP's consultant (previously with BP-REDD) |
| 26. | Dr. Rijal M. Idrus | UNDP's consultant (previously with BP-REDD) |
| 27. | Mr. Andy Roby | MFP3 |
| 28. | Mr. Georg Buchholz | FORCLIME GIZ |
| 29. | Mr. Steeve Rhee | Ford Foundation |
| Various other stakeholders were contacted but due to travel or other schedule limitations were not able to set a meeting | | |

Annex 2 Brief on Forest Tenure Policies and Reforms in Indonesia

Background

State control over forests has paved the way for industrial scale extraction of forest resources in Indonesia. Since the colonial period to the present time, there has been close cooperation between state officials and timber traders. During the period of 1970s to late 1990s, the authoritarian regime led by General Suharto facilitated a massive process of forest exploitation by licensing forest lands to both private and state-owned logging companies as well as to industrial plantation companies.

Starting in the mid-1980s, despite facing heavy political control over social movements, Indonesian non-governmental organizations (NGOs) responded to agrarian injustice with intensive campaigns against state forest policies and the destructive practices of logging companies.

Various forms of resistance against state control over forests were conducted by indigenous peoples in various parts of the archipelago. Proponents of the environmental movement in Indonesia in the late 1980s began to interact with indigenous people. Resistance of indigenous peoples became strengthened with the establishment of the Indigenous Peoples Alliance of the Archipelago (AMAN) in the first congress of indigenous peoples in March 1999. Since then, AMAN began an open struggle for social justice to achieve recognition and protection of the rights of indigenous peoples. AMAN also fights for the human rights and citizenship rights for the indigenous peoples in the Republic of Indonesia. The combination of the struggle for social justice and citizenship is inextricably linked to the state's control over lands and forest resources through the denial of the existence of indigenous peoples and their rights to land and forest resources (Rachman and Siscawati 2014).

In February 2000, responding to concerns of multiple stakeholders on critical state on agrarian conflicts in forest areas, the Indonesian Government made a commitment to the Consultative Group of Indonesia (CGI) to resolve forest land tenure issue. Not long after that, the People's Consultative Assembly Decree (Tap MPR) No. IX Year 2001 in Agrarian and Natural Resources Governance Reform was established. This Decree mandated President of Indonesia to review the existing regulation related to agrarian and natural resources fields, as well as to address tenurial issues. Due to various factors including lack of political will this Decree has not been implemented.

AMAN and civil society organizations, as well as other institutions, who have been working intensively to promote genuine reforms in land and forest tenure continue to develop strategic efforts. This brief provides information on policy changes on land and forest tenure in Indonesia.

Constitutional Court Ruling No. 35 of 2013

The Forestry Law No. 41 of 1999 does not recognize the Indonesian indigenous peoples' rights and has been used to legalize the claim over customary lands as state forest lands. AMAN decided to challenge the forestry law in Indonesia's Constitutional Court by submitting an official request for a judicial review of the law on March 19, 2012. AMAN's request for judicial review of the forestry law refers to the recognition of the rights of indigenous peoples in the Indonesian Constitution. The 2002 Amendment to the Indonesian Constitution recognises the cultural identity and traditional rights of indigenous peoples as a basic human right. Other laws such as the 2007 law on the Management of Coastal Regions and Small Islands and the 2009 Environment Law recognize adat rights.

In the Constitutional Court, AMAN's lawyers demonstrated the way the existence of masyarakat adat (indigenous peoples) are denied and how their rights have been violated as illustrated in the testimonies of six community leaders who served as witnesses. Those witnesses represent the following cases: (i) Bentian case in Kutai Barat District, East Kalimantan Province; (ii) Manggarai case, East Manggarai District, East Nusa Tenggara Province; (iii) Talang Mamak case, Indragiri Hulu District, Riau Province; (iv) Semunying case, Bengkayang District, West Kalimantan; (v) Sekatak case, Bulungan district, East Kalimantan Province; and (vi) Pagaruyung case of Bukit Dua Belas National Park, Jambi Province.

All of the witnesses from the communities were men. The male witnesses who represented their communities did not share gender dimension of marginalization of masyarakat adat nor various

injustices faced by indigenous women and other marginalized groups in their community. The stories of the struggles of adat women and those of marginalized members of communities did not appear in the entire series of the Constitutional Court hearing process on the judicial review of the Forestry Law No. 41 submitted by AMAN.

Responding to AMAN's judicial review, on May 16, 2013 the Constitutional Court of the Republic of Indonesia ruled that customary forests (*hutan adat*) are no longer part of state forests (*hutan negara*). The Court ruled to delete the word "state" from article 1.6. of Forestry Law No. 41 of 1999. Now, the article reads "customary forests are forests located in the territory of customary law communities (*masyarakat hukum adat*)." "Customary forest" has been taken out of "state forest", and it has been moved into "forest subject to rights" (*Hutan Hak*).

Government Regulations in Post Constitutional Court Ruling

Responding to the Constitutional Court Ruling No. 35 of 2015, there should be official changes of Forestry Law No. 41 of 1999 which convert the status of adat forest areas into the category "forest subject to rights" (*Hutan Hak*). However, so far there have not been significant efforts within relevant state institutions (particularly Ministry of Forestry which has been recently merged with the Ministry of Environment) toward the changes of the Forestry Law.

Government regulations on forests enacted in post Constitutional Court Ruling still show inconsistencies. In the Minister of Forestry Circular No. 1 of 2013 about the Constitutional Court Ruling No. 35 of 2013, the ministry asserted that the ones who should enact the status of customary forest is the Ministry of Forestry. In addition, this step could only be conducted after regional government of which the customary territory of masyarakat adat is located establishes the regional regulation on the recognition of indigenous peoples concerned.

Two other examples of government regulations that still show inconsistencies with the Constitutional Court Ruling are Regulation of Minister of Forestry (Permenhut) No. P.62 / Menhut - II / 2013 and Regulation No. P.43 / Menhut-II / 2014. These regulations still view forest area merely as state forest. The Ministry of Forestry Regulation No.62 of 2013 on Forest Zone Enactment requires indigenous peoples to provide official (written) prove of their claim over land and, if there is not any, the regulation would only recognize the settlement area (housing area, etc) (Pramono *et al* 2014). Although this regulation is revised (as the Ministry of Forestry Regulation No. 43/Menhut-II/2014), there has been no significant changes in terms of substance relates to customary forest. Some policy analysts state that this situation is still happening due to the lack of legal references of the operational implementation of the Constitutional Court Ruling.

Draft Bill on the Recognition and Protection of Indigenous People's Rights

Aside from submitting the Judicial Review over some articles in the Forestry Law No 41/1999 to The Constitutional Court, AMAN and civil society collaborators prepared the Draft Bill on the Recognition and Protection of Indigenous Peoples (RUU PPMHA), formally handed to the Head of the Indonesian Parliament during the National Congress of AMAN in May 2012, and continues to intensively monitor the on-going parliamentary processes for this Draft Law as well as to advocate potential political actors to support it. AMAN also initiated to push legislative body at national parliament (DPR RI) to take initiative in drafting a new law on the Recognition and Protection of Indigenous People Rights. After a year drafting process, in April 2013 the General Assembly Meeting of Indonesian National decided the draft as official one and submitted it to the Indonesian President. The legislative process of this draft bill was interrupted by the legislative election that took place in early April 2014. It took some time for newly elected parliament members to officially start their work. AMAN and other groups who work on policy advocacy in the legislative process of this draft bill have to put significant efforts in briefing the newly elected members of the parliament.

Jokowi's Nawacita and the Presidential Task Forces

During the period of presidential campaign in 2014, President Jokowi and his core team facilitated an intensive process of development of Presidential mission and vision known as Jokowi's Nawacita. AMAN and a number of CSOs working on land and forest tenure reform actively participated in the development of Jokowi's Nawacita. There is special component within Jokowi's Nawacita that addresses the problems faced by indigenous peoples in Indonesia. Six main steps of Jokowi's Nawacita on indigenous peoples are as follows:

- Review and adjust all laws and regulations relating to the recognition, respect, protection and promotion of the rights of indigenous peoples, especially with regard to rights to

agrarian resources, as mandated by MPR Decree No. IX / MPR / 2001 on Agrarian Reform and Natural Resource Management in accordance with the norms of law as established by the Court 35/2012

- Continuing the legislative process bill Recognition and Protection of the Rights of Indigenous Peoples which is now in the final stages of discussion continues to set as the Act, by incorporating changes as proposed by the contents of the Regional Representative Council, the Alliance of Indigenous Peoples of the Archipelago , and the various components of civil society
- Ensure legislative processes related to the management of land and natural resources in general, such as the Land Bill, and others, run in accordance with the norms of recognition of indigenous peoples' rights as mandated by the MK 35/2012
- Encourage an initiative in the form of preparation (draft) Act relating to the settlement of agrarian conflicts that arise as a result of the denial of various sectoral legislation on the rights of indigenous peoples during this
- Establish Independent Commission specifically mandated by the President to work intensively to prepare a variety of policies and institutions that would take care of matters relating to the affairs of the recognition, respect, protection, and promotion of the rights of indigenous peoples forward
- Ensuring the implementation of Law No. 6 in 2014 on the village advancement, especially in terms of preparing the Provincial Government and Regency / City in operationalizes the recognition of indigenous peoples' rights to be set into a traditional village.

In order to realize Jokowi's Nawacita, AMAN and CSOs have been advocating the idea of the establishment of two presidential task forces that will be handling the issues of indigenous peoples and agrarian conflicts. The proposed names of two task forces are the Presidential Task Force on Indigenous Peoples and the Presidential Task Force on Agrarian Reform. A series of intensive discussions on the establishment of these two task forces has been conducted by AMAN and CSOs. In this process they have been collaborating with state institutions including the National Commission on Human Rights (Komnas HAM) and the National Agency of REDD/BP-REDD (before it was dissolved by President Jokowi).

Challenges of Jokowi's Nawacita mainly come from political pressures; these pressures could influence the realization of this vision. Similarly, challenges to the establishment of these two task forces are also mostly due to political pressures. In addition, the establishment process of this task force has been being delayed by participation of various new political groups who have different political interests. Responding to this situation, AMAN and CSOs work on land and forest tenure reform have been conducting intensive policy advocacy.

Forest Tenure Reform Road Map developed by Civil Society Organizations

Indonesian CSOs who have been intensively working on land and forest tenure reforms were intensively involved in preparing the international conference on land and forest tenure in 2011 that was held in the island of Lombok, Indonesia (the Lombok Conference). During this conference, high officials of Indonesian government made political commitment. Responding to this commitment, the Indonesian CSOs decided to establish a working group on forest tenure reform. Several months after the Conference, the group of Indonesian CSOs for tenure reform launched a document of the road map toward tenure reforms and tenure-related justices. In this road map, the group proposed three domains of change as a way to reform land tenure and forest policy. These three domains are: (1) improving policies and accelerating the process of gazettement of the forest zone, (2) addressing forest conflicts, (3) expanding community-managed areas and enhancing the welfare of Indigenous Peoples and other local communities.

The group of Indonesian CSOs for tenure reform insisted that that the three afore mentioned domains in the road map should be conducted simultaneously and synergistically during the last half of President Susilo Bambang Yudhono Government presidency (2011 - 2014). For that purpose, the group facilitated collaborations within and between agencies, as well as between government and civil society groups. The three key aspects of the road map was then adopted by the Corruption Eradication Commission (KPK) which led the process of the establishment of a memorandum of understanding of 12 government agencies and state institutions on accelerating forest gazettement (known as the NKB/Nota Kesepahaman Bersama).

In developing the collaboration with the Ministry of Forestry, the group of Indonesian CSOs for tenure reform organized a series of intensive dialogues and other related activities. These have contributed to the development of discourse on forest tenure reform within the Ministry of Forestry and to the establishment of the Working Group on Forest Tenure by the Minister of Forestry in 2012. Key members of the CSOs for tenure reform were appointed by the Minister of Forestry to join this working group. The main tasks of this working group were in line with the key aspects of the road map of forest tenure reform prepared by the CSOs.

The Forest Management and Governance Reform Pact (Nota Kesepahaman Bersama/NKB)

The Pact is a Memorandum of Understanding of joint actions between 12 government agencies and state institutions established in March 11 in 2013. It is known as Nota Kesepahaman Bersama (NKB). The President of Indonesia attended the official signing of the NKB. The key objectives of the NKB are i) Harmonization of forest related regulations, ii) Resolution of forest related conflicts, and iii) Alignment of the technical procedures for forest gazettment. The NKB is hosting by the National Corruption Eradication Commission (KPK). KPK is a statutory institution that has gained strong public support.

Civil society organizations have been involved in the NKB process in order to make sure that the harmonization of forest related regulations would go in line with efforts of recognition and protection of the rights of masyarakat adat and local communities. How current NKB Process under Jokowi's administration contributes to these efforts needs further analysis.

The One Map Policy

The One Map Policy was developed by the Presidential Delivery Unit for Development Monitoring and Oversight (UKP4) considering that the maps produced by the state agencies are inconsistent. In addition, the maps show overlapping of the areas where government agencies have given licenses to companies (forestry, agriculture and mining licenses). Development of One Map Policy was in line with the development of national strategy on REDD+. The One Map Policy was then established in 2010. It aims to harmonize the national geospatial data and to solve the overlap and confusion over various existing maps in various state agencies. The One Map Policy encourages the standardization of maps and its supporting network, that is one reference, one standard, one database, and one geoportal. The policy is currently being implemented by the National Agency on Geospatial Information (BIG) which is mandated to create one basemap for the use of all national institutions and stakeholders. One part of the action plan of this policy is to accommodate participatory mapping.

Civil society organizations, especially the national network of participatory mapping (Jaringan Kerja Pemetaan Partisipatif/JKPP) and its members, have been very active in advocating for the development of the One Map Policy. They have been active in developing participatory mapping process since the mid 1990s. However, most of participatory mapping that have been done in different territories have not had gender perspective. The activities of participatory mapping have not provided space for women and other marginalized groups to participate in a meaningful way.

Continuation of the One Map Policy is now in question considering that Jokowi's administration discontinued the existence of UKP4. In addition, the placement of the National Agency for REDD+ (BP-REDD+) under the Ministry of Environment and Forestry needs further analysis on how this institutional arrangement would affect the One Map Policy.

Local Regulations Developed by Local Governments

As mentioned above, recognition of the existence of masyarakat adat and their territories by local governments has become official discourse during post Constitutional Court Ruling period. This is also in line with the situation where the Forestry Law No. 41 of 1999 has been still used as main legal reference by the previous Ministry of Forestry (and now Ministry of Environment and Forestry). The criteria and verification process of the indigenous peoples' existence explicitly mentioned in Law No.41 of 1999 requires further provisions in a Government Regulation (as the implementing regulation). The Government Regulation will regulate the research procedure, parties included, the subject and criteria of research and assessment of the existence of customary law communities (Pramono et al 2014). However, up until today the Government Regulation intended by article 67 paragraph 3 of Law No.41 of 1999 does not exist. This results with lack of concrete guidance on recognition which would be obliged by the local governments.

In practice however, some local governments have tried to issue local regulation on indigenous peoples and/or customary land in their territory. The local regulations could be divided into four

categories (Pramono et al 2014). First category refers to local regulations that are enacted for particular indigenous peoples and their customary territory. So far, the only local regulation for this category is the Lebak District Regulation No.32 of 2001 on Protection of Baduy Community's Customary Rights. Baduy Community is a customary community who live in upland forested area in District of Lebak, Banten Province, Java Island. The Lebak District Regulation on Baduy Community does not mention the recognition of Baduy community as customary community, but it gives protection to the community to continue practicing their traditions. Thus the recognition occurs by itself. The regulation also emphasizes on the establishment of Baduy community's ancestral domain which is limited to one village namely Desa Kanekes, Sub-District (Kecamatan) Leuwidamar, District of Lebak. The regulation states that the natural boundaries and village administrative boundaries must be measured and drawn in the form of a boundary map. The regulation also mentioned that within the ancestral domain any rights on customary land will be entirely given to Baduy communities, except on the plots which have entitlement based on Basic Agrarian Law and "plots of land which gained from and released by government agencies, corporation or individual according to the applied provision and procedure" (article 5). This regulation strictly prohibits land entitlement inside the Baduy ancestral domain "in order to avoid confusion and dispute as a form of recognition of customary law communities' rights (article 11). Therefore, this regulation recognizes Baduy Community's collective private right over their ancestral domain (Pramono et al 2014).

The second category is regional regulations which regulate the recognition of indigenous peoples of a district or province in general. An example of this category of regulation is Malinau District Regulation No.10 of 2012 on Recognition and Protection of Indigenous Peoples' Rights in Malinau District. This regulation adopts the self-identification principle in recognizing the indigenous peoples. The concerned indigenous peoples actively recognize themselves as an indigenous community and collect information needed to obtain legal recognition from the district administration, and undergo a verification process by an independent institution. In terms of ancestral domain and rights over land, this regulation recognizes the communal/collective and individual rights which strictly regulated by customary law in terms of the transfer and the use of communal land. In order to ensure the implementation of the regulation, district government is mandated to form an independent agency namely Badan Pengelola Urusan Masyarakat Adat (Agency of Management Indigenous Peoples Matter) (Pramono et al 2014).

Other regulation that is included in the second category is Papua Special Provincial Regulation No. 23 of 2008 on Indigenous Peoples' Customary Rights and Individual Land Rights of Members of Customary Law Community. Although this regulation emphasizes more on customary rights over land, it also regulates the indigenous peoples' recognition. However, the recognition must be based on research (article 2 paragraph 2), following the approach adopted by Ministry of Agraria Regulation No. 5 of 1999. In Contrast with Malinau District Regulation which use general definition, Papua Provincial Regulation asserts specifically that indigenous peoples are Papua Natives. The title of the regulation also firmly recognizes the existence of collective customary rights and individual rights within customary communities.

In the third category are the regional regulations that regulate customary land registration. The most prominent example is Central Kalimantan Governor Regulation No.13 of 2009 on Customary Land and Customary Rights over Land in Central Kalimantan Province. According to this regulation, the holders of land rights have 6 years at most to register their rights. If they do not register their rights in 6 years they lose their right. The regulation utilizes the customary institution (known as Lembaga Keadamangan in Central Kalimantan) to implement the regulation in disciplining the registration of customary rights and to issuance of Surat Keterangan Tanah Adat/Certificate of Customary Land. In this provincial regulation, customary land refers to "land(s) along with the contents which located in customary territory (known as Keadamangan territory) and or in desa/kelurahan controlled under the customary law, whether it is forest land or non-forest land with the clear width and boundaries, under individual or collective ownership which the existence is recognized by the Head of the Indigenous Community or Damang (or Kepala Adat in bahasa Indonesia). The customary land referred by this provincial regulation consists of collective customary land, which are "ancestral hereditary inheritance which managed and utilized collectively by the heirs as a community," and individually owned customary land is "private property which obtained from opening new agriculture land from a forest, buying/selling, bequest, indigenous heritage." This regulation is being considered as the only contemporary regulation in Indonesia which firmly states land mapping based on customary rights (Pramono et al 2014).

The fourth category of regional/local regulation is the regulation that recognizes customary rights in context of commercial activities (including HGU/Rights to cultivate). There are at least two

regional regulations belong to this group: Kampar District Regulation No.12 of 1999 on Customary Land Rights (Riau Province, Sumatra) and West Sumatra Provincial Regulation No.16 of 2008 on Customary Land and The Use (West Sumatra Province, Sumatra). Both of these regional regulations regulate the use of customary land which are private rights of a group in commercial economic activities in collaborating with investors managed by customary institutions and heads of tribes or clan. Both also encouraged customary land entitlements under the status of Customary Land Rights Tenure (Hak Penguasaan Hak Tanah Ulayat), private entitlement, use right, or management rights by using the name of the head of the tribe/clan (Kampar District Regulation and West Sumatra Provincial Regulation). In practice all law subjects written on the land certificates are males. Therefore, these two regulations could be harmful for women and could encourage customary land to be transferred into state lands under the status of use rights and management rights (Pramono et al 2014).

Annex 3 Presidential Agenda on Indigenous Peoples (Nawa Cita)

The six key agendas on indigenous peoples are:

- 1) Review and adjust all laws and regulations relating to the recognition, respect, protection and promotion of the rights of indigenous peoples, especially with regard to rights to agrarian resources, as mandated by MPR Decree No. IX / MPR / 2001 on Agrarian Reform and Natural Resource Management in accordance with the norms of law as established by the Court 35/2012
- 2) Continue the legislative process bill Recognition and Protection of the Rights of Indigenous People which is now in the final stages of discussion continues to set as the Act, by incorporating changes as proposed by the contents of the Regional Representative Council, the Alliance of Indigenous Peoples of the Archipelago, and the various components of civil society
- 3) Ensure legislative processes related to the management of land and natural resources in general, such as the Land Bill, and others, run in accordance with the norms of recognition of indigenous peoples' rights as mandated by the MK 35/2012
- 4) Encourage an initiative in the form of preparation (draft) Act relating to the settlement of agrarian conflicts that arise as a result of the denial of various sectoral legislation on the rights of indigenous peoples during this
- 5) Establish Independent Commission specifically mandated by the President to work intensively to prepare a variety of policies and institutions that would take care of matters relating to the affairs of the recognition, respect, protection, and promotion of the rights of indigenous peoples forward
- 6) Ensuring the implementation of Law No. 6 in 2014 on the village advancement, especially in terms of preparing the Provincial Government and Regency / City in operationalizes the recognition of indigenous peoples' rights to be set into a traditional village.

Annex 4 Beneficiary Analysis

| Local level | | | | |
|--|---|---|---|---|
| <i>Beneficiaries</i> | <i>Identification</i> | <i>Needs</i> | <i>Constraints</i> | <i>Pilot initiative contribution</i> |
| Indigenous communities, including women and marginalized groups within communities, in the project sites | three sites, to be selected in the beginning of the project | Legal and administrative recognition of indigenous peoples and their territories and protection of their rights at district level | Lacking legal recognition and protection of indigenous peoples at district level | <p>Building awareness and readiness of policy makers in district level in engaging in legislative and policy processes on the recognition and protection of tenure rights of IPs, including women and marginalized groups within communities</p> <p>Participation to public dialogue on the draft of district legal and administrative instrument(s) on the recognition of tenure rights of IPs</p> <p>Engaging in production of sociocultural and land use data to complement existing participatory maps of the indigenous territories. Complemented maps are one prerequisite for legal recognition.</p> |
| IPOs and CSOs in the project sites | AMAN local chapters, associated IPOs, and local CSOs | Comprehensive understanding on the map of existing policies and policy gaps | Limited opportunity to gain comprehensive understanding on the bigger picture of existing policies on the tenure rights of IPs and what kind of policy gaps that could be filled by district legal and administrative instruments | Building comprehensive understanding through the circulation of policy brief and the intensive discussions at district level workshops |
| | | Comprehensive understanding on the official process of the development of legal and administrative instruments on the recognition and protection of the rights of IPs. This | Limited opportunity to intensively develop comprehensive understanding on the official process of the development of legal and administrative instruments | Building comprehensive understanding through workshops, public dialogue and the actual participation in the formulation process of the draft of legal and administrative |

| | | | | |
|---------------------|--|--|---|--|
| | | comprehensive understanding is highly needed as these groups need to be actively engaged in the development of those legal and administrative instruments and providing critical inputs. | | instruments at district level |
| | | Skills on collecting data on land use and socio-cultural aspect of IPs (such as customary laws, customary tenure system, etc.), including skills on conducting data collection with gender perspective | Lacking methodologies and skills in collecting socio-cultural and land use data | Training on the collection of data on land use and socio-cultural aspect of IPs that adopt gender perspective |
| | | Strengthened coordination, collaboration and synergies | Limited intensive coordination and synergies at local level | Increased coordination and synergies at the local level between different CSO stakeholders with the purpose of increasing coordination of efforts |
| District government | project sites are three specific districts | Comprehensive understanding on the map of existing policies and policy gaps | Limited opportunity to gain comprehensive understanding on the bigger picture of existing policies on the tenure rights of IPs and what kind of policy gaps that could be filled by district legal and administrative instruments | Building comprehensive understanding through the circulation of policy brief and the intensive discussions at district level workshops |
| | | Increased collaboration with IPOs and CSOs in the formulation of the draft of legal and administrative instruments | Limited opportunity to involve IPOs and CSOs in policy making process due to various reasons | Facilitating workshops and meetings where legislative and executive institutions at district level could develop collaborative work in terms of the formulation of the draft of legal and administrative instruments at district level |

| | | | | |
|--|--|--|--|---|
| | | Technical skills on formulating legal and administrative instruments on the recognition and protection of tenure rights of IPs | Lack of technical skills | Training on legal drafting and technical assistance |
| National level | | | | |
| <i>Beneficiaries</i> | <i>Identification</i> | <i>Needs</i> | <i>Constraints</i> | <i>Pilot initiative contribution</i> |
| AMAN | | Capacity building at central and local level on project management, financial management and M&E systems | Limited organizational capacity on project management considering that AMAN is a naturally a movement-based organization | Capacity building sessions and support on project management, financial management and M&E systems with the purpose of ensuring enhanced capacities for the management of the pilot initiative and in medium and long term to enabling fund mobilization to further support the tenure reform process |
| CSOs | JKPP, Epistema HuMA BRWA, Institute, | Strengthened coordination, collaboration and synergies | Limited intensive coordination and synergies at organizational level due to high dynamic of activities of each organization | Increased coordination and synergies at the local level between different CSO stakeholders with the purpose of increasing coordination of efforts |
| Public sector agencies relevant to forest tenure | Ministry of Environment and Forestry, Ministry of Agraria and Spatial Plan | Champions of high level officers within public sector agencies that have comprehensive understanding and have willingness to develop policy and administrative options | Lack of opportunity for high level officers who are the potential champions the recognition and protection of IP's rights to intensively learn | Building comprehensive understanding through the circulation of policy brief and the intensive discussions |
| Office of the President | Key members of the Office of the President | Facilitation and technical assistance of the establishment of the official executive commitments on legal and administrative instruments on the recognition and protection of the tenure rights of IPs | Limited understanding on the critical needs of the legal and administrative instruments | Strengthening comprehensive understanding and providing technical assistance |

| | | | | |
|---------------------|--|---|---|---|
| National Parliament | Newly elected members as well as members who are elected for the second period | Increased commitment among members of National Parliament toward the passing of the draft bill of the recognition and protection of the rights of IPs | Low awareness on indigenous peoples and the importance of recognition and protection of the rights of IPs | Awareness raising, a parliamentary seminar and parliamentary debate session and capacity building as required on indigenous peoples and the importance of forest tenure rights recognition with the purpose of creating an enabling environment for tenure rights recognition |
|---------------------|--|---|---|---|

Annex 5 Analysis of Potential Sites for the Pilot Project of the International Land and Forest Tenure Facility (ILFTF)

| Name of Area (Province and District) (A) | | IPs' Name (B) | Status of the development of District Legislation and/or Regulation as well as related steps (C) | Note on the development process of district policies (D) | Status of Participatory Mapping (E) | Indigenous Peoples Organization (IPO) (F) | CSOs and other strategic partners of IPOs (G) | Program/Initiative/Pilot Project (H) | Additional Note (I) | AMAN's Internal Rank (C + E + F) |
|--|--------------------|---------------|---|--|-------------------------------------|---|---|--------------------------------------|---|----------------------------------|
| Province | District | | | | | | | | | |
| Sumatera Utara | | | Current governor committed to support the mapping of customary territories during election period | His election promise has not yet been realized | | PW AMAN SUMUT | | AMAN's SicoLife | | 2 |
| | Deli Serdang | | | | 9 maps completed | PD AMAN Deli Dan PD AMAN Serdang | | AMAN's SicoLife | | 2 |
| | Langkat | | | | 2 maps completed | PD AMAN Langkat | | AMAN's SicoLife | | 2 |
| | Samosir | | | | 1 map completed | PW AMAN Tano Batak | | AMAN's SicoLife | | 2 |
| | Humbang Hasundutan | | | | | | | Komnas HAM's National Inquiry | MA Pandumaan dan Sipatuhuta have been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| Riau | | | | | | | | | | |

| | | | | | | | | | | |
|------------|----------------|-----------------|--|---|------------------|--------------------------------------|--------------|-------------------------------|--|---|
| | Indragiri Hulu | MA Talang Mamak | Consolidation and enrichment of ideas with the communities | Advocacy process to District Parliament (DPRD) of Indragiri Hulu | 15 map completed | PD AMAN Indragiri Hulu | SLPP, HAKIKI | Komnas HAM's National Inquiry | MA Talang Mamak has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | 4 |
| | Kampar Kiri | | | | 1 map completed | | SLPP, HAKIKI | | | 1 |
| Bengkulu | | | | | | | | AMAN's SicoLife | | |
| | Kaur | | | | 1 map completed | | | AMAN's SicoLife | | 1 |
| | Rejang Lebong | | | | 1 map completed | | | AMAN's SicoLife | | 1 |
| | Seluma | | | | 1 map completed | | | AMAN's SicoLife | | 1 |
| | Bengkulu Utara | | consolidation of ideas of Perda with communities | Development of ideas of Perda of IPs' recognition and protection and advocacy the district parliament | 6 maps completed | PW AMAN Bengkulu dan PD AMAN Enggano | | | | 3 |
| Jambi | | | | | | | WARSI | | | |
| | Sarolangun | | | | 1 map completed | PD AMAN Batin Penghulu | WARSI | | | 2 |
| Jawa Barat | | | | | | | | | | |
| | Ciamis | | | | 1 map completed | PD AMAN Simahiyang | | | | 2 |
| | Sukabumi | | | | 1 map completed | PD AMAN SABAKI | | | | 2 |
| Banten | | | - | | | | | | | |

| | | | | | | | | | | |
|------------------|-----------|--|--|---|--|----------------|-------------------------------|-------------------------------|---|---|
| | | | Started with Decree of the Head of District (SK Bupati) for Kasepuhan Cisitu, government of district enacted 17 other SK Bupati for 17 communities | in the preliminary process of formulating district legislation on the recognition of Ips; there has also been a commitment from the Minister of Environment and Forestry to redelineate the National Park of Mt. Halimun in which customary territories of 18 groups of IPs are located | 4 maps completed and more than 17 customary territories are planned to be mapped | PD AMAN SABAKI | RMI, HuMA, Epistema Institute | Komnas HAM's National Inquiry | Several sub-groups of MA Kasepuhan Banten Kidul have been selected as one of Post-National Inquiry pilot sites for law enforcement approach | 6 |
| Sulawesi Selatan | Lebak | MA Kasepuhan Ciptagelar, Citorek, Karang, Cibedug, Cirompang, Karang | | | | | | | | |
| | Bulukumba | | academic draft and district legislation plan (Ranperda) completed | advocacy of district parliament | 1 map completed | | | | | 3 |

| | | | | | | | | | | |
|--|--------------|--|--|---|---|--|--|--|--|---|
| | Luwu | | Luwu district legislative program of 2015 has prioritized the formulation of Perda on IPs; presentation of the concept note on the district legislation on Ips will be conducted on March 9 2015 | Discussions on the substance of draft district legislation; FDG with stakeholders | 5 maps completed | PW AMAN Tanah Luwu | | | | 5 |
| | Gowa | | | | 1 map completed | PD AMAN Gowa | | | | 2 |
| | Kota Palopo | | | | 3 maps completed | | | | | 1 |
| | Luwu Timur | | | | 1 map completed | | | | | 1 |
| | Luwu Utara | | | | 12 maps completed | PD AMAN SEKO , PD AMAN RAMPI | | | | 3 |
| | Toraja Utara | | | | 32 maps are being finalized | PD AMAN TORAYA | | | | 3 |
| | Enrekang | | Seminar and Workshop on the Initiation of the draft of district legislation on IPs. District government and parliament has committed to develop Perda on IPs. | Advocacy of district government and parliament | 1 map completed and 7 maps are being produced | PW AMAN Sulawesi Selatan and PD AMAN Maserempulu | | | | 3 |

| | | | | | | | | | | |
|--------------------|-------------------|--|---|---|----------------------|---------------------|--|----------------------------------|---|---|
| | Sinjai | | | | | | | Komnas HAM's National Inquiry | MA Barambang Katute has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| Sulawesi Tengah | | | | | | PW AMAN SULTENG | | | | |
| | Sigi | | Idea of Perda on IPs has been adopted in 2015 District Legislation Program (Prolegda); Draft of District regulation is developed by district government; legal draft is being formulated by the formulating team | Discussion with local government and involving national networks | 9 maps completed | | | | | 3 |
| | Banggai | | | | 4 maps completed | PD AMAN Banggai | | | | 2 |
| | Donggala | | | | 14 maps completed | PD AMAN Donggala | | | | 3 |
| | Morowali | | | | 4 maps completed | | | | | 1 |
| | Palu | | | | 1 map completed | PD AMAN Kulawi | | | | 2 |
| | Parigi Moutong | | | | 2 maps completed | | | | | 1 |

| | | | | | | | | | | |
|---------------------------|--------------------|--|--|--|----------------------|-------------------------|--|--|---|---|
| | | | | | | | | Komnas HAM's National Inquiry | MA Barambang Katute has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| | Poso | | | | 5 maps completed | | | | | |
| | Togean | | | | 1 map completed | PD AMAN Togean | | | | 2 |
| Nusa Tenggara Timur | | | | | | PW AMAN Nusa Bunga | | | | |
| | Ende | | Telah masuk prolegda tahun 2015- 2019 | Konsolidasi di komunitas dan jaringan masyarakat sipil | | | | | | 2 |
| | Flores Timur | | | | 1 map completed | PD AMAN Flores Timur | | | | 2 |
| | Manggarai | | | | 9 maps completed | PD AMAN Flores Barat | | AMAN's SicoLife, Komnas HAM's National Inquiry | MA Colol has been selected as one of Post- National Inquiry pilot sites for mediation approach | 3 |
| | Manggarai Timur | | | | | | | Komnas HAM's National Inquiry | MA Golo Lebo has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| | Manggarai Barat | | | | 1 map completed | PD AMAN Flores Barat | | | | 2 |
| | Sikka | | | | 14 maps completed | PD AMAN Flores Timur | | | | 3 |
| Maluku | | | | | | | | | | |

| | | | | | | | | | | |
|--------------|-------------------|------------------|-----------------------------------|---|---|--|--|-------------------------------|--|--|
| | Kepulauan Aru | MA Kepulauan Aru | | | | | | Komnas HAM's National Inquiry | MA Kep. Aru has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| | Maluku Barat Daya | | | | | | | Komnas HAM's National Inquiry | MA Pulau Romang has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| Maluku Utara | | | | | | | | | | |
| | Halmahera Utara | | Loby dengan Pemda Halmahera Utara | Telah dilakukan semiloka inisiasi perda masyarakat adat. Saat ini sedang dilakukan pengumpulan bahan untuk penulisan naskah, lobby pembentukan tim penyusun, dan diskusi internal di AMAN Malut | 2 maps of customary territory completed | PW AMAN Maluku Utara dan PD AMAN Halut | | | | |

| | | | | | | | | | | |
|-------------------|----------------------------|--|---|--|------------------|--|--|--|--|---|
| | Halmahera Timur | | | | 1 map completed | PD AMAN Haltim | | AMAN's SicoLife, Komnas HAM's National Inquiry | MA Tobelo Dalam has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | 2 |
| Kalimantan Utara | | | | | | PW AMAN KALTARA | | | | |
| | Bulungan | | The plan has been adopted in the district legislation plan (Prolegda) 2015-2019 | AMAN and Epistema Institute are participating as the legal drafting team | 2 maps completed | PD AMAN SEKATAK | | Komnas HAM's National Inquiry | MA Punan Dulai has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | 4 |
| | Malinau | | Perda on IPs enacted | Government agency on IP has been enacted | | | | BERSAMA Initiative (Samdhana, Epistema, JKPP) | | 3 |
| Kalimantan Tengah | Provinsi Kalimantan Tengah | | Perda Kelembagaa Adat dan Pergub Tanah Adat | | | PW AMAN KALTENG | | | | |
| | Barito Selatan | | | | 4 maps completed | PD AMAN BARSELL | | BERSAMA Initiative (Samdhana, Epistema, JKPP) | | 2 |
| | Barito Utara | | | | 1 map completed | PD AMAN BARUT | | | | |
| | Gunung Mas | | Commitment of district government | On-going dialogues | 4 maps completed | PW AMAN Kalimantan Tengah dan PD AMAN GUNUNG MAS | | | | 3 |
| | Kota Muara Tewe | | | | 1 map completed | | | | | 1 |
| | Kapuas | | | | 9 maps completed | PD AMAN KAPUAS | | | | 3 |

| | | | | | | | | | | |
|--------------------|--------------|--|--|--|-------------------|----------------------|--|-------------------------------|---|---|
| | Katingan | | | | 7 maps completed | PD AMAN KATINGAN | | | | 3 |
| | Pulang Pisau | | | | 6 maps completed | PD AMAN PULANG PISAU | | | | 3 |
| | Seruyan | | | | 9 maps completed | PD AMAN SERUYAN | | | | 3 |
| Kalimantan Timur | | | | | | PW AMAN KALTIM | | | | 1 |
| | Kutai Barat | | | | 1 map completed | PD AMAN KUBAR | | | | 2 |
| | Pasir | | | | 10 maps completed | PD AMAN Paser | | | | 2 |
| Kalimantan Barat | | | | | | PW AMAN KALBAR | | | | 1 |
| | Kapuas Hulu | | | | 37 maps completed | PD AMAN Kapuas Hulu | | | | 3 |
| | Ketapang | | | | 62 maps completed | PD AMAN Ketapang | | | | 4 |
| | Landak | | | | 52 maps completed | PD AMAN Landak | | | | 3 |
| | Melawi | | | | 2 maps completed | | | | | 1 |
| | Pontianak | | | | 16 maps completed | | | | | 1 |
| | Sanggau | | | | 1 maps completed | PD AMAN Sanggau | | | | 2 |
| | Sekadau | | | | 84 maps completed | PD AMAN Sekadau | | | | 4 |
| | Sintang | | | | 33 maps completed | PD AMAN Sintang | | | | 3 |
| | Bengkayang | | | | | | | Komnas HAM's National Inquiry | MA Dayak Iban Semunying Jaya has been selected as one of Post-National Inquiry pilot sites for law enforcement approach | |
| Central Kalimantan | | | | | | PW AMAN KALSEL | | | | |

| | | | | | | | | | | |
|-------|---------------------|--|---|---|------------------|--|--|-------------------------------|---|---|
| | Balangan | | | | 2 maps completed | PD AMAN Balangan | | | | 2 |
| | Hulu Sungai Selatan | | | | 1 map completed | PD AMAN HSS | | | | 2 |
| | Hulu Sungai Tengah | | Through a number of intensive discussions, district government stated its commitment to develop district legislation on IPs | | 5 maps completed | PW AMAN Kalimantan Selatan dan PD AMAN HST | | | | 2 |
| | Kota Baru | | | | 3 maps completed | PD AMAN Kota Baru | | | | 2 |
| | Tanah Bumbu | | | | 3 maps completed | PD AMAN Tana Bumbu | | | | 2 |
| NTB | Sumbawa | | Advocacy efforts directed to district government have resulted commitment from Komisi I and II of District Parliament to develop district legislation | PD AMAN Sumbawa has been organizing discussions with academicians to develop ideas on the substance of district legislation | | PD AMAN Sumbawa | | | | 2 |
| Papua | | | | | | | | | | |
| | Kerom | | | | | | | Komnas HAM's National Inquiry | MA Colol has been selected as one of Post-National Inquiry pilot sites for mediation approach | |

| | | | | | | | | | | |
|--|----------|--|--|--|--|--|--|---|--|--|
| | Tambrau | | | | | | | BERSAMA Initiative (Samdhana, Epistema, JKPP) | | |
| | Jayapura | | | | | | | BERSAMA Initiative (Samdhana, Epistema, JKPP) | | |

Note

ranking:

for the C component (district legislation and/or regulation): 1 for preliminary process, 2 for the adoption in Proledga, 3 for the draft, 4 for the enactment of Perda or SK Bupati

for the E component (status of participatory mapping): 1 for 1-19 maps completed, 2 for 20 - 59 maps completed, 3 for 60 - 99, 4 for more than 100 maps completed

for the F component (the existence of Indigenous Peoples Organization/IPO): 1 for the establishment of IPO

Annex 6 ILFTF Reporting and interaction Between Strategy Group and Implementing Team

| Type of communication and exchange | Strategy Group | Implementing team | |
|------------------------------------|--|---|--|
| | | Central level | Site level |
| Reporting | Minimum every second month: Frequent analysis / mapping of policy options and strategic action in context of changing operational environment. Recorded and disseminated to and discussed with the implementing team by the Technical Team Leader | Monthly: Review progress as per work plan, checking whether planned milestones have been reached and checking whether adjustments are needed. Meeting minutes. | Monthly: Review site level progress as per work plan, checking whether planned milestones have been reached and checking whether adjustments are needed. Will feed into central implementing team monthly meeting. Meeting minutes. |
| | | Continuous: Activity reporting card as per activity at the time of initiation, half way and at closing of the activity. | Continuous: Activity reporting card as per activity at the time of initiation, half way and at closing of the activity. |
| | Progress report at project check point months four and eight | | |
| | Final report month 12 including lessons learned | | |
| | | | |
| Other exchange | | The Technical Team Leader or another competent implementing team member will travel to project site for establishing the yearly work plan and for at least first monthly meeting. The Technical Team Leader or another competent implementing team member to assist, monitor and build capacity carries out frequent site visits. | |
| | At project check points the project implementation team and Strategy Group meet to review progress to-date | | |

Annex 7 Activity reporting card template for monitoring

| | | | |
|---|--|---|--|
| | | | |
| Component | <i>To which project component is the proposed activity linked to?</i> | | |
| Expected Result | <i>To which ILFTF pilot initiative expected result is the activity linked to?</i> | | |
| Activity | <i>To which ILFTF pilot initiative result is the proposed activity linked to?</i> | | |
| Question | Pre-activity | During activity | Post activity |
| Question 1: Justification – alignment to analysis of policy options and strategic action by the Strategy Group | Explain how this intervention is positioned in the policy options analysis and required strategic action | Any change? | Was the activity aligned with analysis of policy options and strategic action by the Strategy Group? |
| Question 2: Expected result | What are the expected results of the activity? | Any change in expected results? If yes why? | Were the expected results achieved? If yes what were the main factors of success? If no why? |
| NOTES | | | |

**Legal and Institutional Options Report for the
International Land Tenure and Forestry Facility (the
“Facility”)**

Dated

12 March 2015

MDY LEGAL
INTERNATIONAL DEVELOPMENT

DRAFT

1. Notices

- 1.1. This Report relies, in respect of matters of tax and employment legislation government authority practice upon the advice of Ernst and Young.
- 1.2. This Report relies, in respect of matters of Swedish law upon the advice of Setterwalls as set out in their responses to our due diligence enquiries.
- 1.3. This Report relies, in respect of matters of Swiss law upon the advice of Lenz Staehelin as set out in their responses to our due diligence enquiries.
- 1.4. This Report relies, in respect of Canadian law, upon the advice of Stikeman Elliott S.E.N.C.R.L., s.r.l./LLP as set out in their response to our due diligence queries.
- 1.5. This Report relies, in respect of matters of Spanish law, upon the advice of Garrigues as set out in their responses to our due diligence queries.
- 1.6. This Report is based upon legislation and information as at 25 August 2014 (for Switzerland, UK and Sweden) and as at the date of this Report for Canada and Spain and we have no responsibility to update this Report for changes in applicable law or its interpretation by authorities occurring after the date of those dates.
- 1.7. This Report contains the results of our work undertaken in accordance with the Contract. It has been prepared for RRG for the purposes of fulfilling the Contract and for no other purpose.
- 1.8. This Report is for RRG's exclusive use and is not to be relied upon by any other party without our prior written consent. This Report is not intended to be a comprehensive review of all potentially relevant issues relating to the Facility. It is intended to draw attention to those matters which we, in our absolute discretion and in accordance with the Contract, consider to be material in the context of our work. We do not accept any duty of care to any person other than RRG in respect of this Report. We have aimed to conduct our work on a diligent and careful basis and we do not accept any liability to RRG for any loss arising out of, or in connection with, this Report whether in contract, tort, by statute or otherwise, except in the event of our own gross negligence or wilful misconduct.

2. Introduction

Nature and Scope of Report

- 2.1. The Rights and Resources Institute, Inc. (d/b/a Rights and Resources Group) (**RRG**) is catalysing a global response to growing demand for land and forest tenure reform. RRG's vision is a new international mechanism to leverage greater public and private commitment and finance to secure land rights in the forest and rural areas of the Developing World (the **Facility**). It is envisaged that the Facility will be housed within a standalone legal entity and employ a small core secretariat.
- 2.2. After a competitive tendering process, MDY Legal was selected to provide a legal analysis of the incorporation options for the Facility. MDY Legal has coordinated input from Ernst and Young (for tax and employment matters), Lenz Staehelin (Swiss legal counsel), Setterwalls (Swedish legal counsel), Stikeman Elliott

DRAFT

(Canadian legal counsel) and Garrigues (Spanish legal counsel) for the non UK legal aspects of this work.

- 2.3. MDY Legal submitted an initial shortlisting report on the basis of which RRG decided to reduce the shortlist of countries to three (UK, Sweden and Switzerland) from an initial longlist of eight countries. Subsequently RRG requested that Montréal and Barcelona be added to the list of locations to be analysed. This Report sets out options in the five locations of the United Kingdom, Sweden, Switzerland, Barcelona and Montréal together with a recommendation for the preferred option.
- 2.4. The overall scope of the work is set out in the Request for Proposals, a copy of which is attached as Annex 1 and as agreed in the contract between RRG and MDY Legal dated 12 August 2014 and as supplemented by the letter dated 29 January 2015 (the **Contract**).

3. Background

Purpose of the Facility

- 3.1. The Facility will aim to address three core problems associated with international land and forest tenure:

- Lack of funding and technical support for tenure reform projects proposed by civil society, indigenous people and governments in the Developing World;
- Lack of an international platform for stakeholders to raise and coordinate commitments and develop shared strategies to recognise and strengthen collective land and territorial rights in rural, forest and dryland areas; and
- Lack of an international instrument to advance land and natural resource related goals and targets emerging in the post-2015 Sustainable Development Goals.¹

Key drivers for consideration in the design of the Facility

- 3.2. It is important that the key drivers for choice of location and structure should be clearly identified and agreed. We have identified from the background papers provided to us and from discussions with the Facility design team that the following have been identified by RRG as the key drivers for consideration for the design of the Facility:

- Minimise core costs to reduce the financial vulnerability of the Facility and ensure value for money;
- Maximise tax efficiency to enable funding to be utilised for the core purposes for which the Facility is established while balancing tax efficiency with the other drivers for the Facility;
- Allow set up and commencement of operations within the next twelve months;

¹ Rights and Resources Concept Note dated 8 December 2013.

DRAFT

- Allow for a multi-stakeholder governance system and international legitimacy;
- Enable a diverse work-force to be employed;
- Allow for fundraising and leveraging of capital, know-how and political support;
- Be a sustainable institution;
- Be an example of best practice and adhere to the highest standards of good governance; and
- Allow for ease of operations.

Funding for the Facility

- 3.3. It is recognised that although both public and private investors would be required to cover the core costs of the Facility, public finance is likely to dominate the first five years of the Facility's life. It is hoped that private investment in the Facility will grow as impact and credibility of the Facility grows. It is possible that the Facility may establish an investment vehicle whose profits will flow to the Facility. Facility funds may be used as leverage to raise additional income from markets or financial institutions. RRG has particularly identified a Dutch company, Triple Jump, who manages a fund called Habitat for Humanity. The ability to manage similar funds would be of interest for the Facility in the long term.

Types of support to be provided by the Facility

- 3.4. It is also recognised that the Facility would provide financial support in the form of grant funding or possibly low interest loans or other products to be developed during the life of the Facility.

Facility Governance

- 3.5. It is envisaged that the Facility will have the following governance arrangements made up of multi-stakeholder representatives:
- Board of Directors (decision-making entity)
 - Advisory Committee (strategic)
 - Programme Committee (sub-committee of the Board with observers and/or non-Board members as required)
 - National-level Advisory Committees (optional)

Facility Management

- 3.6. The Facility would employ a small secretariat to manage the Facility's funds, coordinate technical assistance activities and support the above mentioned governance bodies.

4. Shortlisting of possible incorporation locations

- 4.1. In order to focus this Report on a more in depth analysis of a shortlist of locations, a shortlisting process was agreed with RRG whereby a shortlist of three locations was

DRAFT

selected using a high level analysis based on three key criteria for the selection of the location of the Facility as identified by RRG. These were:

- Ease and cost of operations – driving efficiency and maximising value for money;
- Access to human capital – enabling RRG to recruit an international and diverse staff; and
- Travel – facilitating travel to and from focus countries.

4.2. As a result of this shortlisting analysis, the following locations were selected by RRG to form the subject matter of this Report:

- United Kingdom
- Sweden
- Switzerland

4.3. The Shortlisting Paper prepared by MDY Legal is set out at Annex 2 to this Report.

4.4. Subsequently, following advice from its Advisory Group, RRG requested this Report be expanded to include Montréal and Barcelona.

5. High Level Options

For Profit versus Not For Profit versus International Organisation

5.1. There are a wide variety of options for the structure of the Facility and it is helpful in narrowing down these options to categorise them.

5.2. The principal options for the choice of structure whichever country is chosen are:

- i. **For profit** private law structure (enabling equity holdings and income and profits to leave the entity);
- ii. **Not for profit** private law structure (in the sense of being an entity without equity holdings which restrict profits from leaving the entity) which may have charitable or non-charitable status;
- iii. **International organisation** (being an organisation established by treaty or other instrument governed by international law and possessing its own legal personality).

5.3. We have set out below in Tables 1 and 2 a number of observations on the generic distinguishing characteristics of for profit, not for profit and international organisation structures and the pros and cons of each as a high level guide.

5.4. As noted above the overall objective of the Facility is not for profit. However, if private sector funders are sought, such funders are likely to require a return on their investment and therefore the Facility would need to have a ‘for profit’ function. It may not be possible to house this ‘for profit’ function within the same structure as the Facility and therefore it may need to be housed in a separate structure.

DRAFT

Table 1: Distinguishing characteristics of for profit, not for profit and international organisation structures

| Structure | |
|-----------------------------------|---|
| For Profit | <ul style="list-style-type: none"> • Not for profit funders will generally find it more difficult to fund a for profit entity. • For profit entities unlikely to be able to treat contributions to a for profit entity as tax deductible. • A for profit entity can distribute profits. |
| Not for Profit | <ul style="list-style-type: none"> • Not for profit entities may have charitable or non-charitable status. • A not for profit entity can potentially seek charitable status which could give it certain benefits eg tax exemptions. • Charitable status could also potentially allow for profit funders to treat contributions to charitable entity as tax deductible. • Not for profit entities whether charitable or non-charitable are restricted from distributing any profits. • Non charitable and charitable entities can generally invest on a for profit basis and receive returns on investments, although there may be restrictions on the type of investment that a charitable entity may make. There may also be restrictions on the activities of a charitable entity. • If the entity is established as not for profit, private investors could only receive a return if their investment was structured as a co-investment with the Facility ie <u>not</u> an investment where funds flowed through the Facility. |
| International Organisation | <ul style="list-style-type: none"> • International organisations are typically not for profit and generally any returns received on their activities are put back into their organisational mission. However, in theory, they could be structured to return profits although this would be unusual. • International organisations generally take a long time to establish and require the support of a host state although establishment of the Facility under the Swiss Host State Act could potentially be quicker. • International organisations can be allowed special treatment and benefits due to their unique status. Such treatment depends on the characteristics of the international organisation and governmental support and it may not be possible to guarantee such treatment in advance of establishment. |

DRAFT

Table 2: Pros and cons of the for profit, not for profit and international organisation structures.

| | For Profit | Not for profit | International Organisation |
|--------------|--|--|---|
| Pro's | <ul style="list-style-type: none"> • Able to distribute profits • Able to attract private sector investment • Not subject to strict regulation or oversight (unless carrying out a specific regulated activity) | <ul style="list-style-type: none"> • Potentially more attractive to a wider variety of non-private sector funders • Potential tax exemptions if charitable | <ul style="list-style-type: none"> • Privileges and immunities • Potentially more attractive to a wider variety of funders if under Swiss Host State Act |
| Con's | <ul style="list-style-type: none"> • Potentially less attractive to wide variety of non-private sector funders • No privileges and immunities • Few tax exemptions | <ul style="list-style-type: none"> • Unable to distribute profits • Possible restrictions on freedom to invest • May be subject to additional regulation and oversight e.g. UK Charity Commission • Possible restrictions on activities if has charitable status | <ul style="list-style-type: none"> • Potentially onerous to establish unless under Swiss Host State Act • Not able to distribute profits • Exact privileges and immunities may not be possible to be determined in advance or guaranteed |

Findings on or profit, not for profit and international organisation structures

- 5.5. It is not possible to identify a single structure which can meet all the design drivers for the Facility without alteration or adjustment, in particular, the ability to attract private investors who might wish a financial return and the ability to manage and invest funds are not characteristics often associated with a not for profit structure. However, not for profit entities can make investments and charitable and non-charitable not for profit entities can establish trading subsidiaries which generate income for their not for profit parent. Fund management is a regulated activity in the jurisdictions which are covered by this Report (see example of the Alternative Investment Fund example under the Sweden section). We would recommend that any investment activities are (and indeed for certain structures may be legally required to be) housed in a separate special purpose vehicle separate from the main Facility. This will also allow the Facility to be ring fenced from commercial risk.
- 5.6. Therefore, for the purposes of this Report, we consider that a typical not for profit structure is most likely to meet RRG's needs. We also note that if Switzerland is a

DRAFT

favoured option the possibility of being an international organisation under the Swiss Host State Act should be explored with the Swiss authorities.

- 5.7. The establishment of other forms of international organisation other than under the Swiss Host State Act is unlikely to be achievable within the desired timeframe of 12 months. Establishment under the Swiss Host State Act in this timeframe may be possible although the likelihood of this would need to be discussed with the Swiss authorities.

DRAFT

DRAFT

6. Location and structure analysis

6.1. Annex 3 sets out a summary of findings our research for each of the five locations analysed. The full detail of the findings is set out in the Country Information Matrix at Annex 4.

6.2. An analysis of the pros and cons of the different structures available in each country is set out below.

6.3. It should be noted that the issues relating to the ease of operation of an entity in each location is not affected by the choice of legal structure.

United Kingdom

| Structure | Pros | Cons |
|-----------------------------|--|--|
| CLG (non-charitable) | <ul style="list-style-type: none"> Limited liability Some funders take comfort from inability to distribute profit No remuneration restriction by law No restriction on political activity eg political lobbying | <ul style="list-style-type: none"> Not exempt from taxes Cannot distribute profits to private investors Some funders can only fund charities (eg US 501(c)(3)) |
| CLG (charitable) | <ul style="list-style-type: none"> Limited liability Tax exempt Some funders take comfort from inability to distribute profit Some funders can only fund charities (e.g. US 501(c)(3)) | <ul style="list-style-type: none"> Cannot distribute profits to private investors Remuneration restrictions Restriction on political lobbying Restrictions on activities to maintain within charitable purpose and limit private benefit |
| Charitable Trust | <ul style="list-style-type: none"> Tax exempt Some funders take comfort from inability to distribute profit Some funders can only fund charities (eg US 501(c)(3)) | <ul style="list-style-type: none"> No limited liability Cannot distribute profits to private investors Not recognised in some jurisdictions Remuneration restrictions Restriction on political lobbying Restrictions on activities to maintain within charitable purpose and limit private benefit |
| CIC (For profit) | <ul style="list-style-type: none"> Limited liability | <ul style="list-style-type: none"> Not exempt from taxes Some funders can only fund charities (eg US 501(c)(3)) Remuneration restrictions Restriction on political lobbying Relatively untested |
| CIC (Not for Profit) | <ul style="list-style-type: none"> Limited liability Some funders take comfort from inability to distribute | <ul style="list-style-type: none"> Not exempt from taxes Cannot distribute profits to private investors |

DRAFT

| Structure | Pros | Cons |
|------------|--|---|
| | profit | <ul style="list-style-type: none"> • Some funders can only fund charities (eg US 501(c)(3)) • Remuneration restrictions • Restriction on political lobbying • Relatively untested |
| LTD | <ul style="list-style-type: none"> • Limited liability • No remuneration restriction by law • Allows fund to be raised through equity | <ul style="list-style-type: none"> • Not exempt from taxes • Some funders can only fund charities (eg US 501(c)(3)) • No restriction on political lobbying |

Findings

6.4. A UK not for profit company limited by guarantee may opt to have charitable or non-charitable status. Charitable status would make the Facility exempt from UK income taxes. However it would also impose two constraints:

- i. *The Facility would have to restrict its activities to comply with its charitable purpose;*
- ii. *It would also have ensure that any private benefit arising from its activities remains ancillary to its public benefit.*

6.5. An LTD would not meet the not for profit objectives for the Facility.

6.6. A CIC is untested and unattractive as it gives neither tax exempt status nor the flexibility of a private company. Certain funders may not be able to contribute to a non-charitable entity.

6.7. A trust presents no clearly identifiable advantages over a CLG.

6.8. A charitable CLG is potentially attractive if the objectives of the Facility meet the charitable purpose test as the Facility would benefit an exemption from income tax under UK law.

6.9. If the charitable purpose test cannot be met or the restrictions imposed on a charity are unattractive the non-charitable CLG is potentially the most viable option.

Sweden

| Structure | Pros | Cons |
|-------------------------------------|---|---|
| Foundation | <ul style="list-style-type: none"> • Limited liability • Possible tax exemption | <ul style="list-style-type: none"> • Some restrictions on scope of activities • No flexibility to amend governing documents |
| Non-Profit Association | <ul style="list-style-type: none"> • Limited liability • Considerable flexibility • Possible tax exemption | <ul style="list-style-type: none"> • Governance framework less clear |
| Companies with Limitation on | <ul style="list-style-type: none"> • Limited liability | <ul style="list-style-type: none"> • Seldom used for NGOs |

DRAFT

| Structure | Pros | Cons |
|---|--|--|
| Dividends | | <ul style="list-style-type: none"> • Not tax exempt |
| Alternative Investment Fund Manager (AIFM) | <ul style="list-style-type: none"> • Limited liability • Possible vehicle for management of funds such as Triple Jump management of Habitat for Humanity | <ul style="list-style-type: none"> • Only intended for use as specialist investment • Highly regulated • Not tax exempt |

Findings

6.10. The AIFM is unattractive for purposes other than specific fund management activities.

6.11. Companies with Limitation on Dividends are also unattractive as they are not tax exempt.

6.12. The Non-Profit Association offers potential tax exemptions and considerable flexibility but the potentially offers a less clear governance framework than the Foundation.

6.13. The Foundation is potentially the most attractive entity as it offers tax exempt status and a robust governance framework.

Switzerland

6.14. The entities considered in Switzerland both assume that the Facility would register for tax exemption and other privileges and immunities under the Swiss Host State Act.

| Structure | Pros | Cons |
|--------------------|--|--|
| Foundation | <ul style="list-style-type: none"> • Clear governance structure • Purpose cannot be changed • Potentially attractive to donors • Liberal but effective State supervision | <ul style="list-style-type: none"> • Host State Act status not guaranteed |
| Association | <ul style="list-style-type: none"> • No clear advantages over Foundation | <ul style="list-style-type: none"> • Host State Act status not guaranteed • Absence of State supervision • Less independent legal entity since members vote in their own interest • Less perennial, notably the purpose clause can be modified by the general assembly |

DRAFT

Findings

- 6.15. The Foundation is more attractive than the Association. Further consultations would be required with the Swiss authorities to establish whether Host State Act can be obtained.

Montréal

| Structure | Pros | Cons |
|-----------------------------------|--|---|
| Not for Profit Corporation | <ul style="list-style-type: none"> • Separate legal personality • Continuous existence • Limited liability • Separate patrimony • “modern” regulatory framework • Corporate record keeping obligations • Easy to amend constitutional documents • Fulsome regulatory regime provide stakeholder/third party comfort • Eligible to apply for charitable status • Can issue official donation receipts • Tax exempt • Quebec government keen to have international organisations | <ul style="list-style-type: none"> • More fulsome regulatory regime • Little bit more expensive to maintain than a charitable trust • Closely regulated • Limitations on for profit activities • Corporate record keeping obligations • Can issue official donation receipts • If registered charity may restrict activities abroad • Use of French language may be mandatory |
| For Profit Corporation | <ul style="list-style-type: none"> • Separate legal personality • Continuous existence • Limited liability • Separate patrimony • “modern” regulatory framework • Corporate record keeping obligations • Easy to amend constitutional documents • Fulsome regulatory regime provide stakeholder/third party comfort • Ownership is transferable • Quebec government keen to have international | <ul style="list-style-type: none"> • Need for minimum number of Canadian directors • More fulsome regulatory regime • Little bit more expensive to maintain than a charitable trust • Closely regulated • Corporate record keeping obligations • Not eligible for charitable tax status • Use of French language may be mandatory |

DRAFT

| Structure | Pros | Cons |
|-------------------------|--|--|
| | organisations | |
| Charitable Trust | <ul style="list-style-type: none"> • Less closely regulated • Eligible for charitable tax status • Lighter corporate record obligations • Can issue official donation receipts • Tax exempt • Quebec government keen to have international organisations | <ul style="list-style-type: none"> • Charitable trusts not well-known, particularly in civil jurisdictions, and this may complicate transactions • Trustees more exposed than directors • More complicated to modify the structure • If registered charity may restrict activities abroad • Use of French language may be mandatory |

Findings

7. Not for profit corporation appears to be the most attractive as it would be tax exempt and can “issue official donation receipts” which makes it potentially more attractive to funders. It also offers limited liability, and is a more recognisable legal entity in civil law jurisdictions than a trust. However, charitable status may restrict overseas activities.
8. A for profit corporation offers no clearly identifiable advantages over other entities.

Barcelona

| Structure | Pros | Cons |
|--|---|--|
| Public Limited Liability Company | <ul style="list-style-type: none"> • Separate legal personality • Limited liability • Clear governance structures • Easy to establish | <ul style="list-style-type: none"> • No tax exemption |
| Private Limited Liability Company | <ul style="list-style-type: none"> • Separate legal personality • Limited liability • Clear governance structures • Easy to establish | <ul style="list-style-type: none"> • No tax exemption |
| Charitable Foundation | <ul style="list-style-type: none"> • Possible tax exemption • Clear governance structures • Easy to establish | <ul style="list-style-type: none"> • No Separate legal personality • No Limited liability • Restrictions on for profit activities |
| Community of Properties | <ul style="list-style-type: none"> • Very quick to establish | <ul style="list-style-type: none"> • No Separate legal personality • No Limited liability • No clear governance structure |

DRAFT

Findings

- 8.1. A Community of Properties would not be an appropriate vehicle for the facility.
- 8.2. A Charitable Foundation offers tax exemption (but there are different tax regimes depending upon the whether the entity can meet the relevant criteria) and may be more attractive to some private funders.

9. Other matters for consideration

Overseas Development Assistance (ODA)

- 9.1. Certain bi-lateral donors may require their funds to score for ODA purposes. It is our understanding that it is possible that funding from a sovereign donor received by the Facility may not be recordable as a positive score for Overseas Development Assistance (ODA) purposes unless and until on-disbursed for ODA eligible purposes by the Facility. A solution would be for the Facility to register with the OECD DAC whereby funding could be scored positive on receipt. The process can be time consuming and can take approximately 6 months. If the Facility submitted an application template in February 2015, it would then be considered between February and June 2015. Ideally accreditation would be given by July 2014. ODA accreditation applies to any contribution made in the year that recipient was accredited or after. As the ODA year runs January to December, a July 2015 accreditation would mean that only contribution from January 2016 would score for ODA (unless otherwise eligible). A full list of ODA registered entities can be found here: <http://www.oecd.org/dac/stats/annex2.htm>

Procurement

- 9.2. It is possible that EU Procurement Regulations which apply to EU public bodies could apply if the Facility is established in the UK, Barcelona or Sweden and the Facility is deemed to fall within the definition of a public body due to its support by EU donor nations. EU Procurement Regulations are based on the underlying principles of equality of treatment, fairness, transparency and non-discrimination and set out a number of options for procurement processes which may be followed by contracting public bodies on circumstances where the value of the contract for goods and services to be tendered exceed the applicable thresholds.

State Aid

- 9.3. In order for the EU regulations on State Aid to apply, a sufficient link would need to be established between the Facility and an EU Member State. The State Aid regulations provide that a Member State may not grant a selective advantage to any undertaking from state resources that distorts competition in the EU and has a potential effect on trade between EU Member States. Should these regulations be breached then the European Commission has the power to order that the relevant “aid” be recovered by the Member State. Should the State Aid regulations be

DRAFT

deemed to apply, then they would only be relevant if any of the Facility's funding flowed to an EU based organisation.

DRAFT

10. Conclusions

10.1. We have assessed the five location options against the drivers below.

| Driver | United Kingdom Charitable CLG | Swiss Foundation registered under Host State Act | Swedish Foundation | Montréal Not for profit corporation | Barcelona Charitable Foundation |
|---|---|---|-----------------------|---|---------------------------------------|
| Minimise core costs to reduce the financial vulnerability of the Facility and ensure value for money | We found no significant difference in the operating costs for the Facility between the UK, Sweden, Switzerland, Canada, and Spain. | | | | |
| Maximise tax efficiency to enable funding to be utilised for the core purposes for which the Facility is established while balancing tax efficiency with the other drivers for the Facility | Charitable status offers tax efficiency | | | | |
| | | Host State Act registration potentially maximises tax efficiency for employment of personnel. | | | |
| Allow set up and commencement of operations within the next twelve months | | Host State Act could potentially take up to 12 months. | | | |
| Allow for a multi-stakeholder governance system and international legitimacy | We found no significant difference in the ability of the different entities to offer a multi-stakeholder governance system and international legitimacy although Swiss Host State Act status may maximise the attractiveness to donors. | | | | |

DRAFT

| Driver | United Kingdom Charitable CLG | Swiss Foundation registered under Host State Act | Swedish Foundation | Montréal Not for profit corporation | Barcelona Charitable Foundation |
|--|--|---|-----------------------|---|---------------------------------------|
| Enable a diverse work-force to be employed | High income tax rates on staff. | Host State Act registration potentially maximises ability to recruit without immigration restrictions. | | | |
| Allow for fundraising and leveraging of capital, know- how and political support | We found no significant difference in the ability of the different entities to allow for fundraising and leveraging of capital, know-how and political support. | | | | |
| Be a sustainable institution | We found no significant difference in the sustainability of the different entities. | | | | |
| Be an example of best practice and adhere to the highest standards of good governance | We found no significant difference in the ability to create an entity that adheres to best practice. | | | | |
| Allow for ease of operations | The UK is an international travel hub with many low cost travel options and direct flights to many countries including a wide range of developing countries. | | | | |

DRAFT

- 10.2. We concluded in in paragraph 5.6 that a typical not for profit structure is most likely to meet RRG's needs.
- 10.3. We have drawn out the key points that may help RRG to decide between the different options below.
 - i. Each of the jurisdictions offers a legal structure which is potentially tax efficient, but in exploring RRG's preferred option it will be important to discuss with the local authorities, as part of the registration process, whether in practice, charitable status will impose any constraints on RRG's proposed activities.
 - ii. The UK is the biggest hub for international travel.
 - iii. Swiss Host State Act potentially offers the most benefits from a tax and visa perspective although further discussions with the Swiss authorities would be required to verify the extent to which such benefits would be granted.

ANNEX 1

Request for Proposals



Legal Consultant to Advise on the Establishment of an International Tenure Facility Request for Proposal

The **Rights and Resources Institute, Inc.** (d/b/a **Rights and Resources Group – RRG**), a 501(c)3 tax-exempt organization headquartered in Washington D.C., is requesting a proposal for provision of a legal analysis of incorporation options for an international financing facility in accordance with the below Terms of Reference.

If your firm is interested in providing services to our organization, please review this request and submit your application by **June 30, 2014**.

Background

RRI is in the process of catalyzing the establishment of a new international mechanism that would mobilize funds and invest in the implementation of projects to recognize and strengthen community land rights in forest and other rural areas in selected developing countries. The interim title of this mechanism is the International Forest and Land Tenure Facility (ILFTF, the "Facility"). Progressive public-private funding models like that of the Private Infrastructure Development Group (PIDG) inspired the design of the Facility.

The establishment of the Facility is currently in the "Inception Phase", a phase which began in January 2014 and is expected to continue through June of 2015. During this phase RRI and supporting consultants will lead studies to assess the particular demand for investments in a set of five priority countries, as well as a study to assess the legal and institutional options for the establishment of the Facility. A formal Advisory Group (AG) will also be established in this period to advise RRI on critical elements regarding the design and establishment of the Facility. At the end of the Inception Phase, the Facility will become a fully independent institution.

Key Dates

June 30, 2014 - Deadline for proposal submission;
July 7, 2014 - Notification of proposal success;
August 20, 2014 - Delivery of draft product to RRI for comment;
August 25, 2014 - Comments provided by RRI;
September 1, 2014 - Delivery of final product.

Terms of Reference:

The Consultant will present a description and an analysis of positive and negative aspects of establishing a financing facility, and options for the city/nation best suited for incorporation:

- Laws and regulations governing the establishment of non-profit finance facility, including:
 - o Relevant available types of legal incorporation and analysis of advantages and disadvantages
 - o Relevant government authority overseeing these incorporation types
 - o Registration process and requirements
 - o Minimum initial size and assets
 - o Restrictions on purpose and mission; funding sources; and political advocacy and lobbying
 - o Governance requirements, including Board of Directors
 - o Rights and obligations under the law of Board of Directors and of management
 - o Reporting requirements
 - o Public access and transparency requirements
 - o Rights of third parties to challenge governance, management, and operations decisions
- Tax laws governing a non-profit finance facility, including:
 - o Non-exemption from tax of certain business activities or expenditures
 - o Tax-exemption of revenue of various types both domestic and international
 - o Tax-exemption on earnings from an invested endowment
 - o Tax-exemption of assets including cash accounts, real estate, vehicles, tangible assets, and intellectual property assets
 - o Rates of employment taxation and social charges
- Financial regulations governing a non-profit finance facility, including:
 - o Ability to maintain an invested endowment to fund non-profit activities and operations
 - o Restrictions on business activities
 - o Restrictions on compensation
 - o Reporting requirements
 - o Auditing requirements
 - o Right of inspection of accounts by governing authority
- Employment visa regulations including:
 - o Ease of securing employment visas for qualified expatriate technical staff of any nationality
 - o Ease of securing employment visas for spouse or partner of qualified expatriate technical staff of any nationality
 - o Tax liability and exemption treaties governing expatriate personal income
- Financial infrastructure:
 - o Ease of conducting operations and banking
 - o Ease and cost of international electronic funds transfers
 - o Restrictions governing international electronic funds transfers
 - o Probability of sanctions affecting ability to financially engage developing world governments with poor history of governance
 - o Availability, cost, and restrictions of in-country bank accounts in major currencies (*e.g.*, US dollar, Euro, UK Pound, other European currencies)
 - o Any recent history of capital controls

- Other:
 - o Free and open society with non-censorship of speech
 - o Availability and cost of educated administrative and accounting support staff
 - o Degree of labor regulation and worker rights including mandatory social charges, insurance benefits, paid and unpaid leave, severance, termination with cause, and redundancy
 - o Average cost of office space appropriate for non-profit non-governmental organizations
 - o Rankings in cost-of-doing-business and quality-of-life surveys
 - o Quantification of availability of direct flights to developing world cities by continent
 - o Any other factors that offer a particular advantage or disadvantage for that location

Proposal

RRI requests a proposal from you for delivery of the services above. The proposal must be received by **June 30, 2014**. Your proposal should include:

Approach

Describe how you plan to conduct the analysis described above, including scope and limitations. Describe the types of information resources you will draw upon to ensure a comprehensive assessment. Describe also the consultation process you envision with RRI throughout the assessment process.

Qualifications

Provide a description of your expertise and prior experience related to the research and establishment of legal entities in an international context.

Staffing

If you are a firm, please provide a profile of the lead and support individuals who will conduct this assessment.

Fees

Please provide a quote for completion of this analysis, including the estimated number of hours and hourly rate of the individuals who will complete this assessment. Please also describe whether and how hours in excess of the quote will be invoiced should the assessment require more hours than proposed.

Timing

Please affirm your commitment to completing this assessment by the date required, and the inputs you will require from RRI to meet this due date, and the timing of those inputs.

Evaluation and Award Process

1238 Wisconsin Avenue NW Suite 300 | Washington, D.C. 20007 | T: +1 202.470.3900 | F: +1 202.944.3315
www.rightsandresources.org

DRAFT

4

Proposals will be evaluated according to the components listed above. Parties will be notified as to the success of their proposal no later than July 7, 2014. Upon selection, RRI will proceed with the creation of a formal contract.

Please submit your proposal by the date above to RRG Executive Director, Arvind Khare (akhare@rightsandresources.org). Questions concerning this proposal should be addressed to RRG Private Sector Analyst, Bryson Ogden (bogden@rightsandresources.org /+1 202 552 8436).

DRAFT

ANNEX 2
Shortlisting Paper

DRAFT

Note on initial shortlisting of potential locations for the International Land and Forest Tenure Facility (Facility)

1. Purpose of this note

- 1.1. The purpose of this note is to set out an approach to the initial shortlisting of the potential locations for the Facility, and to propose an initial shortlist for approval by the Rights and Resources Group (RRG).

2. Approach to shortlisting

- 2.1. The terms of reference for the work describe the key criteria for the choice of location.
- 2.2. In this note we have set out, based on our discussion on Friday 18th July, three key criteria which we consider are the most important for shortlisting possible locations for the Facility. These are:
- Ease and cost of operations - The ease of doing business and cost of operations in the location should drive efficiency and maximise value for money;
 - Access to human capital - The location should offer available educated administrative and accounting staff at an appropriate cost, and minimise visa constraints; and
 - Travel - The location should facilitate travel by the Facility team to and from developing world cities.
- 2.3. We have not been able to establish exact measure for each of these criteria. We have therefore chosen the best alternative measure available for each criteria as outlined below.

| Criteria | Measure |
|-----------------------------|---|
| Ease and cost of operations | 2014 'Doing business' study ranking ¹ |
| | 2014 'Doing business' study – "Starting a business" only ranking ² |

¹ International Finance Corporation / World Bank. Takes into account (amongst other factors) the ease of starting a business, employing workers, registering property, getting credit, protecting investors, resolving insolvency, enforcing contracts.

² International Finance Corporation / World Bank. Procedures to start a new business, time to complete the relevant procedures, associated costs and minimum capital requirements. Starting a Business is summarised as "a measure of the number of procedures, time, cost and paid-in minimum capital required for small and medium sized limited liability companies to formally operate using a standardised business that is 100% domestically owned, has start-up capital equivalent to 10 times income per capita, engages in general

| | |
|--------------------------------|--|
| | 2013 Most expensive cities for expatriate employees (Top 50 only) ³ |
| Access to human capital | DAC members 2012 ODA ranking by country Visa and immigration requirements for assignment of a company's staff to each country ⁴ |
| Travel | Direct flights from Washington to the country 2013 total passenger numbers by airport (Global Ranking – Top 30 only) 2013 busiest airport systems in the world |

2.4. A further measure that we consider important to the 'Access to human capital' based upon our own experience of managing secretariats for global development projects is the ability to locate and recruit staff for the Facility's secretariat and expert land tenure and other relevant specialists needed to resource the Facility's activities.

2.5. In our experience managing a secretariat is likely to require a range of skills covering strategy, operations, governance and compliance, financial management, reporting, impact monitoring and communications. The types of people who specialise in this kind of work are internationally mobile and available in most of the countries listed. However, the bigger the development spend of the country the bigger the likely pool of talent available. We have therefore listed the ODA spend for each of the countries on this list.

2.6. In addition to the general skills sets outlined above the Facility require individuals with skills and experience in land tenure and related specialist areas. Such people are in our view also likely to be internationally mobile. They may well also work for the Facility in country rather than necessarily in the country of the Facility's head office. The ability to recruit such people should therefore depend less on the location of the Facility. We would be interested in RRG's views on this.

3. Location long list

3.1. In our teleconference on Friday 18th July we agreed that it made sense to narrow down the list of options for consideration to European locations for the following reasons:

- i. This is because the Facility is predominantly funded by European donors;

industrial or commercial activities and employs between 10 and 50 people within the first month of operations.

³ ECA International. ECA International is a consulting firm that provides data and software solutions to assist companies in the management of assignees around the world.

⁴ Indicative of ease of recruitment in non assignment scenario.

- ii. European locations potentially facilitate travel to a wide range of locations, and the European time zones facilitate communication with a wide range of developing world cities; and
- iii. European capitals potentially offer access to a wide range of highly skilled staff with skills that are likely to meet the Facility's requirements.

4. Location short list

- 4.1. The list is based on the locations of the six European sponsors of RRG plus Holland which is well known European hub for travel.
- 4.2. We have set out in the Annex to this note how each of the long listed locations ranks against the different measures. We have then attempted to assess the locations based on the measures against the three criteria.
- 4.3. We have attempted to avoid being overly 'scientific' in the analysis for two reasons. Firstly because RRG's own priorities should determine the preferred shortlist locations. Secondly because there are no exact measures for assessing the locations against each of these criteria.
- 4.4. Our summary assessment of how the locations meet the criteria is set out in the table below.

| Location | Ease and cost of operations | Access to human Capital | Travel | Totals |
|-------------------------|-----------------------------|-------------------------|--------|--------|
| France (Paris) | 8 | 3 | 3 | 14 |
| Switzerland (Geneva) | 7 | 7 | - | - |
| Sweden (Stockholm) | 4 | 5 | 6 | 14 |
| Norway (Oslo) | 1 | 6 | 5 | 12 |
| Netherlands (Amsterdam) | 5 | 4 | 4 | 11 |
| UK (London) | 2 | 1 | 1 | 4 |
| Germany (Frankfurt) | 6 | 2 | 2 | 10 |
| Finland (Helsinki) | 3 | 8 | - | - |

- 4.5. Based on this analysis the UK clearly comes out top, with Germany second, followed closely by the Netherlands. Norway also scores particularly highly.

4.6. We therefore recommend that the UK should be shortlisted either with Germany or the Netherlands.

4.7. Although Switzerland does not rank highly we consider that Geneva is an attractive option for the short-list. This is because Geneva is a well established and recognised location for international organisations. International organisation status can afford an entity many benefits under the Swiss “Host State Act” – not least potentially in terms of tax and other privileges and immunities. Whilst the review may not conclude that an international organisation is the best structure for the Facility to adopt, we consider it is important to investigate these types of structures further.

4.8. Although the Scandinavian destinations score well in terms of ease of doing business and ODA spend, the lack of direct and frequent flights to destinations related to the Facility’s activities could hinder day to day operations. The employment markets in these locations are also comparatively small. Amsterdam and London are recognised flight hubs offering multiple travel itineraries.

4.9. Based on the assessment of the locations shown in the table we consider that the following locations should be shortlisted:

- London
- Amsterdam or Frankfurt
- Geneva

MDY Legal
11 August 2014

DRAFT

| Criteria | Measure | France (Paris) | Switzerland (Geneva) | Sweden (Stockholm) | Norway (Oslo) | Netherlands (Amsterdam) | UK (London) | Germany (Frankfurt) | Finland (Helsinki) |
|----------|---|----------------------------|-------------------------|-----------------------|------------------|----------------------------|------------------------------------|---------------------------|-----------------------|
| Travel | Direct flights from Washington ⁵ | 2 (Air France & United) | - | - | - | 1 (KLM) | 3 (BA, United, Virgin Atlantic) | 2 (Lufthansa & United) | - |
| | 2013 total passenger numbers by airport (Global Ranking – Top 30 only) ⁶ | 8 Paris CDG | - | - | - | 14 Schiphol | 3 Heathrow | 12 Frankfurt am Main | - |
| | 2013 busiest airport systems in the world ⁷ | 5 | - | 62 | 57 | 25 | 1 | 16 | - |

⁵ Metropolitan Washington Airports Authority

⁶ Airport Councils International (ACI). The ACI has 591 members who operate 1,861 airports across 177 countries.

⁷ ACI. Reflects the fact that some cities have numerous major airports.

| Criteria | Measure | France (Paris) | Switzerland (Geneva) | Sweden (Stockholm) | Norway (Oslo) | Netherlands (Amsterdam) | UK (London) | Germany (Frankfurt) | Finland (Helsinki) |
|---|---|-------------------|-------------------------|-----------------------|------------------|----------------------------|----------------|------------------------|-----------------------|
| Ease of doing business / Cost of operations | 2014 'Doing business' study ranking ⁸ | 38 | 29 | 14 | 9 | 28 | 10 | 21 | 12 |
| | 2014 'Doing business' study – "Starting a business" only ranking ⁹ | 15 | 24 | 20 | 18 | 5 | 8 | 28 | 19 |
| | 2013 Most expensive cities for expatriate employees (Top 50 only) ¹⁰ | 29 | 7 | 19 | 3 | - | - | - | 14 |

⁸ International Finance Corporation / World Bank. Takes into account (amongst other factors) the ease of starting a business, employing workers, registering property, getting credit, protecting investors, resolving insolvency, enforcing contracts.

⁹ International Finance Corporation / World Bank. Procedures to start a new business, time to complete the relevant procedures, associated costs and minimum capital requirements. Starting a Business is summarised as "a measure of the number of procedures, time, cost and paid-in minimum capital required for small and medium sized limited liability companies to formally operate using a standardised business that is 100% domestically owned, has start-up capital equivalent to 10 times income per capita, engages in general industrial or commercial activities and employs between 10 and 50 people within the first month of operations.

¹⁰ ECA International. ECA International is a consulting firm that provides data and software solutions to assist companies in the management of assignees around the world.

| Criteria | Measure | France (Paris) | Switzerland (Geneva) | Sweden (Stockholm) | Norway (Oslo) | Netherlands (Amsterdam) | UK (London) | Germany (Frankfurt) | Finland (Helsinki) |
|----------------------------|---|--|--|---|--|---|--|--|---|
| | DAC members 2012 ODA ranking by country ¹¹ | 4 | 11 | 9 | 10 | 7 | 2 | 3 | 17 |
| Access to human capital | Visa and immigration requirements ¹² | <p>An application is lodged with the Labour Authorities / Immigration Office and a check of the levels of employment and labour market are carried out by the Labour Authorities.</p> <p>Once work authorisation is approved, the relevant file is registered by the Immigration Office and transferred to the French Consulate in the individual's home country in order for the relevant individual (and</p> | <p>In order for an intra-company assignee to obtain a work permit there are few requirements that must be met in Switzerland. It is important that the salary level that the assignee will have is at least equivalent to the level of pay in a similar position in Switzerland.</p> <p>Furthermore, the employer must cover all the costs associated with the assignment: such as housing, food, travel etc.</p> <p>Another</p> | <p>A Swedish work and residency permit is required if a non EU national will be performing work duties in Sweden and one of the exemptions is not applicable (more details can be provided).</p> <p>Personal information is required from the individual and accompanying family members and details of the role, salary, benefits, insurances and company in Sweden is required from the employer.</p> | <p>EU assignees coming into Norway with a stay of more than 3 months will need formal registration with the authorities.</p> <p>Non-EU assignees will first need to acquire a work permit (WP) that would be needed from day one. The most widely used type of work permit is skilled worker WP that requires an assignee to have a university degree or work experience as well as satisfying the minimum salary level.</p> | <p>The immigration procedure to obtain a work and residence permit differs depending on whether the company has an existing registration at the immigration authority office in the Netherlands.</p> <p>For US nationals, no MVV (visa) is required to enter the Netherlands. However, a work and residence permit is required. The MVV (visa requirement) is different for each country.</p> <p>To determine the</p> | <p>The process is relatively straightforward.</p> <p>The company will require a Sponsorship License to bring intra company transfer migrant workers into the UK.</p> <p>Once this is in place, the responsibility is on the employer to ensure that appropriate rules are adhered to before applying for a Certificate of Sponsorship for the individual.</p> <p>The process takes 2-3 days from</p> | <p>It is relatively easy for a non EU citizen to apply for a work permit in Germany.</p> <p>For non-visa nationals (USA, Canada, Australia, Israel, New Zealand, Japan, South Korea) the necessary information is gathered for an application, filed with the authorities and then a decision can typically be expected in 3-6 weeks.</p> <p>During that time the assignee is allowed to enter Germany without</p> | <p>If the individual is not an EU/EEA/Swiss citizen, they will need a Finnish residence permit in order to stay and work there.</p> <p>If the individual has a university degree and/or is an expert of a certain field, they can apply for an expert residence permit.</p> <p>There is also a salary threshold of EUR 3 000 / month.</p> <p>The expert permit is usually obtained in around 3 weeks.</p> |

¹¹ OECD Development Assistance Committee (DAC). There are 29 members of DAC. The World Bank, the IMF, UNDP, the African Development Bank, the Asian Development Bank, and the Inter-American Development Bank participate as observers.

¹² EY Human Capital. This information is indicative only. Specific and detailed advice should be sought in respect of each and every individual who will be employed in any of the jurisdictions outlined above.

| | | | | | | | | | |
|--|--|--|---|---|--|--|--|---|---|
| | | <p>family) to complete long stay visa formalities.</p> <p>Upon arrival in France, a compulsory medical examination is required by the Immigration Office.</p> <p>The process takes approximately 8-10 weeks (subject to any specific case issues).</p> | <p>important requirement is the experience of the assignee should exceed 1 year.</p> <p>The process of obtaining the work permit will depend on a canton, but generally takes 4-8 weeks.</p> <p>When all the necessary documents are gathered an application is made to the Swiss authorities. The final approval of the work permit application is a visa authorisation which is issued by the cantonal migration offices and, with this visa authorisation; the entry visa must be collected from the Swiss consulate abroad.</p> | <p>The salary and insurances offered must meet the requirements of the specific industry or collective bargaining agreements in Sweden.</p> <p>The individual can remain on home payroll and employed in their home country although there must be a Swedish entity tied to the application. The individual must be outside Sweden during the submission and processing of the application.</p> | <p>The process of obtaining a work permit is to submit all the required documents with the Norwegian authorities by first completing an online application and then booking an "in person" appointment to file the application. Notification is received after the process is completed, which typically takes 3-5 weeks from the time of application, depending on the backlog (no fixed guaranteed process time).</p> <p>The assignee then flies to Norway and collects the document. If an assignee requires an entry visa they will need to obtain this before flying to Norway.</p> | <p>exact immigration procedure for each employee more information is required but examples of what is required include the name of the company, nationality, duration of the assignment, gross salary during the assignment. If family members are to accompany the assignee, a recently legalised marriage certificate and recently legalised birth certificates of the children are also required.</p> | <p>receipt of complete information for the Certificate to be issued.</p> <p>Once this is in place, the entry clearance process and biometrics appointment can be booked. As soon as this is complete, the individual can travel in line with the dates on the Certificate.</p> | <p>the need for an entry visa and finalise his application in the country.</p> <p>For the visa-nationals an entry visa is required. The visa then will have to be obtained from the home country consulate. Only then is the assignee allowed to enter Germany and finalise their application (approximately 8-12 weeks after submission of the application).</p> <p>A necessary requirement is that the level of pay must match the level of pay of similar positions in Germany.</p> <p>An assignee must also have at least 1 year of experience with the company or a university degree.</p> | <p>The process is not especially difficult, but requires preparation and collection of documents.</p> <p>The employee has to visit a Finnish Embassy in their home country to file the application documents and give finger prints. The application can be filed online, but a personal visit to the embassy is also required.</p> <p>As soon as the residence permit card has been obtained, the employee can start working in Finland.</p> |
|--|--|--|---|---|--|--|--|---|---|

ANNEX 3**COUNTRY FINDINGS SUMMARY****Country Findings**

We have set out below in five tables a summary of the findings of our research in each potential country as set out in the Country Information Matrix attached as Annex 4.

1. United Kingdom

| Issue | Company Limited by Guarantee (CLG) | Charitable Purpose Trust | Community Interest Company (CIC) | Limited Liability Company (LTD) |
|---|---|---|---|--|
| i. Legal and Regulatory | | | | |
| Purpose | Charitable or non-charitable | Charitable | Not exclusively charitable | Non-charitable |
| Liability | Limited Liability | No Limited Liability | Limited Liability | Limited Liability |
| Government oversight | Charity Commission (if charitable). | Charity Commission. | ‘Light touch’ oversight by Regulator. | Registrar of companies. |
| Registration process and requirements | Filing at Companies House and if charitable with Charity Commission. Must demonstrate charitable purpose. | Application to Charity Commission (40 working days if requirements met). Must demonstrate charitable purpose. | Application to Regulator and Companies House. Must satisfy community interest test of Regulator. | Filing at Companies House. |
| Minimum initial size/assets | Nominal minimum capital required | Nominal minimum capital required | Nominal minimum capital required | Nominal minimum capital required |
| Restriction of purpose/mission | Restriction to charitable purpose (if charitable) If charitable political campaigning only in context of supporting charitable purpose | Restricted to charitable purpose. Political campaigning only in the context of supporting charitable purpose | “Asset lock” to ensure assets retained to benefit the community Cannot be political campaigning organisation | No restriction No restriction |
| Governance | Oversight by Members. Management by Board of Directors. | Oversight by Settlor. Management by Trustees. | Oversight by Members. Management by Board of Directors. | Oversight by S/holder. Management by Board of Directors. |
| Rights and Obligations of Directors | Fiduciary Insurance cover | Fiduciary Insurance cover | Fiduciary Insurance cover | Fiduciary Insurance cover |
| Reporting requirements | Annual accounts and annual return, and if Charity, annual return and Charity Report. | Annual accounts Charity Report | Annual accounts, CIC interest report Annual return | Annual accounts and Annual return |
| Public access and transparency requirements | Documents filed with Registrar of Companies available for public | Documents filed with Charity Commission available for public | As CLG and LTD | Documents filed with Registrar of Companies |

DRAFT

| Issue | Company Limited by Guarantee (CLG) | Charitable Purpose Trust | Community Interest Company (CIC) | Limited Liability Company (LTD) | | | | | | | | | | |
|--|---|---|---|--|-----------------|---------------|---------------------------------------|--|------------------|--------------|-------------------|--------------------|-----------------------|---------------|
| | inspection and if charitable documents filed with Charity Commission available for public inspection | inspection | | available for public inspection | | | | | | | | | | |
| Rights of third parties to challenge decisions | If charity, Charity Commission power to take corrective action if abuse or non-compliance | Charity Commission power to take corrective action if abuse or non-compliance | Relatively new - instances of Regulator exercising rights unknown. | None. | | | | | | | | | | |
| ii. Tax | | | | | | | | | | | | | | |
| Income | Exempt if charity otherwise: Corporation tax – 21% Capital gains tax – 28% | Exempt from corporation tax. | As for CLG or LTD – no specific tax exemption/reliefs. | No exemption. Corporation tax – 21% Capital gains tax – 28% Also tax on dividends | | | | | | | | | | |
| Endowment/asset income | Taxed as income with exemptions as above. | | | | | | | | | | | | | |
| VAT | VAT – standard rate 17.5% to 20%. | | | | | | | | | | | | | |
| Employment taxation | <table><tr><th>Income Tax Rate</th><th>Annual Income</th></tr><tr><td colspan="2">Tax Free Personal Allowance*: £10,000</td></tr><tr><td>Basic rate : 20%</td><td>£0 - £31,865</td></tr><tr><td>Higher rate : 40%</td><td>£31,866 - £150,000</td></tr><tr><td>Additional rate : 45%</td><td>Over £150,000</td></tr></table> <p>Individual also liable to pay National Insurance Contributions (NIC's) 12% up to £41,865 (2% thereafter)</p> | | | | Income Tax Rate | Annual Income | Tax Free Personal Allowance*: £10,000 | | Basic rate : 20% | £0 - £31,865 | Higher rate : 40% | £31,866 - £150,000 | Additional rate : 45% | Over £150,000 |
| Income Tax Rate | Annual Income | | | | | | | | | | | | | |
| Tax Free Personal Allowance*: £10,000 | | | | | | | | | | | | | | |
| Basic rate : 20% | £0 - £31,865 | | | | | | | | | | | | | |
| Higher rate : 40% | £31,866 - £150,000 | | | | | | | | | | | | | |
| Additional rate : 45% | Over £150,000 | | | | | | | | | | | | | |
| iii. Financial Regulations | | | | | | | | | | | | | | |
| Ability to maintain Endowment | Must be held in separate trust | Yes | No | No | | | | | | | | | | |
| Restrictions of business activity | If charitable, restriction to charitable purpose/mission. | Restriction to charitable purpose/mission. | Must demonstrate Community Interest. | None. | | | | | | | | | | |
| Restriction on compensation for Board/Trustees | If charitable, only permitted in exceptional circumstances. | Only permitted in exceptional circumstances. | Directors may be remunerated but community interest test and asset lock must be considered. | No restriction. | | | | | | | | | | |
| Audit requirements | Yes subject to minimum threshold. | As for CLG. | Yes. | Yes unless small company. | | | | | | | | | | |
| Government inspection. | None. | None. | None. | None. | | | | | | | | | | |

DRAFT

| Issue | Company Limited by Guarantee (CLG) | Charitable Purpose Trust | Community Interest Company (CIC) | Limited Liability Company (LTD) |
|-------------------------------------|--|--------------------------|----------------------------------|---------------------------------|
| iv. Employment and Visa regulations | | | | |
| Visas | EAA and Swiss nationals have the right to work in the UK. Non EEA nationals must satisfy “Resident Labour Market Test” to demonstrate inability to fill the post with a resident worker. Main applicant able to bring ‘dependants’. | | | |
| Tax liability | Individuals resident in the UK but not domiciled taxable in the UK on UK source income. Individual may exclude overseas income. | | | |
| v. Financial Infrastructure | | | | |
| Ease of banking | Banking operations and electronic transfers can be conducted with ease. There are few restrictions on the international transfer of electronic funds. | | | |
| Sanctions | Low probability of sanctions affecting ability to financially engage developing world governments with poor history of governance. | | | |
| Bank accounts | Bank accounts widely available in multiple currencies with few restrictions. | | | |
| Exchange controls | No exchange controls or currency regulations other than money laundering controls. | | | |
| vi. Other | | | | |
| Society | Free and open society with few controls. | | | |
| Staff | Educated administrative staff available at reasonable cost. | | | |
| Labour | Limited labour regulation. | | | |
| Cost of office accommodation | Low cost spaces reserved for NGO’s. | | | |
| Quality of life | High. | | | |
| Flights | Total destinations served in Asia/Africa/America: 82 | | | |

DRAFT

2. Sweden

| Issue | Foundation | Non-Profit Association | Companies with Limitation on Dividends | Alternative Investment Fund Manager |
|--|---|---|---|---|
| i. Legal and Regulatory | | | | |
| Restriction of purpose/mission | Specific agreed scope of activities, purpose and set of demands that recipient of contribution from Foundation must fulfill. | Not for profit. | Not for profit. | For profit. |
| Liability | Limited Liability | Limited Liability | Limited Liability | Limited Liability |
| Government oversight | County Administrative Board. | None. | Swedish Companies Registration Office. | Swedish Financial Supervisory Authority. |
| Registration process and requirements | Registration with Swedish Tax Agency. | Registration with Swedish Tax Agency. Minimum 3 members. | Registration with Swedish Companies Registration Office and Swedish Tax Agency. | Registration with Swedish Financial Supervisory Authority and Swedish Tax Agency. |
| Minimum initial size/assets | None. | None. | SEK 50,000 | EUR 300,000. |
| Governance | Oversight by Founders. | Oversight by general meeting of members. Administration by Board of Directors. | Oversight by shareholders. Administration by Board of directors. | Oversight by S/holder. Administration by Board of Directors. |
| Rights and Obligations of Directors | Fiduciary Insurance cover | Fiduciary Insurance cover | Fiduciary Insurance cover | Fiduciary Insurance cover |
| Reporting requirements | Reporting to Swedish Tax Agency. | Reporting to Swedish Tax Agency. | Reporting to Swedish Companies Registration Office and Swedish Tax Agency. | Reporting to Swedish Financial Supervisory Authority and Swedish Tax Agency. |
| Public access and transparency requirements | Documents submitted to a Swedish public authority might be made public under the Swedish principle of publicity (<i>offentlighetsprincipen</i>) | | | |
| Rights of third parties to challenge decisions | No specific right of challenge. | | | |
| ii. Tax | | | | |
| Tax rates | Rate : 22% Exemption if: i. Purpose is to promote the public good; ii. Contributions paid by the foundation | Rate : 22% Exemption if: i. Purpose is to promote the public good; ii. The | Rate : 22% | Rate : 22% |

DRAFT

| Issue | Foundation | Non-Profit Association | Companies with Limitation on Dividends | Alternative Investment Fund Manager |
|-----------------------------------|---|--|--|-------------------------------------|
| | <p>are used primarily (i.e., 90-95 percent) to promote the purpose;</p> <p>iii. The foundation pays out at least 75-80 percent of its yearly² income; and</p> <p>iv. The group of qualified recipients of contributions paid by the foundation is not too limited.</p> | <p>contributions paid by the association are used primarily (i.e., 90-95 percent) to promote the purpose;</p> <p>iii. The association pays out at least 75-80 percent of its yearly yield³;</p> | | |
| Income from endowments and assets | | | | |
| VAT | VAT – The general rate is 25% and is chargeable on most goods and services. | | | |
| Employment taxation | | | | |
| iii. Financial Regulations | | | | |
| Ability to maintain Endowment | TBC by Swedish Counsel. | TBC by Swedish Counsel. | TBC by Swedish Counsel. | TBC by Swedish Counsel. |
| Restrictions of business activity | None unless regulated activity. Specific purpose required. | None unless regulated activity. | None unless regulated activity. | None unless regulated activity. |
| Restriction on compensation | None. | None. | None. | None. |
| Audit requirements | See above. | See above. | See above. | See above. |
| Government | See above. | See above. | See above. | See above. |

² The foundation should use at least 80% of its net yield for the qualified purpose. The assessment is made over a period of approximately five years. Net yield refers to capital income only (which is tax exempt for the foundation).

³ The association should spend at least 80% of its net yield for the qualified purpose. The assessment is made over a period of approximately five years. The provision applies to capital income (which is exempt), and tax exempt real estate and business income. Certain type of income which is designated to cover the current expenses of the associations, e.g. gifts from individuals and general contributions from the Government and municipality, must be spent. It is possible to obtain exceptions to the use of income in some cases, for example, if the association intends to purchase a real estate which is to be utilized in line with the purpose of the association or if the association intends to conduct large scale reparations or such on a real estate already in use by the association

DRAFT

| Issue | Foundation | Non-Profit Association | Companies with Limitation on Dividends | Alternative Investment Fund Manager |
|-------------------------------------|---|------------------------|--|-------------------------------------|
| inspection. | | | | |
| iv. Employment and Visa regulations | | | | |
| Visas | <p>EU Nationals: EU Citizens have the right to work and live in Sweden without a residence permit.</p> <p>Non-EU Nationals: An individual must have a job offer before they can obtain a work permit. They cannot enter Sweden until the permit has been granted. There are certain requirements to be met before a work permit may be obtained for a position, for example, the position must be advertised so that residents in Sweden, the EU/EEA and Switzerland can apply for the job.</p> <p>Further, newly established companies (i.e. any business that has been operational for less than one year) are required to provide evidence of how the business will guarantee the salary of the prospective employees seeking a work permit.</p> <p>Family members can be included in the main applicant’s application as dependents. Spouses of applicant automatically receive work-residence permit on the same grounds as the applicant provided evidence of the marriage is provided (for example, marriage certificate).</p> | | | |
| Tax liability | <p>Rates:</p> <p>Up to SEK 420,800 (\$61,424): 29.495%</p> <p>SEK 420,800 - SEK 602,600 (\$87,962): 49.495%</p> <p>Above SEK 602,600 (\$87,962): 54.495%</p> <p>Foreign “key personnel” that can potentially qualify for 25% tax relief are specialist, experts and managers that have a proficiency that is hard to find in Sweden.</p> | | | |
| v. Financial Infrastructure | | | | |
| Ease of banking | Banking operations and electronic transfers can be conducted with ease. There are few restrictions on the international transfer of electronic funds. | | | |
| Sanctions | Low probability of sanctions affecting ability to engage to financially engage developing world governments with poor history of governance. | | | |
| Bank accounts | Bank accounts widely available in multiple currencies with few restrictions. | | | |
| Exchange controls | No exchange controls or currency regulations other than money laundering controls. | | | |
| vi. Other | | | | |
| Society | Free and open society with few controls. | | | |
| Staff | Educated administrative staff available at reasonable cost. | | | |
| Labour | Limited labour regulation. | | | |
| Cost of office accommodation | TBC | | | |
| Quality of life | High. | | | |
| Flights | Total destinations served in Asia/Africa/America: 16 | | | |

DRAFT

3. Switzerland

| i. Legal and Regulatory | | |
|---|--|---|
| | The Swiss Foundation | The Swiss Association |
| Restriction of purpose/mission | Assets dedicated to specific purpose. | No specific purpose requirement. |
| Liability | Foundation Board members liable for breach of duties. Foundation Board members can be indemnified by the Foundation except for wilful misconduct or gross negligence. | No liability for Association Members. |
| Government oversight | Swiss Supervisory Board of Foundations ensures compliance with Swiss law and Foundations purpose clause. No interference with Foundation board decisions. | No state supervision. |
| Registration process and requirements | <ul style="list-style-type: none"> i. Registration with Register of Commerce. ii. Decision of Swiss Supervisory Board of Foundations to assume supervision. iii. Tax exemption request. | <ul style="list-style-type: none"> i. Registration with Register of Commerce. ii. Tax exemption request. |
| Minimum initial size/assets | Nominal initial capital required to establish a foundation of international scope is CHF 50'000. | No initial capital required. |
| Governance | Foundation Board: supreme governing body. Comprises in principle a minimum of three members (no maximum number). The Foundation Board may be composed of individuals and/or representatives of legal entities. Legal entities themselves may however not be Foundation Board members. | The General Assembly: supreme governing body. All members of the Association collectively form the General Assembly. Comprises in principle a minimum of two members (no limitation on the maximum number of members). The General Assembly may be composed of individuals and/or legal entities. |
| Rights and Obligations of Directors | Managing body eg Executive Committee members liable for breach of duties. Foundation can purchase indemnity insurance for directors. | Managing body eg Executive Committee members liable for breach of duties. Foundation can purchase indemnity insurance for directors. |
| Reporting requirements | Annual reporting requirement: <ul style="list-style-type: none"> - Audited accounts - Activity report | |
| Public access and transparency requirements | No legal obligation upon Foundations to publish their internal documents including annual activity reports and financial statements. Confidentiality of Board meetings recognized by Swiss law. The Supervisory Board of Foundation is part of the Swiss public administration. Based on the Federal Law on Transparency, any person may request to see official documents. It is debated to what extent this legislation allows third parties to request access annual activity reports and financial statements of Foundations. This includes the annual reports sent yearly by the Foundations to the Supervisory Board | As Foundation except that no public access possible since associations are not subject to State supervision. |

DRAFT

| | | |
|--|--|--|
| | of Foundations. | |
| Rights of third parties to challenge decisions | If the Foundation's actions are against the law, the Statutes or the international regulations of the Foundation, the Supervisory Board of Foundations, on an ex officio or complaint basis, may give orders to the Foundation to engage a certain behaviour, ask the Foundation to change its decisions, or if the Foundation Board compromises the purposes of the Foundation, it may revoke the powers of the Board. | N/A |
| ii. Tax | | |
| Tax on income and gains | Exempt from: <ul style="list-style-type: none">a. Federal and Cantonal profit taxes (except profits on real estate);b. capital taxes levied at cantonal level on the net wealth of the Foundation;c. gift and inheritance taxes. Exemption subject to conditions: <ul style="list-style-type: none">a. Public utility purpose: purpose of general interest is fundamental for all exemption based on a public utility purpose.b. No self-interest: serves the public interest and is based on altruism in the sense of devotion to the community.c. Irrevocability of the use of funds: funds must be irrevocably (i.e. forever) committed to the said purposes.d. For profit activities permitted: provided of ancillary character and revenues exclusively devoted to the public utility purpose. Tax exempt Foundation or Association may be the sole or controlling shareholder of a for profit entity. | |
| Income from endowments and assets | Endowment not possible. | |
| VAT | Standard rate is 8%. | |
| Employment taxation | Exemption from all social security contributions (including the compulsory company pension plan) is available for foreign nationals remaining on their home social security systems when they provide evidence that they are covered by their home country arrangements. | |
| iii. Financial Regulations | | |
| Ability to maintain Endowment | Endowment not possible. | |
| Restrictions of business activity | Restrictions to maintain tax exempt status. | |
| Restriction on compensation | In order to benefit from the tax exemption status Foundation Board members unpaid - entitled to reimbursement of their effective costs and travelling expenses subject limit of CHF 70/hr. | |
| Audit requirements | Mandatory auditors. | Audit to be sent annually to Supervisory Board of Foundations. |
| Government inspection. | Right of inspection of accounts Supervisory Board of Foundations. | |
| iv. Employment and Visa regulations | | |
| Visas | EU/European Free Trade Association (EFTA) Citizens: Citizens of EU or EFTA member states have the right to work and live in Switzerland, and are therefore entitled to a work permit. | |

DRAFT

| | |
|------------------------------------|--|
| | <p>Non EU/EFTA citizens: Specific requirements:</p> <ol style="list-style-type: none"> 1. Priority for EU/EFTA Citizens: Foreign nationals may be permitted to work only if it is proven that no suitable resident employees or citizens of states with which an agreement on the free movement of workers has been concluded can be found for the job. Employers must prove that they have not been able to recruit a suitable employee from this priority category, despite intensive efforts. 2. Quotas: Quotas limiting the number of work permits apply to foreign nationals. 3. Salary, terms and conditions of employment customary for the location, profession and sector must be satisfied. 4. Personal qualifications – this include professional qualifications and social adaptability factors for example, age and knowledge of languages. 5. Exceptions for intra group transfer of executives and specialists – the requirements above are waived in the case of transfer of executives, senior managers and specialists (i.e. “essential persons”) within an international group of companies. <p>For detail see Country Information Matrix.</p> |
| Tax liability | <p>The maximum overall tax rates for the Canton of Geneva are as follows:</p> <ul style="list-style-type: none"> – Federal income tax: 11.5%. – Combined cantonal and municipal tax: 34.5%. – Wealth tax: 1% of taxable wealth. <p>Expatriates may under specific conditions be granted a non-taxable residence allowance which is capped at CHF 18,000 for employees taxed at source. Details of exemptions set out in Country Information Matrix.</p> |
| v. Financial Infrastructure | |
| Ease of banking | Banking operations and electronic transfers can be conducted with ease. There are few restrictions on the international transfer of electronic funds. |
| Sanctions | Low probability of sanctions affecting ability to engage to financially engage developing world governments with poor history of governance. |
| Bank accounts | Bank accounts widely available in multiple currencies with few restrictions. |
| Exchange controls | No exchange controls or currency regulations other than money laundering controls. |
| vi. Other | |
| Society | Free and open society with few controls. |
| Staff | Educated administrative staff available at reasonable cost. |
| Labour | Limited labour regulation. |
| Cost of office | Low cost spaces reserved for NGO's. |
| Quality of life | High. |
| Flights | Total destinations served in Asia/Africa/America: 16 |

DRAFT

4. Montréal

| Issue | Not for Profit Corporation | For Profit Corporation | Charitable Trust |
|--|--|---|--|
| i. Legal and Regulatory | | | |
| Purpose | Not for profit | For profit | Charitable/not for profit |
| Liability | Limited liability | Limited liability | No limited liability |
| Government oversight | Director appointed under the Canadian Not for Profit Act | Director appointed under the Canadian Business Corporations Act | None |
| Registration process and requirements | Filing with the Director appointed under the Canadian Not for Profit Act | Filing with the Director appointed under the Canadian Business Corporations Act 25% of board of directors must be Canadian nationals. | No special formalities |
| Minimum initial size/assets | None | | |
| Restriction of purpose/mission | Not for profit Registered charities must be residents of Canada therefore overseas activities may be restricted. | None | Mission must be considered charitable. Registered charities must be residents of Canada therefore overseas activities may be restricted. |
| Governance | Oversight by Members. Management by the Board of Directors. | Oversight by Shareholders. Management by the Board of Directors. | Management by trustees. Flexibility of structure allowed in trust documentation. |
| Rights and Obligations of Directors | Fiduciary Indemnity and insurance available | Fiduciary Indemnity and insurance available | Fiduciary Insurance available |
| Reporting requirements | Financial statements must be sent to the Director appointed under the Canadian Not for Profit Act if gross revenue above CAD50k and it has received more than CAD10k from public sources. Annual declaration must be filed with the Registraire des entreprises. Charities must file accounts with Canada Revenue Authority. | Financial statements must be sent to the Director appointed under the Canadian Business Corporations Act if entity has issued securities to the public. Annual declaration must be filed with the Registraire des entreprises. | Annual declaration must be filed with the Registraire des entreprises if operating a commercial enterprise. Charities must file accounts with Canada Revenue Authority. |
| Public access and transparency requirements | Financial statements do not have to be made public unless the entity has public debt. | Financial statements do not have to be made public if the entity is privately held and does not publicly issue securities. | None. |
| Rights of third parties to challenge decisions | Yes, with discretion of the Courts | Yes, with discretion of the Courts | A court may also authorize the settlor, the beneficiary |

DRAFT

| | | | |
|--|--|---------------------------------|--|
| | | | or any other interested person to take legal action in the place and stead of the trustee, when without sufficient reason, trustee refuses or neglects to act. |
| ii. Tax | | | |
| Income | Exempt if charity | Federal – 15% Quebec – 11.9% | Exempt if charity |
| Endowment/asset income | Federal – 15% Quebec – 11.9% CGT only chargeable on 50% of capital gains | | |
| VAT | GST/HST – 5% (Quebec) | | |
| Employment taxation | See illustration of Canadian tax in Appendix 2 of Phase II Country information matrix. | | |
| iii. Financial Regulations | | | |
| Ability to maintain Endowment | Should be possible for not profit, dependent on conditions of tax status of entity. | | |
| Restrictions of business activity | Restrictions to maintain tax status | | |
| Restriction on compensation for Board/Trustees | Restrictions may apply to maintain charitable status | | |
| Audit requirements | Yes, subject to minimum threshold. | | |
| Government inspection. | Tax and security authorities have considerable audit and inspection powers. | | |
| iv. Employment and Visa Regulations | | | |
| Visas | Nationals from visa exempt countries (comprising most but not all western EU countries, Australia, New Zealand, the USA and a few select others) may apply for a Work Permit directly at a port-of-entry. Nationals from non-visa exempt countries must apply at Canadian visa offices abroad. To apply for a Work Permit, the company may first have to obtain a Labour Market Impact Assessment (“LMIA”) measuring the impact on the labour market of hiring a foreign worker. | | |
| Tax liability | An individual resident in Canada (183 days per year) is taxable on his/her worldwide income in Canada. | | |
| v. Financial Infrastructure | | | |
| Ease of banking | Banking operations and electronic transferred can be conducted with ease. There are few restrictions on international transfers. | | |
| Sanctions | Low probability of sanctions affecting ability to engage to financially engage developing world governments with poor history of governance. | | |
| Bank accounts | Bank accounts widely available in multiple currencies with few restrictions. | | |
| Exchange controls | No exchange controls or currency regulations other than money laundering controls. | | |
| vi. Financial Infrastructure | | | |
| Society | Free and open society with few controls | | |

DRAFT

| | |
|------------------------------|--|
| Staff | Educated staff available at a reasonable cost |
| Labour | Limited labour regulation |
| Cost of office accommodation | TBC |
| Quality of life | High |
| Flights | 90 minutes from New York by plane. 1 hour 45 minutes from Washington by plane. |

DRAFT

DRAFT

5. Barcelona

| Issue | Public Limited Liability Company | Private Limited Liability Company | Charitable Foundation | Community of Properties |
|--|---|---|--|-------------------------|
| i. Legal and Regulatory | | | | |
| Purpose | Non charitable | Non charitable | Charitable | Non charitable |
| Liability | Limited | Limited | No limited liability | No limited liability |
| Government oversight | Commercial Registry of province where registered | Commercial Registry of province where registered | Registry of Charitable Foundations Administrative supervision by Protectorate | None |
| Registration process and requirements | Registration with Commercial Registry | Registration with Commercial Registry | Registration with Registry of Charitable Foundations | None |
| Minimum initial size/assets | EUR60k | EUR3k | EUR30k (or lower if can be justified) | None |
| Restriction of purpose/mission | None | None | Economic activities must be related or complementary to the charitable aims | None |
| Governance | Oversight by shareholders. Management by Directors | Oversight by shareholders. Management by Directors | Management by Trustees | No structure required |
| Rights and Obligations of Directors | Fiduciary | Fiduciary | Fiduciary | None |
| Reporting requirements | Filing of accounts with Commercial Registry | Filing of accounts with Commercial Registry | Filing of accounts with Registry of Charitable Foundations | None |
| Public access and transparency requirements | Accounts are made public at Registry | Accounts are made public at Registry | Accounts are made public at Registry | None |
| Rights of third parties to challenge decisions | Yes, provided legitimate interest | Yes, provided legitimate interest | Yes by Protectorate | No |
| ii. Tax | | | | |
| Income | Dependent on which exemptions (if any) apply under the Non-profit Entities and Patronage Act and the Corporate Income Tax Act. General income tax is 30% | | | |
| Endowment/asset income | General capital gains tax is 30% | | | |
| VAT | 21% | | | |

DRAFT

| | | | | |
|--|--|-------------------------------------|------------------------|------|
| Employment taxation | Flat 20% for employment income | | | |
| iii. Financial Regulations | | | | |
| Ability to maintain Endowment | | | | |
| Restrictions of business activity | Charitable entities restricted on economic activities beyond social purpose. | | | |
| Restriction on compensation for Board/Trustees | None | None | Yes | N/A |
| Audit requirements | If required by charter/stockholders | If required by charter/stockholders | If required by charter | None |
| Government inspection. | Yes | Yes | Yes | No |
| iv. Employment and Visa Regulations | | | | |
| Visas | Non EU Nationals must obtain a work permit under Spanish Immigration Law or under the Law of Entrepreneurs. | | | |
| Tax liability | Tax residents are subject to tax in Spain on their worldwide income. Non-residents subject to Spanish tax only on income generated in Spain. | | | |
| v. Financial Infrastructure | | | | |
| Ease of banking | Ranks low worldwide in terms of access to loans and soundness of banks. Ranks 33 in World Bank Ease of Doing Business rankings. | | | |
| Sanctions | TBC | | | |
| Bank accounts | Widely available in multiple currencies with few restrictions. | | | |
| Exchange controls | None | | | |
| vi. Other | | | | |
| Society | Free and open society but no specific freedom of information legislation | | | |
| Staff | Access to educated workforce. High unemployment. | | | |
| Labour | Ranked 25 by OECD | | | |
| Cost of office accommodation | TBC | | | |
| Quality of life | High | | | |
| Flights | Barcelona airport relatively small. Madrid serves more destinations. | | | |

ANNEX 4
Country Information Matrix

DRAFT

Cameroon : Scoping Mission for the ILFTF

While the concept of a pilot proposal has not yet been defined in Cameroon, the country's current political climate provides opportunities for ILFTF to work with local communities to advance land and forest tenure. Major ongoing reform processes include land reform, land using planning, and zoning. Cameroon is also developing a National Rural Strategy that also stands to shape the debates and shift the policies on forest and land tenure. At the same time, new recommendations from international institutions such as RRI prescribe fast-tracking prior government promises to grant local communities stronger rights to reinforce the lobbying power of NGO's and civil society organizations.

Cameroon is also in the process of decentralization with goals to transfer power from the national government to the country's 360 municipalities. The National Community-Driven Development, a parastatal organization, is taking the lead with the development and planning of decentralized units that will require the demarcation of municipal boundaries to allow local government oversight.

While the ILFTF aims to demonstrate that local communities can mobilise to secure land and forest tenure, the demand studies carried out by Indufor also concluded that there was sufficient demand and added value related to the potential Facility services in Cameroon. In addition, the participatory mapping initiative that was proposed as a possible pilot project, has the potential to enable community groups and traditional chiefs to understand the existing bundle of rights and deal with local conflicts. Additionally, mapping could inform the ongoing reform processes that take into account community rights.

Thus far, the existing maps in Cameroon are not harmonized. Organizations such as Forest People's Program, World Resources Institute, Rain Forest Foundation, *Die Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ), and the European Union have all engaged in some form of mapping. While they have used different methodologies, their ensuing maps have not been designed as advocacy tools.

There is thus a need to harmonize the existing maps which traditional chiefs need to help demarcate their lands and Civil Society Organizations view as key to securing land tenure.

The proposed pilot proposal will engage strategic actors such as government officials, key sectorial ministries, Indigenous People networks, and traditional chiefs. The proposal aims to achieve the following outcomes:

1. Institutionalization of mapping;
2. Recognition of villages as legal entities with more political and legal leverage;
3. Recognition of the community organizations.

In addition to scaling up the work of community rights that had earlier begun, participatory mapping will also create a sense of ownership through its involvement of various key stakeholders such as community groups, women, civil society organizations, and Indigenous Peoples. Furthermore, it would inform the ongoing reform processes on land use planning and decentralization through such key ministries as Land use Planning, Land Affairs, and Territorial Administration. It will also be used as an advocacy tool to advance land and forest tenure rights of local community groups.

Recommended Pilot Proponents:

FEICOM

A parastatal organization that manages funds for projects linked to both government and civil society organizations.

PNDP- National Community Driven Development Program

A well-respected organization that supports local development and councils in the decentralization process. It has established relationships with local mayors and has adequate fiduciary systems in place.

Proposed Panama Pilot Project with the National Coordinating Body of Indigenous Peoples in Panama (COONAPIP)

COONAPIP is a national coordinating body that assembles eight indigenous congresses, four indigenous territories, and consists of traditional authorities of indigenous groups. The Panamanian Constitution protects and guarantees the collective land rights of indigenous communities to ensure their economic and social well-being and collective land ownership. National laws are respectful of indigenous autonomy and supportive of indigenous community initiative. However, over 100 indigenous communities do not yet have collective titles, and threats to recognized and demarcated indigenous lands have proliferated. Non-indigenous actors and interests increasingly seek to alienate lands and resources. Large-scale mining and hydroelectric projects have been approved in indigenous territories by Government without adequate prior consultation process. Indigenous leaders lack the capacity to defend their lands against these threats in court.

The proposed ILFTF project in Panama will assist COONAPIP to take advantage of current political openings to ensure that agreements with the new Administration, court rulings, and 2014 UN Special Rapporteur recommendations remain visible and among the political priorities of Government. In 2014, traditional authorities and COONAPIP were able to successfully position several high priority issues with the new administration of President Juan Carlos Varela Rodríguez and the National Assembly. In September 2014, the newly re-elected government agreed to (i) create a "Ministry of Indigenous Peoples"; (ii) pursue the ratification of ILO Convention 169 and, (iii) grant territorial security to the Bribri and Naso Tjërdi peoples, whose territories still lack legal recognition and designation as *Comarcas*. Recent rulings by the Inter-American Court of Human Rights and the 2014 report by the UN Special Rapporteur on the Rights of Indigenous Peoples in Panama have created new pressure on government. Recent rulings by Panama's Supreme Court also address indigenous land claims-- including the re-establishment of the territorial integrity of the Comarca Emberá y Wounaan and the titling of *Tierras Colectivas* of Arimae y Emberá Puru.

The proposed project aims to (i) strengthen the National Coordinating Body of Indigenous Peoples in Panama (COONAPIP) as a provider of legal services to its members; (ii) strengthen the understanding and capacity of traditional authorities and communities to exercise their legal rights and avail themselves of legal remedies; (iii) to speed up and advance specific, ongoing land titling and conflict resolution processes and cases associated with indigenous territories and their governance, and (iv) achieve titling of three collective territories.

This Panama pilot tests and builds the capacity of ILFTF to work with indigenous organizations that are not registered with the state through a registered third party which will have the fiduciary responsibility for the project. It also tests and demonstrates the flexibility ILFTF in considering unsolicited proposals from countries where Demand Studies have not been commissioned.

Next steps include COONAPIP Junta Directiva validation of the proposal and agreements with the 3rd party projected, to be accomplished by 24 April 2015.

[Annex 2 provides a detailed description of the project]

ILFTF Pilot Initiative in Indonesia

Applicant Partner: AMAN (Alliansi Masyarakat Adat Nusantara): AMAN is a membership-based social movement made up of over 2,000 Indigenous communities across the Indonesian archipelago, amounting to around 15 million individual members.

Writeup:

ILFTF project in Indonesia seeks to leverage the Constitutional Court Decision 35/2012¹, the increased political openness of the new political regime to recognize indigenous rights on claimed territories and the political space that the organizations such as AMAN and other CSOs have created for rights recognition at different levels. A draft bill on Recognition and Protection of Indigenous people has been submitted as an official draft to the President and part of a roadmap on tenure reforms prepared by the CSOs was adopted as the State sponsored Memorandum of Understanding on Forest Gazettement (NKB) signed by 12 state institutions. Another key opportunity lies in the fact that the local governments are empowered to create legislations and policies for recognition of indigenous rights. Taken together, these developments have reached a potential tipping point in the admittedly difficult task of forest reforms and indigenous rights recognition. A number of initiatives link directly and indirectly to rights reforms agenda including REDD+, FLEGT and VPA, World Bank Carbon related programs such as FIP are already being implemented or are in the process. AMAN, a federation of indigenous people's organization is actively involved in these.

Thus a complex ecosystem of court decisions, state policy initiatives and donor funding with deep implications on rights agenda exists. The ILFTF seeks to work within this complex environment by centering its effort on the key protagonist of the indigenous people i.e. AMAN. The main value addition of ILFTF will be supporting fast, flexible and strategic responses by IPOs (in collaboration with CSOs) to the fast changing policy environment for advancing forest tenure reforms; facilitating emergence of a shared vision of strategic activities; generation of lessons learned for future development of ILFTF and link up with key policy processes related to forest reforms at local and national levels. The design of the ILFTF project is flexible and nimble in order to ensure that it creates the above values.

The objective of the project is to “contribute to the legal recognition and protection of rights of the IP”. It shall seek to do this through two components, namely i) supporting a process of negotiation with local governments for formal tenure recognition and increase local readiness for recognition of tenure rights; and ii) by supporting national level policy processes by strengthening legal and administrative instruments for tenure recognition. The local level processes are (to be carried out in 3 districts) would include building capacities for participatory mapping, advocacy, political mobilization for the CSOs and indigenous communities and creation of regulations, registration systems and political buy in from the district administrations. The national level process would include facilitating the passage of the draft bill on IP rights, facilitating systems for registering participatory maps, and advocacy for policies to implement the CC/35 etc.

The project structure would include a Strategy Group (members from AMAN and other organizations) for providing strategic guidance; and Implementing Teams at AMAN headquarters and in selected

¹ The decision declared the indigenous forest lands are not parts of national forests

project sites. The operational approach will be adaptive and flexible and context specific for each project site as well as at higher scales. They would be based on constant feedback and adaptive changes to implementation approach based on the feedback. A simple and robust monitoring system would be developed to ensure regular feedback and reflection which links different scales of the project, including between strategic level analysis and implementation.

Contribution to ILFTF Process learnings

The proposal is context specific to Indonesia, and designed in manner to take advantage of the fast changing political environment in which CSOs and IP organizations play a key role and a number of large projects, blueprint initiatives related to land and tenure reforms are in pipeline. Indonesia remains one of the more difficult political environment to work in, and suffers from major conflict between IP claims and lands given out under concessions for plantations and logging. The fact that there is no national law for recognizing IP rights (unlike Panama) provide a different context, and also allows learning on how to get a law on IP rights enacted. The other key learning would arise in terms of experimenting with an adaptive, flexible approach based on rapid feedback through monitoring, which can be an asset in fast changing policy environments.

[Annex 1 provides a detailed description of the project]

International Land and Forest Tenure Facility

Timeline for Establishment, Governance, and Funding

Rights and Resources Initiative

SUMMARY

This document summarizes the development processes, operational goals, project cycles, and proposed governance structures of the Facility.

January 2015

Background:

Rights and Resources Initiative is leading the design, development, and establishment of an independent International Land and Forest Tenure Facility (the Facility) which aims to become a mechanism for cost-effective deployment of funds to advance land and forest tenure security, and the rights and livelihoods of Indigenous Peoples and local communities. Operations are scheduled to begin in 2016 with an independent governance body, secretariat, and pipeline of strategic projects. The Facility development will occur in three phases: Initial Consultation and Design, Inception, and Independent Facility Operations.

To inform the design and scope of the Facility, RRI consulted and engaged with Indigenous Peoples, community groups, governments, and private investors for inputs. At the current inception phase, RRI is conducting analyses, initiating pilot projects, and reviewing options for the location and legal structure of the Tenure Facility. For the pilot projects, RRI engaged Indufor, a professional consulting company based in Finland that provides advisory services to private and public sector clients in forest industry and sustainable natural resource management. In collaboration with local proponents, Indufor will provide technical assistance to support the development of pilot projects. Lessons drawn from the pilots will inform the institutional design and governance structure of the Facility.

Facility Services:

During the operations phase, the Facility will engage in the following:

1. Provide funding and technical support for select tenure reform projects proposed by civil society, Indigenous Peoples, and governments;
2. Over time become a space for convening governments, Indigenous Peoples, community organizations, and public and private sector leaders to coordinate commitments and develop shared strategies to provide financial support for major tenure reform projects.

How will the Facility be Different?

The Facility will establish its unique niche by:

1. Focusing on securing collective and common lands;
2. Being strategic and responsive to community organizations;
3. Focusing on both land and forest tenure rights;
4. Being independent, yet complementary and linked to existing such instruments as Food and Agriculture Organization, World Bank, United Nations, and other bilateral bodies;
5. Intentionally engaging with and informed by private investors.

Timeline for the Establishment of Facility

| Establishment Phase | 2013 | | | | 2014 | | | | 2015 | | | | 2016 | | | |
|---|------|----|----|----|------|----|----|----|------|----|----|----|------|----|----|----|
| | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 |
| 1. Initial Consultation and Design | | | | | | | | | | | | | | | | |
| 2. Inception | | | | | | | | | | | | | | | | |
| a. Pilot Project | | | | | | | | | | | | | | | | |
| b. Final Design and Establishment | | | | | | | | | | | | | | | | |
| 3. Independent Facility Operations | | | | | | | | | | | | | | | | |

Key Outcomes of Each Phase

1. Initial Consultation and Design
 - a. Consensus reached on demand for Facility
 - b. Initial design principles endorsed by RRI Partners
 - c. Facility design document is finalized
2. Inception Phase
 - a. Initiate Governance, Identify Institutional Options
 - i. Assessment of the Facility's location, legal, and institutional options.
 - ii. Advisory Group roles and expectations are defined
 - iii. Monitoring and evaluation standards are developed
 - iv. Establish staff team to implement inception phases
 - v. Funding is secured to design and establish the Facility
 - b. Pilot Projects
 - i. Demand studies are completed
 - ii. Selected pilot projects are prepared
 - iii. Financial and administrative protocols established
 - iv. Pilots are implemented
 - v. Lessons learned are documented
 - c. Final Design and Establishment
 - i. Facility's final design is endorsed
 - ii. Additional funding is secured
 - iii. Secretariat is established
 - iv. Governance structures are put in place
 - v. Fiduciary responsibility is transferred to Facility
 - vi. Project pipeline is established
3. Independent Facility in Operation
 - a. Funding of strategic projects for Indigenous Peoples, local communities and other rural inhabitants.
 - b. Convening of international community, national governments, private sector, and interest groups to secure local tenure rights

Facility Project Cycle

The independent Facility will support strategic and influential opportunities to advance the tenure rights of rural communities and Indigenous Peoples. To this effect, the Facility Board of Directors, with inputs from the Advisory Group, will define annual/bi-annual strategies and establish operating parameters to guide the selection and funding of projects. Funding approaches and project types will be periodically evaluated and revised.

The Facility will solicit and evaluate project proposals from Indigenous Peoples' groups, civil society organizations, and others. Selected proposals for development into full project documents will be evaluated and approved by the Board. To ensure compliance with Facility standards, approved projects will undergo monitoring and evaluation either in the course of project implementation or at the end of the project cycle.

| | Annual Facility Goals | Project Identification | Project Formulation | Appraisal & Financing | Implementation | Monitoring and Evaluation |
|----------------------------|---|---|---|--|---|--|
| Objectives | Establish and periodically refine strategic programmatic structure to secure rights in target countries | Identify projects that respond to strategic openings in select countries Identify local implementing organizations | Develop feasible and cost-effective projects from proposals recommended by the Facility Board | Effectively deploy funds. Establish appropriate standards and accountability mechanisms Ensure value-for-money | Implement selected projects and initiatives | Monitor Project Conduct evaluations Document lessons learned |
| Responsible Parties | Facility Board Advisory Group Facility Secretariat in consultation with key stakeholders | Local proponents Facility Secretariat | National proponents with support from the Facility Secretariat | Facility Trust Fund Facility Board and Investment sub-committee | Local partners and collaborators with support from Facility and consultants | Independent Monitors and Evaluators under supervision of the Board |

Proposed Criteria for the Evaluation of Projects

The following criteria will guide project selection and implementation:

Projects must:

1. Be relevant to national and international policy processes
2. Be cost-effective and within bounds of Facility allocations (US\$0.2 – US\$3M)
3. Respond to strategic opportunities that cannot be met by other short-term funding sources
4. Respond to time-sensitive opportunities
5. Lay the foundation to scale-up and generate lessons to advance reform
6. Advance gender empowerment
7. Demonstrate some government endorsement in either the project preparation or implementation.

National project implementers must be:

1. Legally registered in target country
2. Credible to national stakeholders
3. Able to manage funds: Has fiduciary standards in place and is auditable
4. Have a track-record of successful project implementation
5. Able to report on project milestones and outcomes
6. Reputable with no history of financial misconduct
7. Enhance the diversity of implementing partners

Project portfolio will be diversified as follows:

1. Geographically represent all major regions
2. Varied by types. Examples: advocacy, capacity-building
3. Cross-sectional : government, civil society, private sector, local communities

Project Cycle - Pilot Phase

During the Pilot Phase, RRI (as custodian of the Facility funds) will support timely, strategic projects and diverse opportunities to advance tenure security in several countries. RRI and Indufor had earlier conducted demand studies in several countries¹ to determine the political and technical opportunities available to advance local tenure rights. Demand studies, which also determined the need to develop pilot projects in select countries, were completed in collaboration with national and local Indigenous Peoples organizations and other civil society organizations. Pilot projects will be developed by proponents in collaboration with RRI and Indufor and will be appraised, selected, funded, and implemented according to the Facility's guidelines. A variety of projects will be identified to generate lessons to inform the operationalization of the Facility.

| Project Cycle-Pilot Phase | 2014 | | 2015 | | | | 2016 | | | |
|----------------------------------|------|----|------|----|----|----|------|----|----|----|
| | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 |
| Assessment of National Demand | | | | | | | | | | |
| Identification of Pilot Projects | | | | | | | | | | |
| Formulation | | | | | | | | | | |
| Appraisal and Financing | | | | | | | | | | |
| Implementation | | | | | | | | | | |
| Monitoring and Evaluation | | | | | | | | | | |

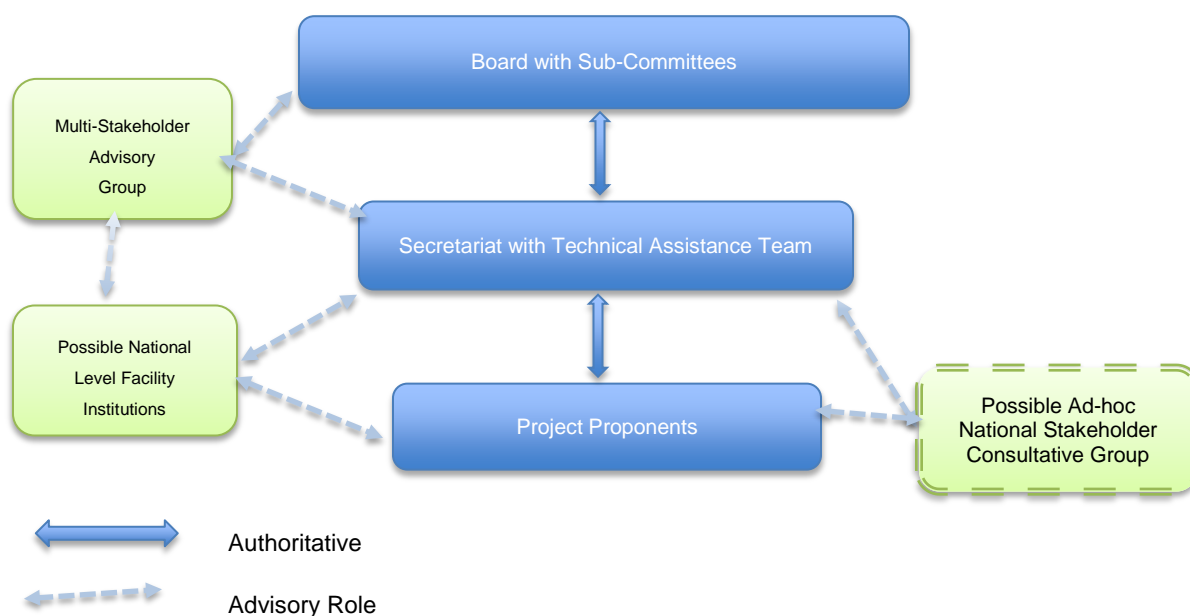
¹ Cameroon, Colombia, Indonesia and Peru

| | Assessment of National Demand | Identification of Pilot Projects | Formulation | Appraisal & Financing | Implementation | Monitoring and Evaluation |
|----------------------------|--|---|--|--|--|--|
| Objectives | Begin pilot phase to test and assess demand for potential Facility services in several countries | Identify projects that respond to strategic openings in select countries Identify local implementing organizations/ proponents | Formulate proposals for feasible and cost-effective projects | Effectively deploy funds. Establish appropriate standards and accountability mechanisms Ensure value-for-money | Implement selected projects and initiatives | Monitor Project Conduct evaluations Document lessons learned |
| Responsible parties | RRG in collaboration with Indufor | Local proponents in collaboration with RRG | Local proponents with support from Indufor | Advisory Group And RRG | Local partners and collaborators with support from RRG and Indufor | RRG and Advisory Group |

Project Cycle Description

Facility Governance and Operational Bodies

The Facility will be governed by a Board of Directors and operationalized by a Secretariat. A Multi-Stakeholder Advisory Group will provide guidance and assist in coordinating with other international and national initiatives. Full Terms of Reference for each body will be developed during the Incubation Phase.



Facility Board of Directors

The Board of Directors will be composed of experienced professionals from donor, Indigenous Peoples, NGO, civil society, public, and private sector organizations. In addition to appointing the Executive Director who will oversee the day-to-day operations, the Board will ensure that administration of the Facility meets international standards of excellence and its obligations to donors. Furthermore, it will review recommendations from the Advisory Group and Secretariat on issues related Facility operations and governance. In addition, it will form such sub-committees as the Investment sub-Committee tasked with recommending proposals as well as monitoring and evaluating the Facility's project funding. Board members will act in their personal capacities and will not be expected to represent any particular constituency.

Facility Secretariat

The Secretariat will constitute a small group of permanent staff and a roster of technical experts. It will support Facility operations as follows:

- Institute a mechanism to receive project proposals
- Maintain relationships with relevant local and global stakeholders
- Recommend projects to the Board and Investment sub-committee
- Oversee technical staff and commission analytical work
- Ensure high standards of fiduciary accountability
- Manage funds and assets for long-term sustainability
- Commission audits
- Have representation on the Facility Board and Investment sub-committee
- Manage Board relationships
- Convene Advisory Group meetings
- Hire reputable independent evaluators to review Facility operations and projects
- Provide media/communications support as required
- Convene governments, civil society, Indigenous Peoples' organizations, private sector, and interest groups to Facilitate international learning and best practices on securing tenure rights

Multi-stakeholder Advisory Group

The Multi-stakeholder Advisory Group will be a volunteer mechanism composed of individuals with relevant and critical expertise from community, Indigenous Peoples, national and international organizations, and private companies. The Group will advise the Facility's strategy and operations and serve as an information resource. In addition, it will help in identifying unique opportunities to avoid duplication of the efforts of other organizations.

Possible Ad-hoc National Stakeholder Consultative Group

The Ad-hoc National Stakeholder Consultative Group will be a volunteer mechanism composed of individual experts from community and Indigenous Peoples' groups. The group will serve as a vital platform for dialogue and consultation between the ILFTF and local stakeholders. It will also act as a forum for information exchange and will offer suggestions on possible collaborative opportunities.

For all questions related to the development of the International Land and Forest Tenure Facility, please contact:

Patience Fielding, Ph.D.
Manager, International Land and Forest Tenure Facility
Rights and Resources Initiative.

Email: pfielding@rightsandresources.org
Phone: +1 202 552 7577
Website: www.rightsandresources.org

INTERNATIONAL LAND AND FOREST TENURE FACILITY
Advisory Group Meeting
11 September 2014
Gothenburg, Sweden
Minutes

The first meeting of the Advisory Group to International Land and Forest Tenure Facility (Facility) took place on September 11, 2014 in Gothenburg, Sweden. The meeting took place between 9:00 and 16:00 at the Elite Plaza Hotel. Present were Advisory Group members Mario Boccucci, UN-REDD; Chris Jochnick, OXFAM; Augusta Molnar; Margareta Nilsson, SIDA; Eva Mueller, FAO; Lou Munden, The Munden Project; Samuel Nguiffo, Center for Environment and Development; Victoria Tauli-Corpuz, Tebtebba; Andy White, Coordinator, RRI; and Arvind Khare, Executive Director, RRG and Chair of the Advisory Group. Mark Constantine, IFC participated in the afternoon (14:00 – 16:00) via conference call and Charles Di Leva, World Bank was absent with cause.

RRG Board members John Hudson (Chair), Ghan Shyam Pandey (Executive Committee member), Jean Aden (Secretary) and Don Roberts (Treasurer) were present as observers. Tapani Oksanen, Indufor; Jenny Springer, Director of Global Programs and Bryson Ogden, Private Sector Analyst from RRG were present as resource persons.

The meeting reviewed and recommitted to the Terms of Reference for the Advisory Group, reviewed the agenda, and then began discussing the relevant issues. The advice was produced for consideration of the RRI Board of Directors, who were meeting the following day, and RRG, who is overseeing the incubation of the Facility.

Key points of advice:

Overview of Inception Phase:

1. Develop and Implement a plan for information sharing and consultation which should include
 - a. Information sharing with regional organizations like ECOWAS and AU; and
 - b. Information sharing and consultation with selected representatives of IP and community organizations at international level, in addition to the country-level consultations where pilot projects are being considered;
2. Terms of Reference for the identification of pilot projects should be reviewed to ensure adequate provision for more consultation with IPs, local communities, and other key stakeholders;
3. Develop a Terms of Reference for the management team of the Facility.

Organizational structure:

1. Simplify the structure. It's better to start simply and adjust when there is obvious need;
2. There was discussion on usage of the term "investment" in the design document and the term "investment committee", which suggests to some that the Facility would be a private investment vehicle, which generates financial returns. It was advised to reconsider this terminology, as well as to locate the decisions on grant allocation within the Secretariat and Board;
3. At the least three organizational entities will be needed in the short-term: Secretariat for implementation, Board of Directors as decision-making body, and an Advisory Group to provide strategic advice and representational credibility;

Location:

1. Consider more options than evaluated by MDY Legal in its report;
2. Redefine criteria for selection of candidate cities;
3. Conduct preliminary exploration of interest of the government of Switzerland; and
4. Undertake low-cost exploration of a few other candidate cities.

Pilot project selection criteria:

The criteria suggested by Indufor were broadly supported. In addition, consider the following:

1. Pilot projects may be localized, or of regional or national scope, but all should focus on issues that are of national, if not international, relevance, and generate lessons applicable to higher-level investment or policy processes;
2. Should be financially realistic, respond to implementation capacity of the implementing organization, be time sensitive to the strategic opportunity identified;
3. Prioritize projects that implement recent legal changes, test approaches and demonstrate feasibility of implementation, and lay the foundation for up-scaling;
4. Select projects and project implementers that bring credibility to the Facility;
5. Geographically diversify pilot projects to cover the three regions where RRI operates;
6. Portfolio of projects should include those which engage private companies/investors and their field operations, especially relevant would be projects where companies are already encountering problems due to insecure tenure and are seeking promising solutions;
7. Conduct second round of demand studies beginning early next year, including the countries of Liberia, Mozambique, and the Philippines;
8. Some pilot projects should focus on lowering the barriers for effective company-community collaboration; and
9. Pilot projects should use the opportunity to advance gender justice, likely to include relevant steps towards empowering women and/or recognizing their rights.

Relationship with governments and international institutions:

1. Adopt the principle: there must be some level of government endorsement of the proposed project by some government entity at some point in project preparation or execution;
2. Be pragmatic and opportunistic – there is a growing number of champions of tenure reform in governments – empower them and work with them;
3. Representatives of international organizations should be at least members of the Advisory Group if they cannot join the Board due to other sensitivities;
4. Make a systematic assessment of sensitivities and potential conflicts of interest faced by international organizations.

Future of the Advisory Group:

1. Consensus on extending the term of the Advisory Group for the duration of the Inception Phase;
2. Gaps in representation on the AG:
 - a. Governments – Samuel to suggest the name of a female government representative from Kenya;
 - b. International networks;
 - c. Representatives of private companies or financial institutions;
 - d. Additional representative from community organization;Members will send recommendations to RRG by middle of October.

3. Public announcement of AG – agreement to make public the existence of the AG and member participation, and members will let RRG know as soon as possible if they will be identified as representing their institutions or in their individual capacity;
4. Next meeting: Likely dates in March 2015 will be conveyed to members by RRG and a slot will be selected soon for members to mark on their calendars.
5. The purpose of the next meeting will be to: review and advise on the status of incubation; the organizational structure; the candidate cities for location; and the candidate pilot projects.

Brainstorming on Standards, Accountability, M&E:

1. The Facility should at least conduct independent monitoring on a biannual basis;
2. Monitoring and learning important and the Facility should explore different (creative) methods of recording and reporting progress;
3. Chris offered to share experience of OXFAM on M&E;
4. Facility will need some clear path for complaints and recourse in future to resolve any conflict emanating from facility-private sector collaboration;

Other matters:

1. Regular coordination with FAO unit involved in implementation of voluntary guidelines to avoid overlaps and increase synergy.