

Executive Summary

Participatory Governance Assessment: **THE 2012 INDONESIA FOREST, LAND AND REDD+ GOVERNANCE INDEX**



UN-REDD
PROGRAMME



**THE 2012 INDONESIA FOREST, LAND,
AND REDD+ GOVERNANCE INDEX**

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ISBN 978-602-96539-6-0

The analysis and recommendations of this report do not necessarily reflect the views of the United Nations Development Programme or UN-REDD Global Programme.

Executive Summary

Participatory Governance Assessment: The 2012 Indonesia Forest, Land And REDD+ Governance Index

Good forest governance is critical to the success or failure of the implementation of REDD+ in particular and forest and land management in general in Indonesia. In the context of forest and land management, the structure and practices of the existing governance highly affect how issues are defined; policies are made and later implemented to reach set goals. Good governance is characterized by the respect for legal certainty, transparency and free flow of information, significant public participation, equality, high accountability, effective and coordinated management of public resources, and control against corrupt practices. This governance assessment is expected to provide a diagnosis of the condition of Forest, Land and REDD+ Governance comprising robust baseline data; policy recommendations; a roadmap and instrument to monitor specific forest governance issues.

The development of this assessment began with the identification of the key issues in forest, land and REDD+ governance in Indonesia, which was done in consultation with stakeholders from civil society, private sector and government. Issues such as forest planning and zoning, rights to land and forests, and the need for a fairer allocation of benefits currently remain unresolved in natural resource management in Indonesia. The strengthening of the existing forest and land governance is required to effectively regulate natural resource exploitation and move towards more sustainable forest and land management.

This assessment of forest, land and REDD+ governance was undertaken via a Participatory Governance Assessment for REDD+ (PGA) and includes a closer look at the underlying drivers of deforestation, as well as recommendations for a number of policies and actions necessary to improve or overcome key governance challenges. The PGA approach as applied by the UN-REDD programme builds both

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on the UNDP Oslo Governance Centre's knowledge and experience within the field of conducting governance assessments in a wide range of sectors and themes (such as anti-corruption, justice and gender issues) as well as the FAO's experience in data collection and monitoring in the forest sector.

A Panel of Experts with members from government, civil society organizations, academia Indigenous and local communities and business actors was established to lead the PGA process, with significant inputs from stakeholders at national, provincial and district level. It was jointly decided that an independent and credible third party was to be hired for data collection to ensure the objectivity of the data. The Expert Panel conducted public consultations and continuously gathered inputs from key stakeholders (from national, provincial and regional level) throughout the entire process up to the validation of the PGA data collected and analysed.

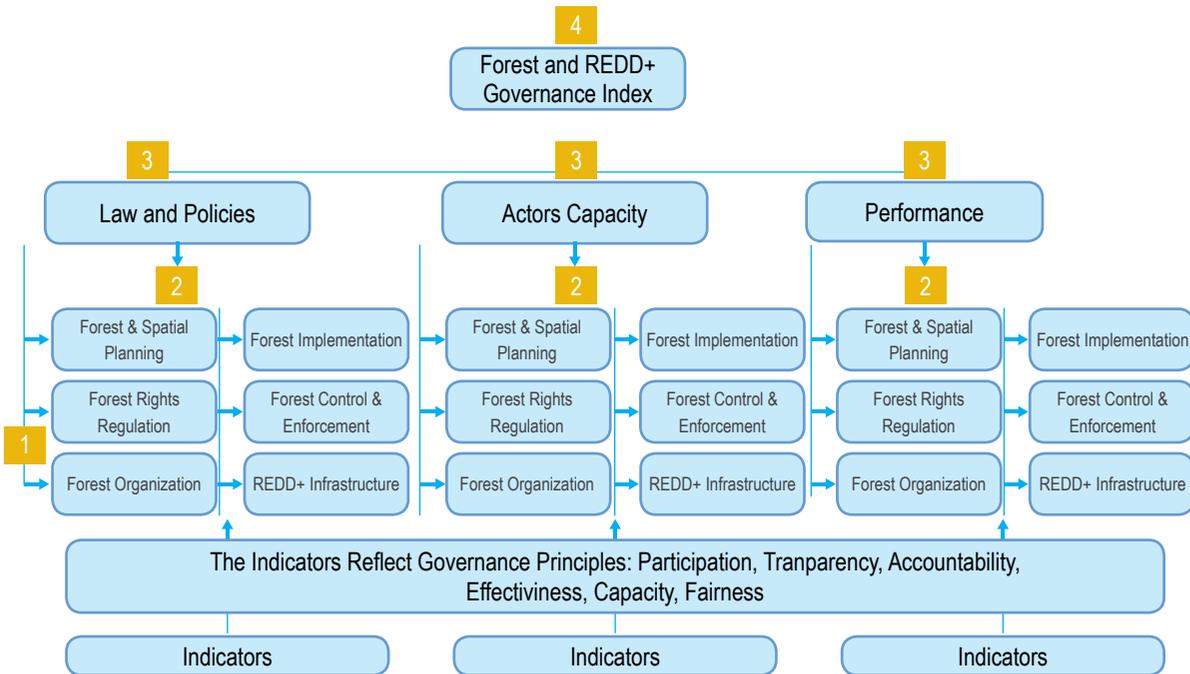
Work around the globe shows that robust governance data can provide the basis for policy reform. The purpose of this report is to provide the necessary assessment of key forest governance issues in Indonesia as an input not only to planning and prioritization to strengthen forest governance mechanisms, institutions and policies in Indonesia, but also to track progress on the state of forest governance across time. It is furthermore anticipated that the governance data could feed into Indonesia's national Safeguards Information System for purposes of reporting under the United Nations Framework Convention on Climate Change (UNFCCC) process to demonstrate how social and environmental safeguards in the country's REDD+ process are promoted, addressed and respected.

PGA: RESULTING INTO THE 2012 INDONESIA FOREST, LAND AND REDD+ GOVERNANCE INDEX

The PGA process – leading into the Indonesia Forest, Land and REDD+ Governance Index - is constructed based on three main components, namely (i) whether or not policies and regulations support agreed principles of good governance, (ii) the capacity of actors (government actors, CSOs, indigenous/local communities, and businesses at national and local levels) to support REDD+ readiness activities and implementation, and (iii) the performance of the various actors in relation to forest governance policies, regulations and practices. Six critical governance issues were identified and prioritised after an analysis of the forest governance situation and are used to further analyse these three components. They are 1) spatial and forest planning, 2) rights to land and forest resources, 3) forest and land organization, 4) forest management, 5) control and law enforcement, as well as 6) REDD+ readiness (such as institutional readiness and infrastructure and MRV systems). In addition, six governance principles were also applied to describe the overall condition of forest governance in Indonesia. These six principles are: participation, transparency, accountability, effectiveness, capacity, and fairness.

The index is derived from a total of 117 indicators, which represent the combination of the above outlined issues and governance principles and measure the conditions of forest governance in the three main components or categories.

Diagram 1. PGA Index Measurement Structure



Data was collected for Indonesia’s ten most forested provinces as well as two districts in each of these provinces, in addition to national level data. Relevant stakeholders at all levels were consulted for different perspectives and inputs throughout the process.

The data collected was ranked on a scale of 1 (insufficient) to 5 (very good) to calculate an overall index value of forest, land and REDD+ governance. The result was an aggregate index value of 2.33 for Indonesia’s national level forest, land and REDD+ governance in 2012. This value is derived from the aggregate value established for the various index components on forest, land and REDD+ governance at the central level (2.78) combined with the average index value calculated for the 10 provinces with the largest forest areas (2.39), and the average index value of 20 districts surveyed within these provinces (1.80).

The fact that the nationwide index for forest, land and REDD+ governance falls short of the maximum score underlines the need to strengthen current forest governance standards - especially at district level where the weakest score is recorded (1.80) Given that the main authority to manage forest resources is assigned to district administrations under Indonesia’s decentralized system of governance, capacities at district level will require considerable strengthening to adequately perform these functions.

The assessment of the capacities of the various actors dealing with REDD+ issues shows that civil society with an aggregate index of 2.54 earned the highest score, followed by Indigenous/ local communities and women with an index value of 2.38, and by the business community with an index of 2.32. The capacity of Government overall was rated at a value of 2.30.

PGA LOCATIONS



Significant differences can be observed between the aggregate forest governance indexes calculated for central, provincial, and district levels, with the central government achieving higher scores than the provinces and districts. The difference in central, provincial and district index values is attributable to the differences in individual and institutional capacities of the different stakeholders involved at the various levels. The capacity of actors at the central level is rated higher than that at the provincial level and the capacities of actors at provincial level are generally stronger than at district level.

Turning to the principles of forest governance, the aggregate combined score for all levels (i.e. central, provincial, district) is calculated at 2.33. The underlying scores for the six governance principles that the index uses to assess the overall quality of governance are as follows: **Transparency** achieved the highest score of 2.60, followed by **participation** with 2.49 and **fairness** at 2.36. **Capacity** scored 2.32, followed by **accountability**, scoring 2.28, and **effectiveness** scoring 2.02.

The relatively high scores for **transparency** and **participation** are supported by a number of legal and policy frameworks that ensure transparent and participatory decision-making related to the management of forests and peatlands. An example for this is the issuance of Law 14 of 2008 on Freedom of Information as well as several regulations that call for public participation. In addition to that, a number of actors such as the government, civil society, indigenous groups and businesses also have their

internal rules and procedures which require them to be more transparent and inclusive in their decision-making. The comparatively lower scores for fairness, accountability and effectiveness highlight the need for an increased application of justice principles to the management of forest and peatlands. The score on capacity indicates room for improvement in the enforcement of policies, while the results on accountability and effectiveness point to the prevalence of corrupt practices, collusion and nepotism in forest and land management. With fairness and effectiveness parameters scoring even lower at district level, despite the formulation of policies to improve transparency, district governments will need to increase their commitment to improving the governance of land and forest resources in their areas of jurisdiction.

There are several interesting trends that can be observed in the index results. The general score for the component index on laws and policies is relatively good, but this does not translate into good implementation of policies or enforcement of laws. Capacity building of the actors might lead to tighter laws and policies, but does not have a noticeable impact on the acceleration of land gazetting and rezoning at central level nor has it led to strengthened law enforcement and reduced transaction costs at provincial level.

Turning back to actor capacities, the capacities of civil society and Indigenous communities are strongest in relation to land and forest right issues while the interest (and corresponding capacities) of the business community is mostly focused on planning and forest management with a view to reducing transaction costs for the issuance of land use permits. And while government capacities are reasonably strong in forest management, more attention needs to be paid to law enforcement capacities - an issue that has attracted attention from relevant civil society actors.

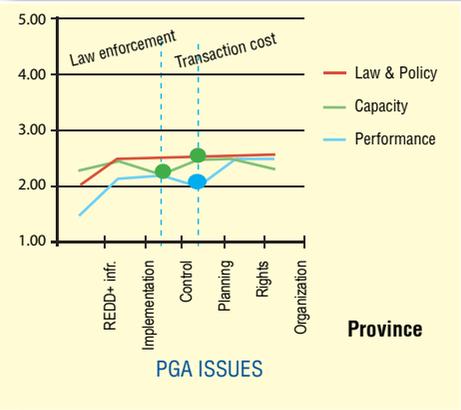
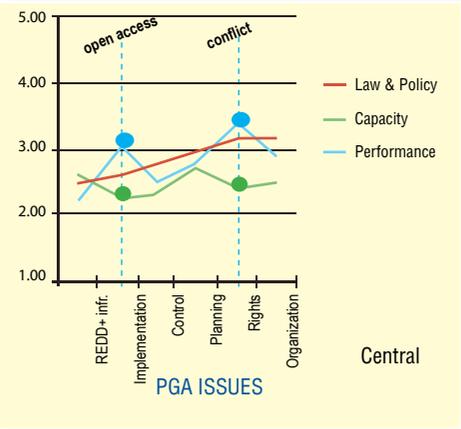
A strong mutually reinforcing correlation is furthermore observed between the capacities of civil society and the capacities of government and other actors such as Indigenous communities and the business sector. The analysis for example shows that if the capacities of civil society are strengthened, the capacities of government will follow suit to better address demand from civil society. Likewise, if civil society capacities are strong, this will also contribute to the strengthening of the capacities of other actors such as Indigenous/ local communities and the business community due to the advocacy and facilitating role of civil society actors.

Similarly, the capacity of Indigenous communities is naturally impacted by the actions of the business sector: when a business company follows good governance practices, this will have a positive impact on indigenous communities, and vice versa. Therefore, in the context of strengthening forest, land and REDD+ governance, both parties should seek opportunities for cooperation and mutual reinforcement. The process can be advanced by changing the perspective of business actors who currently see Indigenous communities as a threat to the sustainability of their businesses rather as potential allies.

KEY ISSUES

- **Central**
 - Capacity building can enhance the index on the issue of law and policy related to rights & management but are not followed by performance;
 - Main problem: open access and conflict.

- **Province**
 - Main problem: low law enforcement index & high transaction cost;
 - Both problems are related to low law & policy index.



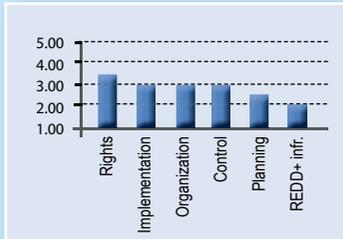
MAPPING THE STRENGTHS

Utilising a scorecard methodology, the PGA covering forest, land and REDD+ governance issues helps to map strengths and weaknesses in capacity across the three core components of the index at central, provincial and district level. The mapping can also be used to prioritise components that most urgently require strengthening as well as to identify the drivers that could be used to push relevant improvements.

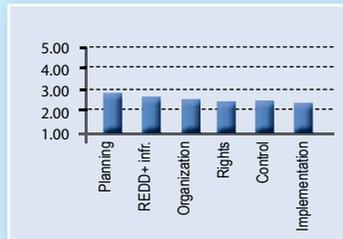
The scorecard methodology was used to analyse the findings. None of the PGA locations covered reached the 3.50 mark required to attain a green ranking. Ninety percent of the areas assessed earned a yellow marking (between 2.00 and 3.50) and the remaining 10 percent registered red markings (less than 2.00). This shows that virtually all the actors at national, provincial and district levels require further strengthening of their ability to address laws and policies, their capacities to govern forest, land and REDD+ issues, and their overall ability to perform their key functions. Particular focus for capacity and performance strengthening should be placed on Aceh with currently three red ratings recorded. For details please refer to table 1 below:

Actors — PGA Issues

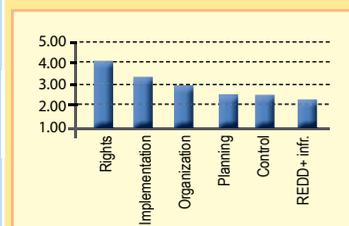
Law & Policy



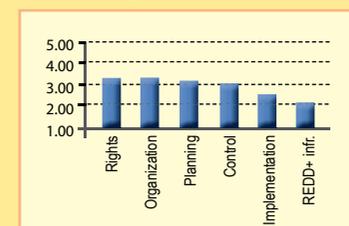
Performance



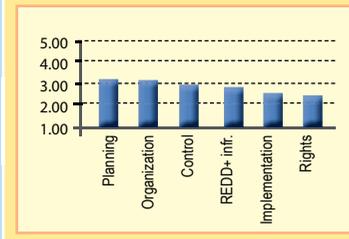
CSO



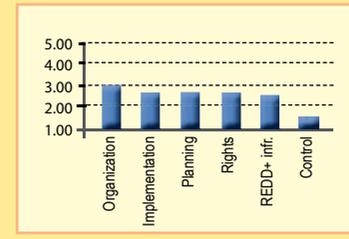
Community



Business



Government



- Substance of law and policy related to forest and land rights and management are relatively sound but are not followed by performance.
- Capacities of CSO and community concentrate on forest and land rights issues, whereas businesses are on organizational planning and government is on organization and management.
- Law enforcement issues are driven by CSO, not by government.

- **Law and Policy.** None of the assessed locations at central and provincial levels reached an index value above 2.78 in this core category of the index. The existing regulations have had some positive effects. They have strengthened transparency in the spatial and forestry planning process, fortified forest management, regulated the rights of various parties in the forest, strengthened the accountability of Forest Management Units, and harmonized laws and policies. However, the policy framework should also include public participation and capacity building in the decision making process and it should provide for a complaint mechanism, protect the rights of communities in the forest, and provide an efficient process in the issuance of forestry permits and licenses.
- **Government Capacity.** Government capacities in each of the assessed locations remain below the critical mark of 3.50 with provincial government capacities in Central Sulawesi at 2.66 reaching the highest score. This indicates that overall government capacity to handle issues of forest, land and REDD+ governance requires further strengthening. While relevant government institutions have qualified personnel for forestry and spatial planning as well as for the administration of

Table I

The Index of Forest, Land and REDD+ Governance in 2012 at Central and Provincial Levels

Location	Overall Index	Laws & Policies	Actors' Capacity				Performance
			Government Capacity	CSO Capacity	Community Capacity	Business Capacity	
Central Level	2.78	2.80	2.49	3.00	2.95	2.97	2.46
Aceh	2.07	2.47	1.82	2.75	2.26	1.24	1.90
Riau	2.28	1.89	2.11	2.72	2.05	2.68	2.23
Jambi	2.38	2.26	2.23	2.78	2.04	2.63	2.34
South Sumatra	2.19	2.05	2.64	2.30	1.37	2.36	2.45
West Kalimantan	2.73	2.28	2.24	3.32	3.39	2.97	2.20
Central Kalimantan	2.64	2.29	2.47	3.21	2.56	2.72	2.59
East Kalimantan	2.42	1.98	2.36	2.60	2.47	2.76	2.34
Central Sulawesi	2.52	2.03	2.66	2.71	2.86	2.15	2.71
West Papua	2.29	1.99	2.37	2.40	2.11	2.47	2.40
Papua	2.41	2.32	2.12	2.63	2.51	2.32	2.56

Notes on color markings: *red* - less than 2; *yellow* - between 2 and 3.5; *green* - index value over 3.5

forest rights with budget allocations in place for Forest Management Units (FMUs), government capacities need to be further strengthened to ensure that forest and spatial planning processes are conducted in a participatory manner involving all key stakeholders. Other critical areas that require the strengthening of government capacities include handling of conflicts, the administration of community rights, as well as law enforcement and the prosecution of forest related crimes. At this point in time, there is, for example, neither a permanent REDD+ institution nor a REDD+ safeguards system in place that could monitor, report and address violations of forestry laws and implement the necessary safeguards.

- **Civil Society Capacity:** Civil society capacity in the respective locations has received a yellow grade. The overall capacity of civil society in the various areas of forest, land and REDD+ governance is reasonably good, particularly at the central level where civil society was awarded a combined overall score of 3.00 – the highest score awarded to any of the actors at the central level. Civil society actors have the capacity to apply governance principles in their organizations as well as to provide inputs for spatial and forestry planning processes. There are also general capacity building programmes implemented for local communities and advocacy for complaint handling. However, further capacity strengthening is required in order for civil

society to handle the technical aspects of spatial and forestry planning processes. To effectively perform their checks and balances and advocacy roles, there is also a need for civil society organisations to reinforce their capacity to assess and highlight the costs of non-transparent spatial planning and forestry processes as well as the high transaction costs for the issuance of permits and costs caused by corruption in the forest sector.

- **Community Capacity** (Indigenous/ local communities and women): The capacity rating of Indigenous and local communities falls within the yellow category with community capacity at the central level reaching an overall score of 2.95 (and thus being largely comparable with the capacity of civil society at central level). With a score of 3.39 local and Indigenous communities in West Kalimantan not only registered the strongest capacity result of all the actors assessed but also came very close to a green scoring rate. Indigenous groups and forest dependent communities generally have the capacity to apply governance principles in order to provide inputs to the spatial and forestry planning process. They will, however, need to increase the number and capacity of community rights activists to advocate on their behalf and develop greater capacities for monitoring the issuance process of forest permits. Furthermore, Indigenous and local communities should also strengthen their ability to partner with the business sector to facilitate the issuance and monitoring of sustainable forest management labels for relevant business sector products and increase their involvement in REDD+ institution building.
- **Business Community Capacity.** The capacity of business communities received a reasonably strong rating, especially at central level and in West Kalimantan, where a rating of 2.97 is recorded. None of the business actors in any of the assessment locations, however, reached a score of 3.50 necessary for a green rating. The business sector in general has adequate capacity to be involved in the forestry planning process. It also has internal control mechanisms in place with some business actors having developed and adhered to a forest governance code of conduct. However, business companies require further strengthening in the implementation of Free Prior and Informed Consent (FPIC) principles in their plantation and forest management operations. Furthermore, increased resource allocations are required by private companies in particular to cover the costs for gazetting as well as certification and labeling. Currently only 20 percent of 520 registered companies operating in the forestry sector attained any sort of Sustainable Forest Management label (both mandatory and voluntary).
- **Performance Component:** Similar to the capacity issues outlined above, the performance of the various actors in the assessment locations requires further strengthening with most locations achieving a yellow performance rating.

Key findings of the performance assessment reveal that the percentage of regions in Indonesia that have legalized spatial plans in place is still limited. Specifically, spatial plans have been legalised in 13 provinces (39 percent), 121 districts (32 percent) and 37 cities (43 percent). Meanwhile, the percentage of forest areas that have been

gazetted is 11 percent, or 15 million out of 136 million ha. Furthermore, out of a total number of 103 forest related conflict cases up to February 2012 (cases handled by Directorate of Forest Plantation Development, Ministry of Forestry) only one case has so far been fully resolved. Forestry crime cases submitted to court were only 6 out of 128 cases handled in 2012. Media news coverage of community rights at central and provincial level is insufficient with only one news story every 21 days during the period 2010-12. Furthermore, there are high transaction costs for obtaining forest permits (official & unofficial). The cost of gaining a permit from the local government in Kalimantan for example, amounts to Rp. 50,000 per hectare. The government issued forest permits covering less than 450,000 ha to communities but more than 30 million ha to private sector actors.

POLICY RECOMMENDATIONS

As demonstrated through the PGA process and the results computed for the overall aggregate index on forest, land and REDD+ governance as well as the component indices, overall forest governance in Indonesia needs to be further strengthened. The following factors are considered particularly important to properly address and improve for the successful implementation of REDD+ in Indonesia:

- The neglect of four key issues: forest and land management, a management agency in the field to control open access to forests or forest areas, law enforcement, and high transaction costs for licensing.
- Although new laws and policies have been drafted, their implementation remains a challenge partly because of limited awareness due to the lack of public participation in the legislative process and the limited disclosure of information.
- The capacities of central, provincial and district governments need to be reinforced in order to strengthen the operation of forest and land management in the field.

The government plays a key role in the implementation of relevant policies in the forest sector. The strengthening of government capacities across the various levels in the implementation of regulatory policies and law enforcement for the sector is therefore of particular importance. There is agreement on the need for a roadmap for better forest, land and REDD+ governance based on the analysis and discussions generated by the PGA process. Key steps in this roadmap include the following:

- A more integrated role for local communities and CSOs is needed to strengthen governance processes especially with regards to forest and land management, open access to forests and forest areas, law enforcement, and the issuance of forest licenses.
- Increased involvement by business groups to strengthen the government licensing system, and to facilitate the adoption of Good Corporate Governance (GCG) for members of business associations;

The overall objectives, direction and resources assigned to strengthen structures and practices for good forest governance must be accompanied by the identification of

the main drivers for improving the governance situation in the respective provinces. The strengths mapping matrix for governance components should be used as a reference in this regard.

The scores for forest, land and REDD+ governance in this study call for more attention to the fundamental challenges encountered in land and forest management, and in particular the implementation of REDD+. The capacity building needs of actors from government, civil society, local communities and business require to be appropriately addressed. It is suggested that periodic monitoring should be undertaken by the new (soon to be established) REDD+ Agency to ensure that the capacity building measures offered to stakeholders address their weaknesses as well as their respective roles and functions.

Then, there are five key recommendations from this PGA process for strengthening forest, land and REDD+ governance. The policy recommendations pertain to two main areas, namely the improvement of legal and policy frameworks and the strengthening of capacities and capabilities of the key relevant actors.

The first recommendation relates to the strengthening of the clarity of legal status and legitimacy of the status of state forest areas through enhanced Forest, Land and REDD+ Governance. This will be achieved through:

- The issuance of a regulation by the Minister of Forestry on the mechanism to determine in a transparent and participatory manner which forest areas are sensitive to conflicts. This may be done by involving the stakeholders and by conducting capacity building for the parties involved.
- A joint Decree by the Ministry of Forestry, the Ministry of the Environment, the Ministry of Home Affairs and the National Land Agency on the rights of Indigenous and local communities in forest areas and other land use areas.
- Issuance of a Minister of Forestry Regulation on the mechanism to simplify the process for determining the boundaries of the working areas of forest utilization permits in a transparent and participatory manner, accompanied by capacity building for the relevant parties.
- Issuance of a Minister of Forestry Regulation on a mechanism to integrate the determination of forest area boundaries into the forest gazetting process. This should be done by establishing a Working Group that includes Indigenous peoples' organizations, NGOs, businesses and academics accompanied by capacity building for the implementing agency.

The second recommendation relates to clarifying the rights to forest resources and ultimately reduce the number of forest conflicts. This will be achieved by:

- The extension of Presidential Decree No. 10 of 2011 on the Postponement of Awarding New Permits and Improving the Governance of Primary Forests and Peat lands. It is suggested that over time as the capacities of the relevant government

institutions for enforcement and monitoring of forest governance policies are strengthened, the time-bound moratorium on the postponement of issuance of logging and plantation concessions could be replaced by a performance based mechanism that allows limited and regulated issuance of concession permits by central government for provinces and districts that have the required enforcement and monitoring capacities in place.

- The issuance of a Minister of Forestry Regulation for a mechanism to handle complaints, mediate and resolve forest tenurial conflicts using multiparty participation, including capacity building of the relevant parties.

The third recommendation is to avoid high costs and bribes in the issuance of forestry permits and licenses. This will be realized by:

- The issuance of a Minister of Forestry Regulation for a mechanism to procure forest permits and licenses that is simple, efficient, transparent, accountable, and ensures public monitoring. This is to be accompanied by capacity building of the implementing agency.
- The preparation of a Minister of Forestry Regulation for a mechanism to issue forest utilization permits to community groups in a transparent, accountable and efficient manner and the establishment of a public monitoring mechanism for application and implementation of these permits. This must be accompanied by capacity building of the relevant officials at the Ministry of Forestry and the Provincial Forest Departments.
- The drafting of a Minister of Forestry Regulation for the issuance of low-cost utilization permits for customary forests, village forests, community forests, and smallholder plantations. Likewise, this must be accompanied by capacity building measures for the Ministry of Forestry and Provincial Forest Departments.

The fourth recommendation is to strengthen law enforcement in the forestry sector. This will be achieved by:

- The issuance of a Minister of Forestry Regulation for a mechanism that deals with complaints from the forestry sector and includes whistle-blower protection and is based on the principles of public complaints handling already developed by the Ombudsman Commission. This will include capacity building for all the parties.
- The issuance of a Minister of Forestry Regulation for a supervision mechanism for the licensing system that incorporates both public and government control by applying the principles of good governance. This will include capacity building of the parties.
- The issuance of a Minister of Forestry Regulation for a mechanism to develop the policy for an audit of forestry permits. This must also include capacity building for the implementing agency.

Lastly, the fifth recommendation focuses on the development of REDD+ infrastructure that applies the principles of good governance. This will be carried out by:

- A mechanism to involve multi stakeholders (civil society, academics, indigenous groups, women and journalists) in the preparation for, and implementation of REDD+ at all levels.
- A framework regulation for social protection, the environment and governance in the implementation of REDD+ in Indonesia.
- A transparency and accountability mechanism for the preparation and implementation of REDD+ including detailed arrangements for the application of FPIC.
- Acceleration of the establishment of a new REDD+ institution which is strong, transparent, participatory and accountable.

