



Technical Assistance Report

Project Number: 37304
December 2007

Republic of Indonesia: Enhancing the Legal and Administrative Framework for Land Project

Asian Development Bank

CURRENCY EQUIVALENTS

(as of 19 November 2007)

Currency Unit	–	rupiah (Rp)
Rp1.00	=	\$0.0001077586
\$1.00	=	Rp9,280

ABBREVIATIONS

ADB	–	Asian Development Bank
BAPPENAS	–	Badan Perencanaan Pembangunan Nasional (National Planning and Development Agency)
BPN	–	Badan Pertanahan Nasional (National Land Agency)
EA	–	executing agency
IR	–	involuntary resettlement
LTWG	–	legal and technical working group
RETA	–	regional technical assistance
TA	–	technical assistance
UUPA	–	Undang-Undang Pokpo Agraria (Basic Agrarian Law)

GLOSSARY

adat	–	customary law
ketetapan	–	parliamentary decree
hak guna bangunan	–	building use title
hak guna pakai	–	right to use
hak guna usaha	–	cultivation rights title
hak milik	–	freehold title
hak ulayat	–	traditional law
perpres	–	presidential decree
Undang Pokpo Agraria	–	Basic Agrarian Law 5/1960

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	General intervention
Sector	–	Health, nutrition, and social protection
Subsector	–	Other social services and social development
Themes	–	Inclusive social development, governance, capacity development.
Subthemes	–	Involuntary resettlement, institutional development

NOTES

- (i) The fiscal year (FY) of the Government and its agencies ends on 31 December.
- (ii) In this report, "\$" refers to US dollars.

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I. INTRODUCTION

1. In 2000, the Asian Development Bank (ADB) approved regional technical assistance (RETA) to enhance national resettlement policies and build capacity in six developing member countries, including Indonesia.¹ In 2002, the RETA, with Badan Pertanahan Nasional (National Land Agency or BPN) as the Indonesian focal agency, delivered (i) a draft land acquisition act, which BPN was to develop further following stakeholder consultation and then submit to the Parliament for deliberations and approval; and (ii) a set of recommendations to facilitate the implementation of the new act, including the need to prepare implementing rules and regulations, mainstreamed processing mechanisms for local governments, and capacity building initiatives.

2. Based on the results of the RETA, ADB's 2002 Country Programming Mission confirmed the funding for technical assistance (TA) to facilitate the establishment of a legal and administrative framework for land acquisition and resettlement, which would address some of the final recommendations of the RETA. The Government of Indonesia agreed to include the proposed TA in ADB's 2004 country program for Indonesia. Initial consultations were carried out with BPN in the same year, followed by a preliminary TA Fact-Finding Mission in March 2005. A draft memorandum of understanding was prepared and extensively discussed. However, the signing was postponed, because the Government was preparing a new *perpres* (presidential decree) on land acquisition (*perpres* 36/2005) instead of the proposed land acquisition act. In June 2005, ADB held additional discussions with the Government to update the TA proposal in accordance with the introduction of *perpres* 36/2005. BPN indicated that, although the legal framework had been improved with the issuance of the new decree, it would still welcome modified TA. In response to issues and concerns raised by civil society, *perpres* 36/2005 was amended by *perpres* 65/2006 in June 2006. The new decree differs from the previous one in two main aspects. First, the 2006 decree provides for land assessment by an independent appraiser—although it does not address how the appraiser would be selected and what valuation methodology would be used—and would not guarantee replacement cost. However, the most important and controversial change is the clear provision for expropriation if negotiations are not concluded after 90 days, although the *perpres* is not clear on how this would be implemented.² No further actions were taken or decisions made on the TA until follow-up fact-finding missions 3–7 July 2006 and 10–13 October 2006. During the final TA Fact-Finding Mission (21 February–2 March 2007), the BPN requested the proposed TA for preparing a land law and related implementing regulations, which the Government identified as a priority, and signed a memorandum of understanding to this effect in October 2007. BPN advised ADB that Indonesia does not have the capacity to prepare the land law on its own. ADB and the Government agreed that the proposed land law will include a chapter on land acquisition and resettlement, and will meet international standards. This paper was prepared based on the final Fact-Finding Mission and additional discussions with the Government that followed. The TA framework is in Appendix 1.³

II. ISSUES

3. **Indonesian Legal Context for a Land Law.** Since 2001, the Government of Indonesia and Indonesian Parliament, through *ketetapan* (parliamentary decree) and *perpres* 34/2003,

¹ ADB. 2000. *Technical Assistance for National Resettlement Policy Enhancement and Capacity Building*. Manila.

² This is consistent with the Law on Expropriation (*Pencabutan Hak-Hak Tanah Dan Benda-Benda Yang Ada Diatasnya*) No. 20/1961, which has been invoked only once.

³ The TA first appeared in *ADB Business Opportunities* on 14 June 2007.

instructed BPN to prepare a draft agrarian resource law to replace or modify the *Undang-Undang Pokpo Agraria* (Basic Agrarian Law 5/1960 or UUPA). However, public consultation and Government interdepartmental discussions led to the decision not to replace or modify the UUPA. The main objective of UUPA is to provide the foundation and details for (i) drafting other national agrarian-related laws, (ii) integrating and simplifying land law, and (iii) ensuring land rights for all Indonesian people. These were the guidelines to BPN for drafting the land law, within the framework of the already-established agrarian law. The land law should be prepared in a comprehensive manner to accommodate and manage all land-related issues, and may intersect with other sectoral laws established under the UUPA.

4. The UUPA discusses issues generally covered under land law, such as (i) land tenure, (ii) rights to land, and (iii) land registration. It also stipulates that rights to land may be revoked for public interest by providing adequate compensation. Further, UUPA states that the matter will be regulated through law, which was the basis for the formulation of perpres 36/2005 and 65/2006. It recognizes and protects rights acquired under customary and other laws that existed before promulgation of the UUPA. The proposed land law would support the provisions of the UUPA. It would be a subsystem of UUPA, in the same manner as the Agricultural Law (1961), the Foreign Investment Law (1967), the Mining Law (1967), the Forestry Law (1999), and the Water Resources Law (2004). These laws support the umbrella UUPA of 1960.

5. **Land Acquisition and Resettlement Issues.** During the infrastructure summit held in Jakarta in January 2005, the minister of finance and Badan Perencanaan Pembangunan Nasional (National Planning and Development Agency or BAPPENAS) noted that land acquisition and resettlement remains one of the main causes of delays in project implementation and disbursement. This position was echoed by representatives of other Government agencies attending the summit, and is confirmed by the records of ADB, World Bank, and other development partners. Based on the results of the RETA (footnote 1), and on Government and ADB experience, this appears to be caused by (i) lack of an updated legal framework guaranteeing equitable and rapid involuntary resettlement (IR), (ii) absence of comprehensive IR implementing regulations, and (iii) inadequate capacity for IR tasks.

6. **Indonesian Legal Framework for Immovable Property Rights, Including Land Acquisition and Resettlement.** The national legal framework covering IR matters has been strengthened since May 2005.⁴ Perpres 36/2005 and perpres 65/2006, as well as BPN regulations on implementing perpres 36/2005 and perpres 65/2006, were significant improvements. However, they fall short of ensuring compensation, resettlement, and livelihood restoration for all impacts caused by a project. The overall policy objective of these decrees and regulations is compensation alone to restore or improve social and economic conditions, and only for people with land titles, or traditional or customary rights.

7. The absence in the national IR legislation of broad and mainstreamed implementing regulations for IR, together with insufficient impact assessment capacity of local governments, results in unsystematic IR planning procedures, preparation, financing, and implementation at the local level. Ultimately, this delays project implementation significantly. The lack of any legal provision for informal dwellers, and only ad hoc provision of nominal and inadequate assistance to informal dwellers by district governments, also results in long delays in reaching agreements on development partner-financed projects that require restoration for all affected people. The

⁴ Perpres 36/2005 of 3 May 2005: Provision of Land for Realizing the Development for Public Interests; perpres 65/2006 of 5 June 2006: Revision to Perpres 36/2005 on Land Acquisition for Public Purposes; BPN regulation 3/2007 of 13 June 2007: Land Acquisition Implementation Guideline of Perpres 65/2006 and Perpres 36/2005.

challenge of IR in Indonesia is a significant constraint to promoting investment in infrastructure, with toll roads being one of the most difficult areas.

8. Perpres 36/2005, as amended by perpres 65/2006, and BPN regulation 3/2007 will serve as the interim legal framework for IR until the proposed land law is issued. The TA will support a review of perpres 36/2005 and 65/2006 and BPN regulation 3/2007 with the intention of replacing them by full coverage of land acquisition and resettlement provisions in the proposed land law. The TA is designed to support the Government-driven drafting of the land law. However, while IR is ADB's primary concern in the proposed law, the proposed law is intended to enhance immovable property rights generally for all people in Indonesia.

III. THE TECHNICAL ASSISTANCE

A. Impact and Outcome

9. The main impact of the TA will be improved legal and administrative framework for land, including IR, fully supported by BPN. The outcome of the TA will be Improved awareness and implementation of land rights and IR in keeping with international best practice.

B. Methodology and Key Activities

10. The TA will have three components, implemented as follows:

- (i) **Diagnostic assessment.** The TA will begin with an analysis of the current land-related legal framework, processes, systems, and administrative arrangements in each province. It will examine the implementation practices and gaps, and the reasons for such gaps (such as structural and institutional). It will make recommendations for improvement and streamlining.
- (ii) **Drafting the land law.** Based on the diagnostic assessment, the TA will provide assistance to the Government for review and revision of the draft academic paper and drafting of the land law, consultation with relevant stakeholders in all regions, and revisions based on the review and consultation. The proposed land law should include comprehensive provisions for (a) redefinition of the state's rights on land, covering the state's rights over land and space and the state's management rights; (b) elaboration of immovable property rights, covering regulations on establishment of land rights, compulsory appropriation of land rights or interests,⁵ rights and obligations over land, and rights of owners⁶ and occupants; (c) redefinition of land-related titles, covering title for apartment, title for space below and above land, land title for adverse possession, customary rights for indigenous communities, riparian rights, and land title for coastal land areas; (d) Islamic law and inheritance, and women's rights over land and related resources and compensation; (e) standards and methods of cadastral survey, measurement, and mapping for land subdivision, land consolidation, land use

⁵ The drafters will need to take into account the provisions of Undang-Undang 20/1961 tentang Pencabutan Hak-hak di Atas Tanah dan Benda-benda yang Ada di Atasnya (Law 10/1961 on Revocation of Land Rights), a separate law to the UUPA. They will have to determine whether it is sufficiently specific or should be revised and included in the draft land law.

⁶ Indonesian law recognizes four major types of title: (i) freehold title, (ii) cultivation right title, (iii) building use title, and (iv) right to use title.

and management, and land management for special areas; (f) land registration system; (g) approval and custody of survey plan and land valuation; (h) land acquisition and resettlement for public⁷ and private purpose; and (i) land monitoring. The drafting process will be designed and undertaken to develop the drafting skills of BPN.

- (iii) **Consultation with central and local governments and civil society.** To ensure the mainstreaming of TA outputs, and to obtain the endorsement of the proposed law by central and local governments and the support of civil society organizations, the TA will include financing for an intensive consultation process. Consultation will be carried out at central Government level through two national workshops in Jakarta. At the regional level, consultations will be carried out through four regional workshops⁸ and smaller meetings, involving representatives from local governments, civil society organizations, and the public. The consultation process will be designed and undertaken to develop consultation skills within BPN.

C. Cost and Financing

11. The TA is estimated to cost the equivalent of \$625,000. ADB will provide a grant for the equivalent of \$500,000 from its TA funding program, which will cover (i) remuneration, per diems, and travel of international and national consultants; (ii) consultation on the draft land law; (iii) legal review; (iv) workshop organization, including catering and participants' per diem, transport, board and lodging, and facilitation; (v) support staff; (vi) office equipment; (vii) publications, report writing, and translation costs; and (viii) miscellaneous office administration costs. The Government will provide the equivalent of \$125,000 to cover counterpart staff salaries, furnished project office space, and a workshop venue when held at BPN. Cost estimates are in Appendix 2.

D. Implementation Arrangements

12. BPN will be the Executing Agency (EA). A legal and technical working group, under the leadership of BPN, will include the following line agencies: BAPPENAS, Ministry of Finance, Ministry of Home Affairs, Ministry of Justice, Ministry of Public Works, State Minister for Women's Empowerment, Ministry of Religion, and the State Secretariat. The working group will supervise the TA activities, periodically meet to discuss progress in TA tasks, and review the documents produced. BPN's legal department will establish a counterpart team, including professional staff with extensive expertise on the TA subject matter, and will keep close contact with local governments. At the local government level, the TA team will rely on personnel to be provided by local BPN offices. To ensure complementarity, the EA will facilitate coordination between the project and the World Bank-financed Land Management and Policy Development Project. Under the World Bank project, BPN's technical capacity is being strengthened and BAPPENAS is preparing a national land policy framework that will serve as BAPPENAS's road

⁷ Perpres 65/2006 narrowed the list of investments considered as public interest, dropping schools, public health facilities, and government offices. The TA will review, and consider the need for redefinition of, investment for public purposes.

⁸ Four regional workshops are planned for the following regions (i) Java Island, (ii) Sumatra and Kalimantan, (iii) Bali and Nugu-Tengaru, and (iv) Papua and Sulawesi and Malaki.

map for all land-related legal instruments, although it will have no legal status.⁹ The framework has been drafted through a participatory and consultative process that has been a capacity building exercise for BAPPENAS. The TA will replicate this capacity building process within BPN.

13. The TA will be implemented over 18 months, tentatively from February 2008 to January 2010. The tasks to be performed as part of the TA will require 45 person-months of consulting services, comprising 10 person-months of international (land and property valuation, land policy, and IR specialists) and 35 person-months of national (full-time national land policy specialist as team leader, and specialists in property valuation, IR, gender, legal, and consultation). The outline terms of reference are in Appendix 3. The consultants will submit semiannual reports to the EA project director and Infrastructure Division, Southeast Asia Department. ADB will select and engage a consulting firm in accordance with its *Guidelines on the Use of Consultants* (2007, as amended from time to time), the quality- and cost-based selection method, and a simple technical proposal.

IV. THE PRESIDENT'S DECISION

14. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$500,000 on a grant basis to the Government of Indonesia for Enhancing the Legal and Administrative Framework for Land Project, and hereby reports this action to the Board.

⁹ The World Bank is providing a \$2.9 million loan to the Government of Indonesia for the Land Management and Policy Development Project. BPN is the EA as well as implementing agency for three technical components, including (i) institutional development, capacity building, and training for BPN; (ii) implementation of an accelerated land titling program; and (iii) development of a land information system. BAPPENAS is the implementing agency for the fourth component, which consists of development of a national land policy framework. The objective of the framework is to overcome three land-related issues: (i) land disputes and conflicts, (ii) inequity of land tenure and ownership, and (iii) the weakness of legal data on land ownership. It is intended to support BAPPENAS in its coordination function, by contributing to two schemes: (i) regulation scheme, of which the proposed land law will be the first to be developed; and (ii) the investment scheme, from which results the 5-year and annual national development programs. The fifth component of the World Bank project is providing technical assistance to the Ministry of Home Affairs for capacity building support for local government to undertake land administration and management functions.

DESIGN AND MONITORING FRAMEWORK

Design Summary	Performance Targets/Indicators	Data Sources/Reporting Mechanisms	Assumptions and Risks
<p>Impact Improved legal and administrative framework for land, including IR, fully supported by BPN</p>	<p>More equitable, efficient, and transparent land-related activities that protect the land rights of all Indonesian people</p>	<ul style="list-style-type: none"> • Documents prepared by consultants and LTWG • Workshop presentations • Public comments on draft land law • BTORs • TA completion report 	<p>Assumptions The Government is committed to an improved legal and administrative framework for land and for IR, in line with international best practice.</p> <p>The draft land law as prepared under the TA will be issued and implemented.</p> <p>Risk The draft final land law is not supported by Parliament.</p>
<p>Outcome Improved awareness and implementation of land rights and IR in keeping with international best practice</p>	<p>Fewer land-related conflicts</p> <p>Improved IR plans and implementation</p> <p>Improved land-related legal instruments</p>	<ul style="list-style-type: none"> • Government reports and new legal instruments • Copies of RPs and IR monitoring and evaluation reports 	<p>Assumptions BPN and the LTWG will take ownership and be effective in drafting the TA documents, and will demonstrate commitment to achieving the TA impact and outcome.</p> <p>The draft land law will be supported by Government agencies, local governments, civil society, in keeping with international best practice.</p> <p>Risk Political atmosphere and interests in Parliament could delay drafting of the land law.</p>

Design Summary	Performance Targets/Indicators	Data Sources/Reporting Mechanisms	Assumptions and Risks
<p>Outputs</p> <p>1. Draft final land law that has been prepared through a consultative and participatory process</p> <p>2. Enhanced awareness of international best practice in land policy, IR, asset valuation</p> <p>3. BPN legal department staff trained in legal instrument drafting techniques, and participatory and consultative process</p>	<ul style="list-style-type: none"> • Draft final land law prepared during the TA and fully supported by BPN and government agencies, in keeping with international best practice, and ready for presentation by BPN to Parliament • Within 14 months after mobilization, central and local governments and civil society consulted in four regional workshops (320 persons) and two national workshops (220 persons); 50 government staff trained in asset valuation • By the end of the TA, BPN legal department staff trained in legal instrument drafting techniques and consultation 	<ul style="list-style-type: none"> • Workshop reports, written public comments and a comments matrix • Copy of draft final land law from BPN • Consultant working papers and progress reports • TA completion report 	<p>Assumptions</p> <p>The EA will take ownership of the TA activities and facilitate the necessary coordination and participation by all relevant departments and stakeholders.</p> <p>Draft land law will meet international standards.</p> <p>Consultations will be broad, transparent, and meaningful.</p> <p>Risk</p> <p>Government drafting process is delayed.</p>

Activities with Milestones	Inputs
<p>1.1 BPN to establish a LTWG composed of the following line agencies: BAPPENAS, MOF, MOHA, MPU, MOJ, MOWA, MOR within 1 month of TA approval, and prior to mobilization of TA consultants.</p> <p>1.2 BPN to assign a counterpart team to work with the consultants, prior to mobilization of TA consultants</p> <p>1.3 ADB to recruit consultants; semiannual progress reports prepared</p> <p>1.4 Inception report and work program within 1 month after mobilization</p> <p>1.5 Diagnostic reports on land, IR, and land and asset valuation within 6 months after mobilization; a draft academic paper</p> <p>1.6 Draft land law within 8 months after mobilization</p> <p>2.1 Two asset valuation workshops within 6 months after mobilization</p> <p>2.2 Two national and four regional workshops on the draft land law within 14 months after mobilization</p> <p>2.3 Revised draft land law issued for public comment within 15 months after mobilization and finalized within 18 months after mobilization</p> <p>3.1 BPN legal department staff trained in legal instrument drafting techniques, and participatory and consultative process within 8 months after mobilization</p>	<p>ADB: \$500,000</p> <ul style="list-style-type: none"> • Consulting Services (45 person-months) – \$301,250 • Equipment – \$8,200 • Consultation – \$64,200 • Others – \$81,350 • Contingencies – \$45,000 <p>Government: \$125,000</p> <ul style="list-style-type: none"> • Office Accommodation – \$50,000 • Staff – \$60,000 • Workshop Venue – \$15,000

BAPPENAS = Badan Perencanaan Pembangunan Nasional (National Planning and Development Agency), BPN = Badan Pertanahan Nasional (National Land Agency), BTOR = back-to-office-report, IR = involuntary resettlement, LTWG = Legal and Technical Working Group, MOF = Ministry of Finance, MOHA = Ministry of Home Affairs, MPU = Ministry of Public Works, MOJ = Ministry of Justice, MOWA = Ministry of Women's Affairs; MOR = Ministry of Religion

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Total Cost
A. Asian Development Bank (ADB) Financing^a	
1. Consultants	
a. Remuneration and Per Diem	
i. International Consultants	227.50
ii. National Consultants	73.75
b. International and Domestic Air Travel	52.55
c. Reports, Communications, Translation	9.00
d. Local Ground Transport	7.20
2. Office Equipment ^b	8.20
3. Seminars and Workshops ^c	64.20
4. Miscellaneous Administration and Support Costs	12.60
5. Contingencies	45.00
Subtotal (A)	500.00
B. Government Financing	
1. Office Accommodation ^e	50.00
2. Remuneration and Per Diem of Counterpart Staff	60.00
3. Workshop Venue, at BPN	15.00
Subtotal (B)	125.00
Total	625.00

LTWG = legal and technical working group.

^a Financed by ADB's technical assistance funding program.

^b Computers, printer, photocopier, fax machine, and portable LCD projector.

^c Includes cost of venues, travel, accommodation, per diem, and facilitators for two national and four regional workshops.

^d Includes furniture, air conditioners, telephones.

Source: ADB estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

A. Scope of Work

1. The consultants will provide the following outputs to facilitate the establishment of a mainstreamed legal and administrative framework for land, including involuntary resettlement (IR), land acquisition, and resettlement:

- (i) A diagnostic report on the current land-related processes, systems, and institutional arrangements throughout the country and recommendations for improvement and streamlining. The diagnostic report will be based on desk review and consultation with relevant agencies in each province.
- (ii) A plan for developing the drafting and consultation skills of (Badan Pertanahan Nasional (National Land Agency)) BPN throughout the technical assistance (TA).
- (iii) A revision of the existing draft land law academic paper and draft land law and implementing regulations for review and discussion by BPN and the legal and technical working group (LTWG).
- (iv) National and regional workshops and technical meetings to discuss the provisions of the draft land law with central Government, local government, and civil society stakeholders and the public. Following the consultation process, feedback and the recommendations of the LTWG the drafts will be revised and submitted to BPN and LTWG for approval.

2. The team of individual consultants will carry out the tasks leading to the outputs in para. 1. The team will be coordinated and supervised by the consultants' national land policy specialist and team leader. National consultant members of the team will include specialists in (i) gender, (ii) property valuation, (iii) involuntary resettlement, (iv) consultation, and (v) law. A *hak ulayat* (traditional law) legal expert who reads old Dutch also will provide input. International consultants will be specialists in (i) involuntary resettlement, (ii) land law, and (iii) land and property valuation. The consultants will carry out their work with a counterpart team formed by personnel of BPN, the TA executing agency (EA). The consultants will collaborate closely with the EA and LTWG to ensure the drafting process will be designed and undertaken to develop the drafting and consultation skills of BPN.

1. National Land Policy Specialist and Team Leader (18 person-months, full time)

3. The local land policy specialist and team leader will plan and supervise all activities under the TA. The consultant will have extensive practical experience in land policy and will be fully conversant in the legislative and administrative environment for land in Indonesia. In addition to general TA management tasks and ensuring proper coordination among consultants, EA, LTWG and ADB, the land policy specialist will

- (i) facilitate the establishment and coordination of an EA team for the TA;
- (ii) supervise the review and assessment of the current land-related legal framework, processes, systems, and administrative arrangements throughout the country; and identification of what needs improvement and streamlining;
- (iii) liaise with the appropriate authorities regarding the activities facilitating the preparation, review, and approval of the draft law;
- (iv) coordinate and take responsibility for preparation of a public consultation program in liaison with the EA and the local governments, and supervise its implementation and the production of informational materials;

- (v) ensure that BPN's drafting and consultation skills are developed through the TA;
- (vi) ensure that the feedback from workshop participants, the EA, the local governments, and the LTWG are reflected in the final draft law; and
- (vii) supervise the proper preparation of all reports and ensure that they are translated in Bahasa.

2. National Legal Specialist (6 person-months, intermittent)

4. Under the team leader's supervision, the national legal specialist will contribute to drafting the outputs according to the required legal formats, and will ensure that legal documents prepared under the TA are consistent with existing law. The specialist will have extensive experience in drafting legislation in Indonesia, and preferably experience on land issues. The specialist will

- (i) review all existing related legal instruments;
- (ii) assist the team leader and the LTWG in preparing all legal documents as required; and
- (iii) review and compare the Bahasa and English versions of the draft proposed land law and implementing regulations, and ensure complete consistency between them.

3. National Gender Specialist (2 person-months, intermittent)

5. Under the team leader's supervision, the national gender specialist will provide a gender analysis of the existing legal instruments and practices relevant to land policy in Indonesia, and will ensure that gender concerns are incorporated into the draft documents prepared under the TA. This should include special attention to guarantee women's assets, property, and land-use rights, as well as gender-specific consultation and information disclosure. The specialist will have good knowledge of land policy issues.

4. National Land and Asset Valuation Specialist (3 person-months, intermittent)

6. Under the team leader's supervision, the national land and asset valuation specialist will assist the international land and asset valuation specialist through desk a review and field assessment on key aspects of land and asset valuation. The specialist will facilitate workshops on land and asset valuation for relevant government and nongovernment agencies. The specialist will have practical experience in land and asset valuation in Indonesia.

5. National Resettlement Specialist (3 person-months, intermittent)

7. Under the supervision of the team leader, the national IR specialist will assist the international IR specialist through a desk review and field assessments of the legal and institutional framework and procedures for IR in Indonesia, and will make recommendations based on the assessment. The national IR specialist also will assist the international IR specialist and LTWG with drafting the relevant TA documents. The specialist will have good knowledge of ADB's *Involuntary Resettlement Policy* (1995).

6. National Consultation Specialist (3 person-months, intermittent)

8. Under the supervision of the team leader, the national consultation specialist will assist the LTWG in designing and implementing the TA consultation process, and will provide on-the-job training to BPN in consultation skills. The specialist will have extensive experience in design and implementation of public consultation programs.

7. International Resettlement Specialist (4 person-months intermittent)

9. The international IR specialist will have long-term experience with the preparation and implementation of land acquisition and resettlement tasks, and will have extensive experience in related policy and legal matters. Good knowledge of ADB's *Involuntary Resettlement Policy* will be a requirement, and familiarity with IR in Indonesia and proficiency in Bahasa Indonesian a priority. The consultant will

- (i) carry out a desk review and field assessment of the IR legal and institutional framework and procedures in Indonesia, and make recommendations based on the assessment;
- (ii) provide expert advice on policy and technical issues, and contribute to the preparation of the relevant chapters of the draft land law and other studies under the TA as required;
- (iii) engage with stakeholders, including civil society, to raise awareness of ADB's involuntary resettlement policy and international best practice;
- (iv) draft the land law chapter on IR to address the following issues:
 - (a) the need to avoid IR where feasible, and to minimize involuntary resettlement where it is unavoidable;
 - (b) the need to specify procedures and requirements on resettlement planning as preconditions for project approval, and for reviewing, approving, implementing, monitoring, and evaluating resettlement plans;
 - (c) confirmation of the overarching principle of at least restoring the incomes and living standards of the people affected, and improving the incomes and living standards of the poor and vulnerable groups affected, including the landless;
 - (d) compensation to replace lost assets, livelihood, and income for all affected people, including informal dwellers and renters; assistance for relocation, including provision of relocation sites with appropriate facilities and services; and assistance for rehabilitation, such as skills training and micro-credit, to achieve at least the same level of well-being with a project as without it;
 - (e) development of procedures for relocation site development;
 - (f) consultation with people affected and grievance redress mechanisms, including gender and ethnic balance on grievance committees;
 - (g) development of procedures to mobilize the necessary budgets;
 - (h) incorporation of gender concerns into resettlement, including gender-specific consultation and information disclosure, and special attention to guarantee women's assets, property, and land-use rights;
 - (i) methodologies for calculating compensation at replacement cost for permanent and temporary losses equivalent to market value, based on internationally recognized market valuation methodologies (instead of tax values) and on a more effective system of negotiation;
 - (j) principles for an equitable exercise of compulsory and voluntary acquisition of land and associated structures;
 - (k) general mechanisms and special procedures fitting the requirements of different project types, and both top-down and bottom-up implementation modes;
 - (l) clear prescriptions to establish an IR planning, financing, implementing, and monitoring process shared by central and local governments;

- (m) appropriate involvement of independent land and property valuation and monitoring agencies;
 - (n) prescriptions on the content of IR plans and budgets;
 - (o) capacity needed for preparation of IR plans and budgets, and the process and responsibilities for their review, approval, financing, and post-implementation monitoring; and
- (v) assistance to the team leader to ensure the drafting process will be designed and undertaken to develop the drafting and consultation skills of BPN.

8. International Land Law Specialist (3 person-months)

10. The international land law specialist will have expertise in international best practice in land laws, knowledge of Indonesian land-related laws, familiarity with Indonesian legal history, and proficiency in Bahasa Indonesia. Specifically, the specialist will

- (i) provide advice on policy and technical issues, and contribute to the preparation of the relevant chapters of the draft land law;
- (ii) engage with stakeholders, including civil society, to raise awareness on international best practice; and
- (iii) assist the team leader to ensure the drafting process will be designed and undertaken to develop the drafting and consultation skills of BPN.

9. International Land and Asset Valuation Specialist (3 person-months, intermittent)

11. Under the supervision of the team leader, the international land and asset valuation specialist will have expertise in international best practice in land and asset valuation, and knowledge of Indonesian land and asset valuation methodologies. Specifically, the specialist will

- (i) carry out a field assessment of current practice in land and asset valuation, and make recommendations resulting from that assessment;
- (ii) identify government and nongovernment and private sector agencies in Indonesia responsible for land and asset valuation;
- (iii) review current methodology systems and process, and recommend ways to improve valuation methodology, including procedures, and transparency;
- (iv) facilitate one or more workshops on land and asset valuation for relevant government and nongovernment agencies responsible for land and asset valuation, to share Indonesian and international best practices;
- (v) provide advice on policy and technical issues, and contribute to the preparation of the relevant chapters of the draft land law; and
- (vi) provide reference and exposure to international best practice.