UKRAINE

PROGRAM-FOR-RESULTS
Accelerating Private Investment in Agriculture Program
(P166941)

[DRAFT] Environmental and Social Systems Assessment
(ESSA)

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Table of Contents

EXECUTIVE SUMMARY ........................................................................................................ii

Program Description ........................................................................................................... iii

Assessment of Borrowers Systems .................................................................................... v

Stakeholder Consultation..................................................................................................... v

Recommendations and Proposed Actions ........................................................................... vi

1. INTRODUCTION .............................................................................................................. 1

Program Description ........................................................................................................... 1

ESSA Methodology ............................................................................................................. 1

2. ENVIRONMENTAL AND SOCIAL EFFECTS OF THE PROPOSED PROGRAM ........ 3

Boundary Settings and Risk Management in Program Design ........................................ 3

Excluded Activities ........................................................................................................... 3

Potential Environmental and Social Benefits and Risks ....................................................... 3

Social and Environmental Benefits .................................................................................... 4

Social and Environmental Risks ....................................................................................... 5

3. REGULATORY FRAMEWORK FOR MANAGING THE PROGRAM’S ENVIRONMENT AND SOCIAL IMPACTS .......................................................... 6

Environmental Aspects .................................................................................................... 7

Social Aspects ................................................................................................................... 9

4. CAPACITY ASSESSMENT FOR MANAGING THE PROGRAM’S ENVIRONMENT AND SOCIAL EFFECTS .............................................................. 13

5. COMPARATIVE ANALYSIS OF BORROWER SYSTEM AND BANK CORE PRINCIPLES ......................... 17

Summary of Existing System Assessment Against Core Principles ................................... 18

6. STAKEHOLDER CONSULTATION .................................................................................. 21

7. RECOMMENDATIONS AND PROPOSED ACTIONS .................................................. 24

ESSA Recommendations Mainstreamed in the Program Design ........................................ 24

ANNEX 1: RESULTS FRAMEWORK ....................................................................................... 27

ANNEX 2: ENVIRONMENT AND SOCIAL ASSESSMENT AND ACTION PLAN SUMMARY ............... 30

ANNEX 3: LIST OF PARTICIPANTS IN STAKEHOLDER ENGAGEMENT CONSULTATIONS ....... 33
EXECUTIVE SUMMARY

Background and Purpose of the ESSA

1. In Ukraine, the World Bank is proposing to support The Government Strategic Action Plan (GSAP) for Leveraging Private Investment in Agriculture and Agribusiness Sectors for 2019-2023 with the Program-for-Results (PforR) Accelerating Private Investment in Agriculture. The PforR links the disbursement of funds directly to the delivery of defined results and builds on increased reliance on borrower safeguard and oversight systems. The Program Development Objective is to support the Government of Ukraine (GoU) in improving the enabling environment for private investment in agriculture and agribusiness sectors. The PforR promotes the financially sustainable performance of the agriculture sector by supporting results in two key areas: Results Area 1 - Increasing Competitiveness of the Input Markets, and Results Area 2 – Linking Small and Medium Enterprises\(^1\) and Farmers to Export Markets. These results areas are complemented by four (4) Disbursement Linked Indicators (DLIs) and 6 sub-DLIs (4 sub-DLIs on DLI 3 and 2 sub-DLIs on DLI 4) that have been selected from the broader GSAP and agreed to be supported under the PforR, which is proposed to be financed with USD 200 million.

2. This Environmental and Social System Assessment (ESSA) report has been prepared by the World Bank for the proposed PforR - Accelerating Private Investment in Agriculture Program. The ESSA includes the following information: an introduction of the PforR; a summary of environmental and social risks and benefits associated with activities for achieving the Program development Objective (PDO) and the DLIs for each Results Area; an assessment of the borrower’s environment and social management systems which apply to these activities and their risks and benefits; an evaluation of borrower’s performance and track record in implementing its environment and social management systems; an assessment of the extent to which the borrower’s environment and social management systems are consistent with the World Bank core environment and social principles of the World Bank Policy; and recommendations and actions the borrower has agreed to undertake to improve the implementation of applicable systems.

3. This report has been prepared according to the requirements of Bank’s OP 9.00 for PforR financing for adequately managing the environmental and social effects of the Program. The ESSA aims at reviewing the capacity of the Government’s existing environmental and social management systems that are the legal, regulatory, and institutional framework guiding the Program, defines measures to strengthen the system, and integrates these measures into the overall Program. The ESSA is undertaken to ensure consistency with six core principles outlined in paragraph 8 of the World Bank Policy for Program-for-Results Financing to effectively manage Program risks and promote sustainable development. These six principles are:

   - **Environment and Social**: Promote environmental and social sustainability in the Program design; avoid, minimize, or mitigate adverse impacts, and promote informed decision-making relating to the Program’s environmental and social impacts.

   - **Natural Habitats and Cultural Resources**: Avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources resulting from the Program.

\(^{1}\) Small-and Medium Enterprises (SMEs) are defined for the purpose of the Program’s Disbursement-linked Indicator 1 (DLI 1) in accordance with the FAO classification (2017), as agricultural enterprises that operate on less than 500 Ha of land with annual revenues of less than 20 million UAH. The SME definition used for DLI 4 is in accordance with the Article 55 of the Civil Code of Ukraine and includes (a) small-size companies with an average number of staff not exceeding 50 people and an annual revenue not more than EUR 10 million (based on NBU exchange rate); and (b) medium-sized companies with staff of up to 250 people and annual revenue of up to EUR 50 million (based on NBU exchange rate).
• **Public and Worker Safety:** Protect public and worker safety against the potential risks associated with: (i) construction and/or operations of facilities or other operational practices under the Program; (ii) exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and (iii) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.

• **Land Acquisition:** Manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist the affected people in improving, or at the minimum restoring, their livelihoods and living standards.

• **Vulnerable Groups:** Give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups.

• **Social Conflict:** Avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

4. The ESSA analyzes the system for environmental and social management as relevant for the Program with regards to each of these principles. The gaps identified through the ESSA and subsequent actions to fill those gaps directly contribute to the Program’s anticipated results to enhance institutional structures related to the Program activities. The ESSA analysis, presents a detailed description of the Program activities and the baseline conditions for existing environmental and social management systems. The Report draws on baseline information and presents an analysis of the existing system with regards to the core principles for environmental and social management in Bank Policy and Directive for Program-for-Results financing and presents a Program Action Plan that will be incorporated into the overall Program loan documentation.

**Program Description**

5. The GSAP sets forth a range of measures to mobilize private investment in agriculture and agribusiness sectors to boost their competitiveness, ensure national food security, increase agri-food exports and contribute to a steady economic growth by means of improving policy and regulatory coherence, transparency and non-discrimination, securing access to land and water, ensuring well-functioning input and output markets, improving efficiency of infrastructure and logistics, and strengthening the capacity of public institutions in line with social benefit and positive social effect, environmental benefits, and the best EU and international standards and practices. The GSAP, which is currently being finalized by the Ministry of Agrarian Policy and Food, is expected to be approved by the Cabinet of Ministers in February 2019.

6. The GSAP includes the following components: (i) harmonizing the Ukrainian agriculture and agribusiness legislation and regulatory framework with the EU; (ii) guaranteeing stability, predictability and transparency of the agricultural policy and state support system; (iii) stimulating the diversification of the agricultural sector production and promotion of the integrated development of rural areas; (iv) Strengthening food safety system capacity in the country; (v) encouraging and improving the efficient use of the available infrastructure for storage and transportation of agri-food products, creating a stable climate for investments in the infrastructure and logistics; (vi) improving tenure security, value and transparency of use of state agricultural land; (vii) Improving water resource management and user-led irrigation service delivery; (viii) supporting improved access to agricultural inputs for all types of agricultural producers; and (ix) improving access to finance and risk management instruments for all the stakeholders using the best EU and international practices.
7. Within this broader GSAP, the PforR focuses on promoting key reforms to prioritize and focus the government’s attention on unlocking the private sector investment potential in the country’s agriculture and agribusiness sectors. Following the Maximizing Finance for Development (MFD) approach, these key public investment, institutional, regulatory and public capacity constraints were identified as a priority during the extensive stakeholder consultations\(^2\) in the agriculture and agribusiness sectors and the existing analytical work. The Theory of Change below describes the relationship between the two programs and their activities, outputs and outcomes in more detail.

Environmental and Social Effects of the Proposed Program

8. The proposed PforR is largely aimed at improving systems and legal frameworks to improve the enabling environment for private investments in agriculture and agribusiness. The Environment risk is moderate due to the upstream nature of the DLIs, which focus on legal and regulatory reform. In preparing the Environmental and Social Systems Assessment (ESSA), the team identified environmental risks as follows: DLI 1 - **Improving Efficiency of State Support in Agriculture Sector**, main risk is overall capacity and lack of a proper system to engage the public by the Ministry – The suggestion is to therefore install a proper public engagement strategy and transparency in the Ministry’s service provision under the program. this risk will be mitigated through training, capacity building of State GeoCadaster, local councils, and a stakeholder engagement and public outreach campaign DLI 2 **Increasing Private Provision of Irrigation and Drainage Service in Agriculture**, dealing with the possible over extraction of water and over use of agrochemicals by newly established Water User Organization – this risk will be mitigated by establishing and monitoring an appropriate regulatory framework for managing the water user organizations who are created by wider usages of a particular area to protect their right and interests; DLI 3 – **Improving Functioning of Land Markets**, dealing with the possible registration of environmentally sensitive land for productive use identification of environmentally sensitive land in areas where registration and auctions are conducted. Also the state land could be used under lease or sublease category for agriculture and potential for access restrictions -This risk to be managed through series of actions including a robust grievance redress mechanism by the GeoCadaster, establishment of a land registration database which is transparent and accessible to the public and public awareness and outreach where the public could participate in land auctions and registration; and DLI 4 – **Improving Agribusiness Small and Medium Sized Enterprise (SME) Access to Export Markets**, dealing with the construction of ten Border Inspection Points (BIPs), the only physical infrastructure financed by the PforR – this risk will be mitigated by requiring site specific ESIA/ESMPs to identify direct risks which requires a national legal framework focusing on direct risks. Overall, the program will have positive impacts for different types of land users. Especially, defined and clear land plots through registration of state lands will promote private investors to engage in business activities. It does not involve private land acquisition; however, the PforR does finance the registration of state lands. It is estimated that, out of 10 million Ha of State land, only 3.7 million Ha have been systematically registered. Most of the state lands are located largely outside of communal/settlement areas and currently used by various types of lease agreements. Therefore, defined and clear land plots through registration of state lands will promote private investors to engage in business activities. Although, there is no land acquisition or physical/forced displacement of persons or properties under the program, potential restriction of access to those currently using of state lands for agriculture and livelihood activities under informal basis is not ruled out. The potential social

\(^2\) Stakeholder consultations were held with representatives of Committee of Agrarian Policy and Land Relation, Ministries of Agrarian Policy and Food, Finance, Infrastructure, Economic Development and Trade, and Environment, National Investment Council, State Service on Food Safety and Consumer Protection, as well as a number of trade associations and organizations: All-Ukrainian Agrarian Union, Ukrainian Grain Association, Association of Ukrainian Orchard Producers, Ukrainian Club of Agribusinessmen, European Business Association, American Chamber of Commerce in Ukraine, State GeoCadaster and financial institutions: OTP Bank and Credit Agricole.
risks include (a) implementation of land registration program that have equal access to land owners who have no or lack of knowledge obtaining the ownership titles, (b) potential conflict and/or disputes between different land users who have historical/customary rights as well as disputes at the community level to get productive lands; and (c) difficulties in registration of lands in conflict affected areas in Eastern part of the country, especially those who are displaced and may have lost the legal documents for their land. Also, the proposal to have a streamlined subsidy program, while having beneficial impacts on the current recipients, there might be potential resistance from some users of large agricultural lands who may lose such benefits and potential political oppositions by some local power groups could pose challenges.

9. As mentioned before, social risks of the program are mainly under results areas 1 (DLI 1 - Improving Efficiency of State Support in Agriculture Sector and DLI 3 - Improving Functioning of Land Markets). The potential social risks include (a) implementation of land registration program that have equal access to land owners who have no or lack of knowledge obtaining the ownership titles, (b) potential conflict and/or disputes between different land users who have historical/customary rights as well as disputes at the community level to get productive lands; and (c) difficulties in registration of lands in conflict affected areas in Eastern part of the country, especially those who are displaced and may have lost the legal documents for their land. Also, the proposal to have a streamlined subsidy program, while having beneficial impacts on the current recipients, there might be potential resistance from some users of large agricultural lands who may lose such benefits and potential political oppositions by some local power groups could pose challenges.

Assessment of Borrowers Systems

10. The Government of Ukraine has enacted a range of laws, regulations, and procedures relevant to the environmental and social effects of the proposed Program. The assessment of the existing environmental and social management systems finds that the existing legal and regulatory framework adequately addresses the social and environmental risks identified for the planned PforR; however, capacity for enforcing those existing regulations is mixed. In addition to mitigating the risks identified, the Program Action Plan will address the capacity shortcomings by strengthening the capacity of the implementing agencies and their linkages with the Ministry of Environment and Natural Resources (MENR) and the State Environmental Inspection body (a MENR agency). These laws and regulations are, from a legal and regulatory perspective, appropriate and comprehensive. While some capacity building and strengthening of enforcement of existing laws and regulations is needed, no significant changes to the overall structure and the applicable legal and regulatory systems are envisioned under this operation. The institutional capacity for managing environmental and social risks need strengthening. Hence, the environmental and social management capacity of the relevant institutions should be increased, technical knowledge of environmental and social management, and/or the financial capacity to operate the system as designed.

Stakeholder Consultation

11. Stakeholder consultations were an integral part of the ESSA process and were carried out keeping in view similar principles and objectives of other Bank operations. Stakeholder consultations carried out at two levels; a) agency level, and b) community level. The first part of the consultations/focus group discussions with key implementing agencies were completed during the period between October to November 2018. The consultations with agencies responsible for implementing DLIs, more specifically the staff who are responsible for administering and managing social and environment regulations, grievance management systems and field staff implementing the laws and regulation were presented at the discussions. These focus groups discussion were carried out through structured checklists/questionnaires. Second part of the consultation process with community and public stakeholders including NGOs and Civil
Society Organization is ongoing the results of the consultations will be incorporated in the final ESSA by early January 2019.

Recommendations and Proposed Actions
12. The team proposes following recommendations to implement an environmentally and socially sound program- Conduct training, capacity building, and identification of environmentally sensitive land in areas where registration is taking place (carry out a comprehensive public outreach campaign for the users of state lands as well as public on the land registration process and the benefit of defined land lots for private investments in agriculture, taking into account planning of territories DLI 1 and 3); Establish and monitoring an appropriate regulatory framework for managing the water user organizations to mitigate the possible over extraction of water and over use of agrochemicals by newly established Water User Organizations (DLI 2); and, for small scale construction of Border Inspection Points, prepare safeguards instruments such as ESIA/ESMPs to identify and mitigate environmental, social and occupational health and safety risks (DLI 4). Overall, our recommendation is to institute systems of consultation and debate. Discussions with government agencies and stakeholders have revealed that a participatory outreach strategy to communicate the details of the proposed interventions to the stakeholders concerned is being developed and implemented in a timely manner.
1. INTRODUCTION

Program Description

13. In Ukraine, the Government Strategy and Action Plan (GSAP) for Leveraging Private Investment in Agriculture and Agribusiness Sectors for 2019-2023 sets forth a range of measures to mobilize private investment in agriculture and agribusiness sectors to boost their competitiveness, ensure national food security, increase agri-food exports and contribute to a steady economic growth by means of improving policy and regulatory coherence, transparency and non-discrimination, securing access to land and water, ensuring well-functioning input and output markets, improving efficiency of infrastructure and logistics, and strengthening the capacity of public institutions in line with the best EU and international standards and practices. The GSAP, which is currently being finalized by the Ministry of Agrarian Policy and Food, is expected to be approved by the Cabinet of Ministers in February 2019.

14. The GSAP includes the following components: (i) Harmonizing the Ukrainian agriculture and agribusiness legislation and regulatory framework with the EU; (ii) Guaranteeing stability, predictability and transparency of the agricultural policy and state support system; (iii) Stimulating the diversification of the agricultural sector production and promotion of the integrated development of rural areas; (iv) Strengthening food safety system capacity in the country; (v) Encouraging and improving the efficient use of the available infrastructure for storage and transportation of agri-food products, creating a stable climate for investments in the infrastructure and logistics; (vi) Improving tenure security, value and transparency of use of state agricultural land; (vii) Improving water resource management and user-led irrigation service delivery; (viii) Creating preconditions for improved access to agricultural inputs for all types of agricultural producers; and (ix) Improving access to finance and risk management instruments for all the stakeholders using the best EU and international practices.

15. Within this broader GSAP, the Program for Results (PforR) focuses on promoting key reforms to prioritize and focus the government’s attention on unlocking the private sector investment potential in the country’s agriculture and agribusiness sectors. Following the Maximizing Finance for Development (MFD) approach, these key public investment, institutional, regulatory and public capacity constraints were identified as a priority during the extensive stakeholder consultations in the agriculture and agribusiness sectors and the existing analytical work. The Theory of Change below describes the relationship between the two programs and their activities, outputs and outcomes in more detail.

ESSA Methodology

16. The ESSA was prepared by the World Bank’s assessment team through a combination of reviews of existing program materials and available technical literature; and interviews with government staff, non-governmental organizations and sector experts. As part of the P4R appraisal process further consultations will be conducted with government and civil society stakeholders. The findings, conclusions and opinions expressed in the ESSA document are those of the Bank.

17. The scope of the ESSA covers the activities and systems necessary to achieve the PDO, and the defined Results Area Framework of the Accelerating Private Investment in Agriculture Program as represented by the Program’s DLIs. A scoping analysis was completed to determine the applicability of each of the six (6) P4R Environmental and Social Core Principles to the four DLIs and Results Framework (Results Framework attached as Annex 1). This scoping exercise was subsequently used to structure the remaining analysis of the ESSA which includes the following elements:

- Review of the baseline environmental and social information to understand the context under which the Program activities are undertaken.
• Analysis of environmental and social benefits and risks of the Program activities.
• Assessment of the borrower’s systems for environmental and social management for planning and implementing the Program activities for consistency with the applicable Core Principles.
• Identification of procedural and policy gaps with Bank Policy and Directive for Program-for-Results Financing as well as performance constraints in carrying out environmental and social management processes.
• Development of a set of viable actions to strengthen the systems and improve environmental and social performance outcomes of the Program.

18. The PforR provides multifaceted support to implement policy, regulatory, governance and social accountability measures of the Program. The ESSA analysis has been considered on two levels: (i) the system as written in laws, regulation, procedures and applied in practice; and (ii) the capacity of Program institutions to effectively implement the system.

19. The methodology included three distinct elements: (i) the first consisted of interviews with concerned agencies to understand the contours and implementation processes of key interventions proposed, as well as to understand the motivation behind them; (ii) the second element consisted of review of documents, literature and data available at key government agencies on the regulatory frameworks related to environment and social risk management including grievance management systems; and (iii) the third, and most important, consists series of focus group discussions (FGDs), which were arranged to get feedback directly from communities, or special interest groups, like NGO representatives, local councils, and SMEs, to assess possible impacts on different categories of stakeholders. The series of focus groups is on-going; therefore, the final ESSA will be revised to include the results of focus group discussion/stakeholder views.
2. ENVIRONMENTAL AND SOCIAL EFFECTS OF THE PROPOSED PROGRAM

Boundary Settings and Risk Management in Program Design

20. The PforR will support the GSAP’s implementation during years 2019-2023 providing financing to activities required to achieve two agreed Results Area: 1) Increasing competitiveness of the input; and 2) Linking farmers to domestic and export markets.

Excluded Activities

21. The PforR does not support any major physical investment-related activities (large civil works and activities requiring land acquisition and/or physical displacement). Rather it aims to improve business environment and service delivery for private investment in agriculture sector through strengthening regulatory frameworks, governance, and accountability.

Potential Environmental and Social Benefits and Risks

22. The PforR is expected to have both potential environmental and social benefits, and risks. The social and environmental benefits are expected to include increased protection of rights in the land lease; increased transparency of auctioning of the lease or ownership rights; improved land management with reduced environmental footprint; and improved access to markets.

23. The potential environmental and social risks of the PforR are assessed to vary from low to moderate considering that the PforR does not finance any major investment-related activities (large scale civil works). The potential social and environmental risks and impacts are expected to be related to: change in land property rights and land lease (more transparency); future activities resulting from establishing new water user organization; and small-scale construction of ten border inspection points (BIPs). These potential risks could be managed with proper planning, monitoring of the implementation and capacity building of the Program implementing agencies.

24. The Table 1 below summarizes identified environmental and social risks associated with the PforR implementation.

Table 1 – Environmental and Social Risks and Benefits

<table>
<thead>
<tr>
<th>DLIs</th>
<th>Environmental and Social Benefits</th>
<th>Environmental and Social Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>DLI1: Improving Efficiency of State Support in Agriculture Sector.</td>
<td>Improved registration, monitoring, conflict resolution around land parcels and land dedication (agricultural use, nature protection, etc.) Improved capacity to oversight environmental aspects.</td>
<td>Potential social risks due to demarcation and registration of state land which are already under different type of use e.g. lease and sublease and informal use of state land.</td>
</tr>
<tr>
<td>DLI2: Increasing Private Provision of Irrigation and Drainage Service in Agriculture</td>
<td>Easier access to water in rural areas especially for households. Improved water provision/supply quality by better water pipelines management. Development of irrigation land, increase productivity</td>
<td>How the water management will be set up. Water Quality, Water resource management (efficient extraction).</td>
</tr>
<tr>
<td>DLIs</td>
<td>Environmental and Social Benefits</td>
<td>Environmental and Social Risks</td>
</tr>
<tr>
<td>------</td>
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<td>--------------------------------</td>
</tr>
<tr>
<td>DLI3: Improving Functioning of Land Markets: <strong>Sub-DLI 3.1:</strong> Registration of state land; <strong>Sub-DLI 3.2:</strong> Improving transparency of land auctions; <strong>Sub-DLI 3.3:</strong> Improving protection of rights in land and mortgage market; <strong>Sub-DLI 3.4:</strong> Strengthening of the legal aid system</td>
<td>Improved registration of land parcels and their designation will benefit protection of buffer zones and protected areas. Reduced conflict around the parcels. Reduced corruption/misuse of the subsidy programs Improved land management since transparent auctions of the lease or ownership rights would provide long-term guarantee to the land Reference number for land price A methodology/procedure on land pricing)</td>
<td>Opposition to put the registry in place as it may cut off subsidies to some categories. Land that designated for nature protection can be used for some productive use.</td>
</tr>
<tr>
<td>DLI4: Improving Agribusiness SME Access to Export Markets <strong>Sub-DLI 4.1:</strong> Promoting SME access to export markets; <strong>Sub-DLI 4.2:</strong> Facilitating cross-border trade</td>
<td>Improved food safety by applying EU standards/methodology for import-export controls, applying traceability</td>
<td>BIP construction: request EIA reports for their sites (EIA well established procedure, check FSA); Occupational Health and safety</td>
</tr>
</tbody>
</table>

**Social and Environmental Benefits**

25. The 2013 establishment of a new state cadaster system as well as the registration of clearly designated land parcels provides benefits through improved transparency in the agriculture land lease system. Four DLIs of the PfoR could potentially lead to protection of rights as well as improvements in environment, sanitary, natural resource, and related legislation. Sanitary protection zones along water courses, wetlands, and nature protected areas as well as their buffer zones could be developed and keeping in proper stage. It would also benefit soil quality and land management practices since transparent auctions of the lease or ownership rights would provide long-term guarantee to the land leaseholder and potentially attract further investments in the agricultural sector. In the long-term, greater transparency should lead to greater trust between land owners and leaseholders, local and international businesses, and the local and national government.

26. The adoption of the new Law of Ukraine “On Water Users Organization” (WUO) will define ownership rights to farmland water networks and transfer their management, operation and maintenance
to WUOs and other water users. This should improve the quality of irrigation and drainage services and proper usage of common infrastructure.

27. The DLI4 activities will result in improved food safety that will be reached by applying the legislation on quality and safety of food products and implementation of measures, that includes installation of border inspection point for import/export food and other agricultural commodities.

Social and Environmental Risks

28. The Social and Environment risks are moderate due to the upstream nature of the two Results Ares and related DLIs, which focus on legal and regulatory reform.

29. In preparing the Environmental and Social Systems Assessment (ESSA), the team identified social and environmental risks associated with Results Area 1 on increasing competitiveness of input markets and Results Area 2 on linking farmers to domestic and export markets and their related DLIs as follows:

30. The registration of land plots may result in land that is designated for nature protection be used for some productive purposes. Absence of clear and comprehensive community land boundaries may result in tension and disputes between neighboring areas as well as competition among local population for the land parcels.

31. The Adoption of new Law that supports the creation of Water User Organizations (WUO) of the regulations that stipulates two-part tariff on water and licensing water extraction mechanism without capacity building program of WUO for not more than one year after the start of the PforR, implementation of proper management and monitoring systems may result in dealing with the possible over extraction of water and over use of agrochemicals. New tariff systems may also generate social tensions among water users who have different shares and some of them who are not members of WUOs but using water.

32. The construction of ten Border Inspection Points (BIPs) is the only physical infrastructure financed by the PforR. If the construction of BIPs will be done properly with site specific ESIA/ESMPs in accordance with Ukrainian EIA and Occupational Health and Safety regulations, the risk of the results of the activity will be negligible. Detail description of actions to mitigate identified social and environmental risks are found below in Chapter 7 and Annex 2.
3. REGULATORY FRAMEWORK FOR MANAGING THE PROGRAM’S ENVIRONMENT AND SOCIAL IMPACTS

33. The legal basis for environmental protection in Ukraine is quite exhaustive and evolving towards EU standards and requirements (EU-Ukraine Association Agreement). Different aspects of the national environmental protection and nature resource management associated with achieving the PforR Development Objective and DLIs are primarily covered by the following laws and regulations:

- Law on Environmental Protection\(^3\), #1264-XII, adopted on June 25, 1991;
- Law on Nature Reserve Fund\(^4\), #2456-XII, adopted on June 16, 1992;
- Law on Ukraine on Pesticides and Agrichemicals\(^5\), #86/95-BP, adopted on March 2, 1995;
- Water Code\(^6\), #213/95-BP, adopted on June 6, 1995;
- Land Code\(^7\), #2768-III, adopted on October 25, 2001;
- Law on Land (Sub-soil) Protection\(^8\), #962-IV, adopted on June 19, 2003;
- Law on Environmental Audit\(^9\), #1862-IV, adopted on June 24, 2004;
- Law on Urban Planning Activities\(^10\), #3038-VI, adopted on February 17, 2011;
- Law on Access to Public Information, #2939-VI, adopted on January 13, 2011;
- Law on Voluntary Association of Territorial Communities, #157-VIII, adopted on February 5, 2015;
- Law on Environmental Impact Assessment\(^11\), #2059-VIII, adopted on May 23, 2017;
- Law on Strategic Environmental Impact Assessment, #2354-VIII, adopted on March 20, 2018, and
- Secondary legislation adopted to cover practical implementations of the legislation mentioned above, defines public information request, grievance mechanisms and others, for example:
  - The Decree of the Cabinet of Ministers of Ukraine No. 1026, December 13, 2017 defines the Procedure for the transfer, disclosure of documents required for the assessment of the environmental impact from financing of the project and registration of the project EIA in the Unified Register on Environmental Impact Assessment;
  - The Order of the Ministry of Ecology and Natural Resources of Ukraine #42, adopted on February 3 2012, On Approval of the Procedure for Consideration of Requests for Public Information Received by the Ministry of Ecology and Environmental Protection of Ukraine, defines procedures;
  - The Order of the Cabinet of Ministers of Ukraine on Procedure and Criteria for Provision of Subvention from the State budget to Local Budgets of Associations of Territorial Communities for Infrastructure Development; and

\(^3\) http://zakon.rada.gov.ua/laws/show/1264-12
\(^4\) http://zakon.rada.gov.ua/laws/show/2456-12
\(^5\) http://zakon.rada.gov.ua/laws/show/86/95-%D0%B2%D1%80/ed20120321
\(^6\) http://zakon.rada.gov.ua/laws/show/213/95-%D0%B2%D1%80
\(^7\) http://zakon.rada.gov.ua/laws/show/2768-14
\(^8\) http://zakon.rada.gov.ua/laws/show/962-15
\(^9\) http://zakon.rada.gov.ua/laws/show/1862-15
\(^10\) http://zakon.rada.gov.ua/laws/show/3038-17
\(^11\) http://zakon.rada.gov.ua/laws/show/2059-19
34. Despite this comprehensive list of environmental legal and regulatory acts, most of provisions remain declaratory in nature. Many of the acts are not coordinated with each other, and legislation undergoes limited analysis of its impact and is frequently changed. The signature of the EU-Ukraine Association Agreement is expected to spur the enhancing environmental legislation by bringing in line with the EU directives and enforcement requirements.

35. By reviewing the provision of the listed above laws, and regulations and orders adopted under these laws the ESSA team is seeking to assess the national systems for managing environmental effects of a proposed PfOR activities.

**Environmental Aspects**

36. The Law of Ukraine on Environmental Protection, adopted in 1991, regulates institutional relations on environmental protection; water resources usage; renewable resources usage; environmental safety; prevention of negative impacts of productive activities on natural environment; preservation of nature and genetic fund of living organisms; preservation of unique landscapes including historical heritage. It sets a mandatory requirement for carrying out environmental impact assessment. The assigns the responsibility for carrying out to the central government agency, MENR.

37. Law on Nature Reserve Fund (1992) defines the list of territories and objects of the nature reserve fund of national importance and the financing source. This law covers nature reserves, biosphere reserves, national nature parks, botanical gardens, parks, and zoological parks.

38. The Law of Ukraine on Pesticides and Agrichemicals (1995) regulates the state registration, production, purchase, transportation, storage and trade of pesticides and agro-chemicals. It is also regulates health and safety of the environment and people using pesticides and agro-chemicals. Specifically, the law assigns responsibility to test and register pesticides and agrochemical before their production, purchase and usage in Ukraine to the MENR. The MENR must keep the registration list of pesticides and agro-chemicals that are permitted in Ukraine. The MAPF’s responsibility is to propose the pesticides and agrochemicals to be permitted for use in Ukraine and added to the registration list. MAPF is also responsible for the implementation of state control over the residual quantities of pesticides, agrochemicals and heavy metals in surface water intended for agricultural purposes, soils on agricultural lands, animal feed, and also in agricultural products and raw materials. Violation of the provisions of this law leads to civil, disciplinary, administrative or criminal liabilities.

39. The Water Code was adopted in 1995 and amended regulates water conservation; rational water use; protection of water resources from pollution, contamination, and depletion; improvement of ecologic conditions of water bodies; and protection of water user’s rights. The Water Code provides a background for the development of state targeted programs, regional programs, water cadaster and various legal acts. It foresees conducting ecological expertise during modernization and building the facilities related to water use; conducting a state recording of water consumption and sewage discharge; conducting standardization in the area of water protection and usage; and implementation of state monitoring of water resources.

40. The main objectives of the ‘Land Code’ of Ukraine, adopted in 2001, are to regulate land relations in order to ensure the right to land of citizens, legal entities, territorial communities and the state, as well as the rational use and protection of the land in the interests of current and future generations. Also this law regulate water relations, as well as relations of the use and protection of underground resources, as
this concerns land relations. One of the provisions of the Code stipulates that a land parcel may be may be divided into portions without changing its purpose and permitted use.

41. The Law of Ukraine on Land (Sub-soil) Protection defines the legal, economic and social aspects of land protection to ensure rational use, protection reproductive capacity, soil fertility and other useful properties of soil, preservation of ecological functions of soil and environmental protection.

42. Law on Environmental Audit (200) determines the basic legal and organizational principles of implementation of environmental audit. The Law defines environmental audit as an independent documentary process of assessment of object of environmental audit including collection and objective assessment of proofs for establishment of compliance of certain types of activity, measures, conditions, systems of ecological management and information. Provisions of this law extend to companies, organizations, their branches and representations or associations of all forms of ownership, separate productions, other economic objects in general or by separate types of their activities.

43. Law of Ukraine 'On Regulating Urban Development' adopted in 2011 establishes standards, scope and review procedures for design documentation for construction/rehabilitation/modernization projects. The aim of this Law is "to establish legal and organizational principles of city planning activities which should be aimed at achieving sustainable development of territories taking into account state, public and private interests".

44. Recent changes introduced to the Law in 2017 were made to harmonize the Ukrainian legislation in the field of construction in accordance with Regulation (EC) 305/2011 of the European Parliament and the Council on the Establishment of Harmonized Conditions for Distribution on the Construction Products Market and the Withdrawal of Directive 89/106/EEC.

45. The most significant changes were:
   - Instead of a construction complexity class, the concept "Consequence (liability) class for buildings and structures" was introduced. All objects are divided into three classes of consequences: 1) minor consequences is CC1 (construction/rehabilitation of BIPs will most likely fall into this category); 2) mid-level consequences is CC2 (some port infrastructure improvements will fall within this category); and 3) significant consequences is CC3 (significant modernization of fertilizer production factory may correspond to this category). The consequence class is determined in accordance with building regulations and standards.
   - Changes were made to the list of construction projects that are subject to compulsory examination. Thus, in accordance with the changes, the construction projects that are not subject to mandatory inspection are related to objects with minor consequences (CC1). Construction projects of the third complexity class will be subject to compulsory inspection.
   - The legislation significantly expanded the powers of the state architectural and construction control body. Among other things, for example, permission to perform construction work can be reversed in the event of the systematic (two or more consecutive times) obstruction of an inspection.
   - Simultaneously with authority, there are broad grounds for conducting an unscheduled inspection of the construction site, for example, simply on the basis of an application submitted by any individual.

46. The Law stipulates that CC1 projects must send a notification to an authorized body instead of the construction works commencement declaration previously required which entails less oversight on design documentation. A construction permit will be an approval document required for both CC2 and CC3
projects. The commissioning of any such project will be performed based on a commissioning act by way of the competent authority issuing the relevant certificate.

47. Law of Ukraine ‘On Access to Public Information’ determines procedure for exercising and ensuring the right of everyone to access to information in possession of public authority and other administrators of public information determined by the Law and to information of public interest. The law specifies requirements for environmental information provision, not only by governmental organizations, but also by other economically active organization must provide information (if they posses it) on the state of environment; quality of food and consumer goods; disasters, hazardous natural events and other events which can pose threat to the health and well-being of citizens.

48. The Law of Ukraine ‘On Sea Ports’ adopted in 2012, defines relations in the field of port operations and ensure the effective functioning of the port industry of Ukraine. The Law considers a seaport as “some of the territory and waters, equipped to service the ships and passengers, carrying freight, transport and forwarding activities, as well as other related economic activities.” The Law stipulates creation of a single state-owned enterprise – the administration of the seaports of Ukraine to ensure the functioning of seaports, maintenance and use of state property, as well as navigation safety. Among others the Sea Port Authority Administration responsibilities include, among others, the compliance with the legislation on environmental protection and provision of services on pollution elimination of the territory and water area of the seaports.

49. Recently adopted Law of Ukraine ‘On Environmental Impact Assessment’ came into force on December 18, 2017. The Law sets legal and organizational policies for an environmental impact assessment with a view to avoid and prevent environmental damage, ensure environmental safety, environmental protection, rational use and restoration of natural resources, in the process of decision-making on economic activities likely to cause a significant impact on the environment, taking into account state, public and private interests. The law requires mandatory assessment of effects (both direct and indirect) on the environment of certain industrial installations and activities including as follows:

- Chemical production including production of basic mineral fertilizers, production and storage of nanomaterials of more than 10 tons per year.
- Hydro technical facilities of sea and river ports that can take vessels of over 1 350 tons.
- Deep water vessel ways including those along natural river beds, specialized canals on land and in shallow marine waters permitting the passage of vessels of over 1 350 tons.
- Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic meters.

50. As part of the assessment process, the environmental authorities (MENR or MENR’s regional offices) need to be provided with an assessment of the environmental effect and the report will be subject to public discussion. Based on this, environmental authorities provide their opinion on the assessment. A report on the environmental impact assessment, a report for public discussion, and an opinion of environmental authorities forms the basis for local authorities to issue a relevant permit.

Social Aspects

51. Legal Framework Ukraine: Land and Agribusiness. Ukraine was one of the republic of Soviet Union, where were no private property to land, real estate and means of production. Ukraine obtained independence in 1991 after Soviet Union crash, privatization of means of production started as well as real estate privatization.
52. The main agrarian producers at that time were enterprises based on “collective property” named "Kolgosp" Ru: "Kolhos" (collective enterprise), later named CAE (Ukr.: КСП) ("collective agricultural enterprise") as far as Law of Ukraine “On collective agricultural enterprise” was adopted February 14, 1992. Collective enterprises were declared as not state, but collective property meaning property of members of the enterprise, those who are working on it.

53. At the same time Land Code of Ukraine was approved on March 03, 1992 were declared that there are three kind of property to land: state, collective and private. Collective means the property that at the same time belongs to CAE and members of the CAI. Collective property might be equally shared among members of the CAE, if they apply.

54. On August 8, 1995 President of Ukraine issued the decree of the president “On the order of sharing of the land that are provided to collective property of agrarian enterprises” (Ukr: “Про порядок пайовання земель, переданих у колективну власність сільськогосподарським підприємствам і організаціям”). According to the decree of the president proses of sharing the collective lands started. Each of the members of former CAE received certificate. The document does not contain borders, but confirms that the person has rights to ask for land plots of former CAI with definite characteristics and registration as land ownership rights. For the time since the decree of the president was issued to about 7 million, people who received the property rights to the plots. About 75% of the people are aged pensioners. Some of them registered it before January 01, 2013 (date of the new system of registration is lunched). There are some who still poses land share, the number of it is significant, the share-rights are not registered at new system of registration of rights.

55. System of registration rights on land and real estate. Ukraine had not system of registration rights on the period of Soviet Union but started registration of real estate and land rights as soon as they appear in Ukrainian legislation. At the same time the system was pure and not proper functional, it was paper based, not centralized, subordinated to the local power (each rayon had its own not unified software), registration of land was separated of registration of buildings, constrictions and flats), there were no synchronization of data, number of other registers existed (like register of contracts, register of hypothecs, register of arrested property ect.), system of coordinates was not unified for all over Ukraine.

56. New system of registration is much better; notwithstanding, still have some comparatively significant imperfections (mistakes, some way to make fail registration and frauds, vagueness. New system is based on unified, covering all Ukraine system, managed by office in Kyiv, it contains two components: land registration and rights registration. New system lunched since January 01, 20013, there are two laws that govern the system:

- Law aw of Ukraine State “On state registration of property rights and its encumbrances” of June 01, 2004: (in Ukrainian: “Про державну реєстрацію речових прав на нерухоме майно та їх обтійень”). Rights on real estate (flats, buildings, constructions as well as on land plots) are registered according to the law.
- Law of Ukraine “On state land cadaster” of July 7, 2011 (in Ukrainian: «Про державний земельний кадастр»). According to the law the system of registration of lands is created as well as other technical and other information related. If a land plot is registered, it becomes an object of property rights. The new system of registration and of land and rights functions well, in spite some problems exists, but there are many steps done to minimize problems and perspective to exclude it quite visible.

57. Constitutional and other general legislation that deal with land and agribusiness. Ukraine has constitution that was approved in 1996, there were some amendments done, but they are not directly related to agriculture business. Nevertheless, the draft was initiated to make amendments to Constitution
of Ukraine to point at the Constitution that economic activity in agriculture based on farmer’s business. The draft was preliminary approved by Parliament of Ukraine then sent to the by Constitutional court of Ukraine and the court approved it. It means that the draft has chance for final approval.

58. There are two contradicting ideas that is directly related to land law (13 and 14 article): land declared as property of people of Ukraine (that may be understood as it is only state property allowed while only state may represent people of Ukraine), at the same time next article says that private property is allowed.

59. Ukraine has Civil Code of Ukraine that was approved in 2003, property rights were settled based on freedom of property, contracts, dignity and respect to rights of a man and citizen. Land code was approved in 2003 that, among others, contains provisions related to private property. Nevertheless, Ukrainian land and agrarian business law still contain archaisms and ideas that are either populist or not in forcible. There are two key aspects in this regard; 1) Populist or not in forcible ideas of land law - Free privatization: everyone may receive land for free (maximum 2 HA of rural land, the rest is for buildings, garage, etc.) That land depends to people of Ukraine; 2) Decentralization issues - Land legislation differs types of property depends on the subject: state, communal and private property. Private everything that is already registered to a legal entity or a person, communal – is what is inside of the boundaries of a settlement (it is general rule) as far it a land plot in outside the border and passed to the local council and there are some plots that are inside settlement but are the state property.

60. At the same time governments started strategy of decentralization of land relations that means that state owned land plots are passed to local councils. At the same time Law of Ukraine “On amalgamated councils” stimulates creating such councils.

61. Subsidies to agriculture. The main law of the issue is Law of Ukraine “On state support of agriculture in Ukraine” of June 24, 2004 (Ukrainian: “Про державну підтримку сільського господарства України”). The law setup main issue of state policy in sphere of budget, crediting, price, regulatory and other support of agriculture. There are many different programs that aimed to make subsidies of agriculture, amount of money for each of them are preceded by law of state budget that is approved annually. Each business and other entity interested in receiving a subsidy will submit an application.

62. Business entities in Ukrainian agribusiness There are following producers of agriculture exists:

- Farmers and small and medium business registered as legal entities or as a private enterprises.
- Medium sized business.
- Big sized business (Agriculture holdings, that are owned by international players, some of them are IPO-players).
- Households, not registered as a business entity (traditionally are producing significant part of the market shared of food products).

63. Rights protection (related to agrarian business as well) system. Ukraine has system of free legal aid, Law on Free aid was approved June 6, 2011, and one of the aims of the law is dissemination of legal knowledge for those who is not able to pay for it. Such service in particular related to land and agrarian business law.
64. Law of Ukraine of Parliamentary ombudsman exists, system of ombudsman is functioning well. WB project had developed proposal on the issue that proposes use the system to settle land ombudsman\textsuperscript{12}.

65. The proposal the project did is use institution of Parliamentary ombudsman and appoints Land representative of Parliamentary ombudsman that needs no changes to legislation.

66. Moratorium to land and land market. Market of other land than agrarian exists in Ukraine and functions well. Moratorium for rural land that received from former CAI was lunched at the same day as new Land code was adopted (2001). Formulation of moratorium was modified several times and postponed almost each year, in current edition the moratorium points that it will be shifted from January 01, 2019 and after Law on rural land market approved. Nevertheless, not draft has yet initiated by the Government, no draft approved in first hearing, but there are some that initiated by MPs.

67. The prohibition of circulation of land spreads to land shares and land rural plots that received from former CAE, as well as to state and rural land, but not applicable for change operation (barter), inheritance, and purchase for public needs and those plots that are received according free privatization rules. Such plots can be rented out.

68. There were two applications to Constitutional Court of Ukraine in 2018 initiated by MPs to Constitutional court make conclusion; weather moratorium corresponds to Constitution of Ukraine. In both cases (February and November) the applications were not started to hear, while, according to the court view, the form of application are not corresponding with requirements and there is no relation between moratorium and constitutional rights that guarantees property rights, as pointed by Constitutional court.

69. In March 2018 ECHR (European court of Human rights) heard the case “Zelenchuk and Tsitsura vs Ukraine”, Ukraine lost; ECHR decided that moratorium violates rights of owners for peaceful possession of the property (Artl 1 Protocol 1 of Convention of human rights), but gave time for Ukraine to approve proper legislation and this tie has not appointed any compensation, but pointed that next time it might be done.

70. Nevertheless, there are few court cases in Ukrainian court that may be a precedent to system, that may break down prohibition, there is the risk for the state that next applications to ECHR might precede compensation to the owners.

\textsuperscript{12}Short version of the report and recommendations can be reached here http://www.kse.org.ua/uk/research-policy/land/analytical/?newsid=2162
4. CAPACITY ASSESSMENT FOR MANAGING THE PROGRAMS ENVIRONMENT AND SOCIAL EFFECTS

71. The Ministry of Finance will be the ministry with overall responsibility for the delivery of the PforR. The Ministry of Agrarian Policy and Food will be responsible for the implementation of the DLIs:

- DLI 1: Improving Efficiency of State Support in Agriculture Sector.
- DLI 2: Increasing Private Provision of Irrigation Service in Agriculture (in collaboration with the Ministry of Environment and Natural Resource Management (MENR), State Agency for Water Resources, GeoNadra, as well as the Institute for Water Problems and Land Reclamation, which will be housing the WRIMs).
- DLI 3: Improving Functioning of Land Markets (in collaboration with the Ministry of Justice (MOJ) and the State Service of Ukraine for Geodesy, Cartography, and Cadaster (GeoCadaster)).
- DLI 4: Improving Agribusiness SME Access to Export Markets (in collaboration with the State service of Ukraine for Food Safety and Consumer Protection (FSA)).

72. The MAPF will carry out all functions related to the technical implementation of the DLIs, as well as Procurement, Financial Management, and any Safeguards functions related to the implementation of the DLI.

73. MAPF does not have any structural department and/or staff dedicated to environmental issues, nor does it have any interim procedures for assessment of environmental risks and impacts of policy developments. Historically and according to the existing legislative base all the environmental issues related to these DLIs (allocation of protective status to land, water quality assessment and monitoring, requirements for wastewater discharge systems etc.) are dealt with by MENR and State Environmental Inspection (body under MENR supervision).

74. At this time, no environmental or social risks were identified for actions related to the adoption of the necessary legal framework to allow for use of EU-approved fertilizer thus this agency was not assessed for environmental capacity.

75. For DLI 3, GeoCadaster has a department of Land Management and Land Protection dedicated to ensuring that all the lands are being use according to their assigned category (agricultural, natural reserve, water fund etc.).

76. Main tasks of GeoCadaster according to Ukrainian legislation are\(^{13}\): 

- Implementation of the state policy relating to scientifically based land redistribution, forming proper national system of land ownership and land use with elimination of deficiencies in lands location, creation of ecologically sustainable landscapes and agro-systems.
- Informational support of legal, economical, ecological and city planning mechanism of land relations regulation on national, regional, local and household levels by the development of proposals on establishment a special regime and special conditions of land use.
- Providing activities on predicting, planning, and organization of rational land use and land protection on national, regional, local and household levels.

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\(^{13}\)Regulation of the Cabinet of ministries # 15 of January 15, 20015 (Ukr.: Положення про Державну службу України з питань геодезії, картографії та кадастру, затверджене постановою Кабінету Міністрів України від 14 січня 2015 р. № 15) -- http://zakon.rada.gov.ua/laws/show/15-2015-п
• Organization of local agricultural enterprises territories with creation of spatial conditions that ensures ecological and economical optimization of agricultural lands use and protection, implementation of advanced forms of land use management organization, improvement of correlation and placing of lands, crop rotation, haymaking and pasture system.

• Main task relating to land protection that is carried out by regional bodies of land resources is to provide the preservation and reproduction of land resources, ecological value of natural and gained land characteristics.

• Competence of bodies of land resources relating land protection:
  - Development of basis and support in achievement of rational land use;
  - Protection of agricultural lands, forests and shrubs from their baseless exclusion for other needs;
  - Protection of lands from erosion, mudflows, flooding, waterlogging, salinization, draining, compaction, industrial waste/chemical/radioactive pollution, and from other adverse natural and man-made processes;
  - Preservation of natural water lands and swamplands;
  - Prevention from aesthetic condition and ecological role deterioration of anthropogenic landscapes; and
  - Conservation of degraded and unproductive agricultural lands.

77. The first compliance inspection was dedicated to natural reserves lands, as well as unoccupied lands and state-owned lands. Inspection has found numerous cases of incompliance causing agricultural losses and many cases of illegal land possession.

78. The Land Management and Land Protection Department is authorized to:

• substantiate and ensure the achievement of rational land use.
• protect agricultural land, forest lands and shrubs from ungrounded allocation for other needs.
• protect lands from erosion, landslides, flooding, waterlogging, secondary salinization, re-drying, sealing, pollution by production waste, chemical and radioactive substances and from other unfavorable natural and man-made processes.
• conserve natural wetlands.
• prevent deterioration of the aesthetic state and the ecological role of anthropogenic landscapes.
• conserve degraded and unproductive agricultural land.

79. However, GeoCadaster is not authorized not is it equipped with proper expertise to issue category of ‘protected lands’ (in a sense of ‘natural reserve’) – this is done through environmental expertise and submission from the Department of Environmental Network and Nature-Protection Fund of the MENR. Potential social risk is related to disputed land parcels due to unclear boundaries between land plot and improper demarcation of state and communal land. Even though GeoCadaster is responsible for land registration in the cadaster system, they enter the data based on the measurements and geocoordinates provided by local authorities and verified by numerous land registration agents and those coordinates may differ in reality.
80. From social side, the MOJ system is in compliance with GeoCadaster system and needs to be further developed to reflect each transaction on land market available immediately at the registries.

81. FSA has many environmental responsibilities in the field of pesticides use management, invasive fauna control, livestock disease prevention and other similar issues. Still, in the matters pertinent to the subject of this DLI (which entails construction/reconstruction of buildings) FSA does not have any oversight for environmental risks and impacts as they are governed by environmental legislation and authorized state body – MoA.

82. Ministry of Environment and Natural Resource Management (MENR) is operates in the field of environmental protection, ecological safety, treatment of waste, hazardous chemicals, pesticides and agricultural chemicals and perform state ecological expertise.

83. The MENR is entitled in the area of atmospheric air, preservation of ozone layer, restoration and protection of flora and fauna, restoration and protection of lands, restoration and protection of water resources (surface, ground, sea waters), efficient usage of water resources.

84. Moreover, MENR ensures legal and regulatory governing of the water management and land reclamation, geological study and efficient usage of mineral resources, as well as performs state supervision on the fulfillment of the requirements of the environment legislation.

85. Departments and agencies relevant to the implementation of DLIs and their human resources in the central office:
   - Department for protection of land, soil and water resources – 11 people;
   - Department for environmental network and nature reserve fund – 20 people;
   - Department for waste management and environmental safety – 9 people;
   - Department for environmental impact assessment and environmental permits and certificates – 23 people; and
   - Department for budget policy and financial planning – 17 people.

86. Regional departments hosted by state regional administrations have the same responsibilities but on a local scale and for some cases/activities have to fall back on central body expertise (for example, ESIA for high hazard facility such as fertilizer production would be submitted to and reviewed by the central office of MENR, not local department).

87. State GeoCadaster is the central state body of executive power which is coordinated by Cabinet of ministries of Ukraine by the Minister of agrarian policy and food, the state body realizes state policy in sphere of topography, geodesic and cartography, land relations, land use system, state land cadaster, state oversight (control), use and protection of land of all categories and ownership, fertility of land.

88. The competence of the State GeoCadaster is the following:
   - Implementation of the state policy relating to scientifically based land redistribution, forming proper national system of land ownership and land use with elimination of deficiencies in lands location, creation of ecologically sustainable landscapes and agro-systems.

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- Informational support of legal, economical, ecological and city planning mechanism of land relations regulation on national, regional, local and household levels by the development of proposals on establishment a special regime and special conditions of land use.
- Providing activities on predicting, planning, and organization of rational land use and land protection on national, regional, local and household levels.
- Organization of local agricultural enterprises territories with creation of spatial conditions that ensures ecological and economical optimization of agricultural lands use and protection, implementation of advanced forms of land use management organization, improvement of correlation and placing of lands, crop rotation, haymaking and pasture system.
- Main task relating to land protection that is carried out by regional bodies of land resources is to provide the preservation and reproduction of land resources, ecological value of natural and gained land characteristics.
- Competence of bodies of land resources relating land protection:
  o Development of basis and support in achievement of rational land use;
  o Protection of agricultural lands, forests and shrubs from their baseless exclusion for other needs;
  o Protection of lands from erosion, mudflows, flooding, waterlogging, salinization, draining, compaction, industrial waste/chemical/radioactive pollution, and from other adverse natural and man-made processes;
  o Preservation of natural water lands and swamplands;
  o Prevention from aesthetic condition and ecological role deterioration of anthropogenic landscapes; and
  o Conservation of degraded and unproductive agricultural lands.

89. There are following directions of activity of State GeoCadaster: i) cadaster and registration; ii) geodesy and cartography; iii) administrative services; iv) land use system and land protection; v) expertise; vi) assessment of land; vii) certification; viii) land market; ix) disposal of state land.
5. COMPARATIVE ANALYSIS OF BORROWER SYSTEM AND BANK CORE PRINCIPLES

90. This section provides an assessment of the extent to which the applicable systems are consistent with the core principles and key planning elements expressed in the Bank’s policy on PforR (OP 9.0). It also provides a review of the implementing agencies capacity and aspects where gaps exist between Bank policy requirements and the country systems.

91. The six core principles that guide the ESSA analysis are presented in the Program-for-Results financing guidelines (OP/BP 9.00) and include:

92. **Core Principle 1: General Principle of Environmental and Social Management.** This core principle aims to: (a) avoid, minimize, or mitigate against adverse impacts; promote environmental and social sustainability in Program design; and promote informed decision-making relating to the Program’s environmental and social effects.

93. **Core Principle 2: Natural Habitats and Physical Cultural Resources.** This core principle aims to avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources resulting from the Program.

94. **Core Principle 3: Public and Worker Safety.** This core principle aims to protect public and worker safety against the potential risks associated with: (a) construction and/or operation of facilities or other operational practices developed or promoted under the Program; (b) exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and (c) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.

95. **Core Principle 4: Land Acquisition.** This core principle aims to manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist affected people in improving, or at a minimum restoring, their livelihoods and living standards.

96. **Core Principle 5: Indigenous Peoples and Vulnerable Groups.** This core principle aims to give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups. The core principle also emphasizes the need of giving attention to groups vulnerable to hardship or disadvantage, including as relevant the poor, the disabled, women and children, the elderly, or marginalized ethnic groups. If necessary, special measures are taken to promote equitable access to program benefits.

97. **Core Principle 6: Social Conflict.** This core principle aims to avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

98. In analyzing a program for consistency with the sustainability principles of OP/BP 9.00, the ESSA is intended to ensure that programs supported by PforR financing are implemented in a manner that maximizes potential environmental and social benefits and avoids, minimizes or mitigates any and all adverse environmental and social impacts and risks. Essentially, the ESSA process seeks to improve institutional performance related to the program’s development objectives.

99. For this PforR operation, the ESSA examines Ukraine’s existing environmental and social management systems as applicable to the agriculture and agribusiness sector and, in particular, to the four DLIs supported by the PforR.

100. The ESSA describes the potential environmental and social effects associated with the PforR supported activities. The ESSA also assesses institutional roles and responsibilities related to implementing the DLIs and describes current capacity and performance to carry out those roles and
responsibilities in line with each of the six Core Principles outlined above. The ESSA also considers public participation, social inclusion, and grievance redress mechanisms in place and as applied to the PforR.

101. It is important to note that the ESSA will be updated based on the feedback received from stakeholders and implementation experiences of the PforR implementation.

Summary of Existing System Assessment Against Core Principles

102. The assessment of existing environmental and social management system with regards to the agribusiness sector was carried out in line with each of the six Principles where applicable. The summary of assessment presented below identifies the strengths, weaknesses and opportunities of the existing system and proposes activities for the Program for Action.

103. **Core Principle 1: General Principle of Environmental and Social Management.** As it is described above the PforR financing will focus on enabling environment for private investment in agriculture and agribusiness, and it may generate some environmental and social risks/issues through some of its activities. Thus, the Core principle is applicable to all four DLIs.

104. The assessment of the laws and regulations on environmental protection, environmental impact assessment, land and water protection and usage shows that the national legal and institutional frameworks for managing environmental issues in the agricultural and agribusiness sector is adequate. The EIA Law approved in 2017 and the EIA procedure approved by the Cabinet of Ministers Decree clarified EIA requirements, public consultation and disclosure, and enabled operation of a designated website and depository for the EIA. However, the functions of various ministries, agencies, national and regional authorities are not clearly defined due to ongoing decentralization and changes in legislation.

105. The implementation of the existing legal and regulatory provisions often face challenges, specifically, due to lack of enforcement and monitoring capacity, multiple regulations that are being cancelled or reinstated.

106. **Core Principle 2: Natural Habitats and Physical Cultural Resources.** This Principle is applicable to the activities DLI2 and DLI3. The legal framework to identify and protect areas potentially important from biodiversity and cultural resources does exist. Also, Institutions that are in charge of natural habitats and physical cultural resources protection are in place. For example, GeoCadaster’ department of Land Management and Land Protection is dedicated to ensuring that all the lands are being used according to their assigned category. However, often those organizations lacking the capacity and staff to perform inspection regularly.

107. **Core Principle 3: Public and Worker Safety.** This Core principle will be applicable in case of construction and operation of 10 BIPs (DLI4). Ukraine has well established public and worker safety legal and regulatory framework and procedures. Ukraine has also ratified several dozen international regulatory acts and treaties and has more than hundred national laws that are directly related to, or have impact on, the public and occupational health and safety. The Law “On Labor Protection”, the Labor Code, and the Law “On Compulsory State Social Insurance” are the major legal acts on protection of Ukrainian citizens’ interests in the occupational sphere. These Laws comprise almost 2,000 subordinate regulatory acts. The Law “On Labor Protection” (1992) sets forth basic provisions with regards to the exercise of workers’ constitutional rights to protection of their life and health in the process of labor activity, as well as to ensure proper, safe and healthy working conditions. The Law “On Ensuring Sanitary Well-Being and Protection from Epidemics among the Population” establishes the need for hygienic standardization of hazardous and harmful physical, chemical and biological factors present in the human life environment, and for their state registration (article 9); requirements for design, construction, development, manufacture and use of new means of production and technology (article 15), etc. The Law “On
Compulsory State Social Insurance”, adopted in 2015, defines the legal, financial and organizational foundations for compulsory state social insurance, and guarantees the social protection of workers in the event of temporary loss of working capacity, pregnancy and delivery, against occupational accidents and diseases, and protection of life and health. There is developed health care legislation. The Code of Civil Defense of Ukraine, laws, and other regulatory acts ensure fire safety are a component of production and other activities of officials and workers of enterprises, institutions, and organizations.

108. The applicability of the general provisions of the mentioned above occupational legal acts remain an issue. The provisions of the Law on Labor Protection, Labor Code and other are mostly applicable to “legal and natural persons that use hired labor according to legislation”. Additionally, the awareness among employees on protective gear and wearing protective gear remain low.

109. Core Principle 4: Land Acquisition. The program does not involve land acquisition and resettlement (LAR). Hence, there will be no direct adverse impacts related to land acquisition or access to natural resources. However, as a former Soviet Union country, Ukraine has several kinds of land use regimes may pose challenges for effective implementation of the program. Implementation of transparent and accountable state system of land use regime which is marrows rights and duties of the owners and possessors of the plots to be developed. It is worth mentioning that even though the state register itself is functioning well in the country, the main issues is with filing of land information/in the register. Property rights of people and legal entities who may have user rights before 2013 might have not claimed or registered their lands in the State Cadaster and State register of rights for immovable property.

110. The reviews and initial assessments of potential issues and risks in public land registration identify following as key challenges to implement systematic land registration process in the country (a) Excess land use: When comparing the topographic information, there might be cases when the owner illegally uses a larger area than the boundaries stated in the formal documents (this is possible in areas where people have agriculture lands closer to the protected areas and forest covers); (b) Absentee titleholders: There may be land users who hold of titles that did not register ownership rights immigrated or are abroad; (c) Unidentified land plots: Not all land plots outside the locality, for which titles are issued, can be identified by the local authority. It means that a person holds a title, but the local authority can not specify its geographic location; (d) Lack of legal clarity: At the legislative level, there are no clear rules for resolving the above, as well as other risks. Also, established procedures for correcting errors are vague; (e) Lack of institutional clarity: The local authority does not hold full information about the owners of land plots, thus it is difficult to identify owners (title holders). Although these risks may pose considerable challenges to implement DLI 3, the State GeoCadaster agency has improved its capacity over the past few years and currently possesses necessary human and technical resources to handle these issues. The State Service of Ukraine for Geodesy, Cartography and Cadaster, has a well-established system of registration of lands register the lands when they file a case. The institutional assessment indicates, that the centralized database on land plots and GPS based mapping and updating of land lots countrywide is taking place systematically. The State GeoCadaster also has a responsive land surveying and grievance handling.

15 In the Soviet Union there were no private property rights to land plots to natural or legal entities, but starting from 1992, people have the rights to claim lands. New system of rights lands their registration lunched in January 01, 2013. Hence, not all the information on rights obtained before the date are in the register and cadaster. Ukraine has two databases: State land cadaster and State register of property rights. The function of the State land cadaster is registration of land plots itself with all technical information. The aim of the State register of property rights is official acknowledgement of the rights.
system in place. However, the ESSA proposes few additional mitigation measures/actions to address the above issues under the program.

111. **Core Principle 5: Indigenous Peoples and Vulnerable Groups.** Indigenous peoples are not found in Ukraine. According to the last recorded census (2001), the main minority groups include Russians, Belarusians, Moldovan, Crimean Tatars, and Bulgarians. Ukraine also has smaller populations of Poles, Jews, Romanians, Armenians, Hungarians, Roma and other nationalities. While a subsequent census was supposed to be conducted in 2011, it has been repeatedly postponed and is now scheduled to take place in 2020. Nevertheless, from social justice perspective, none of these groups are discriminated against their rights to land, receive state services or access to resources. Therefore, this aspect is not applicable to the Program. With regard to equitable access to benefits for vulnerable groups, such as rural fam families and small farmers, the ESSA recommends that the government should have well-developed information sharing and awareness campaign on the program benefits, mechanisms to participation and other program related activities so all communities including rural famers, small land owners, poor and other vulnerable communities may able to benefit for the program as well as reduce the risk of exclusion of such communities. In order to ensure fair and equitable distribution of benefits of the program, the Ministry of Social Policy may assist the implementing agencies (MAPF) which is responsible for social protection of vulnerable groups and households. Together with Ministry or Social Policy, the Ministry of Agriculture should maintain a M&E database on distribution of program benefits to different geographical regions and communities and need to include the results in its monitoring/progress reports periodically.

112. **Core Principle 6: Social Conflict.** There are no potential social conflict or disputes to be arisen due to the program implementation. However, the certain areas of Donetsk and Lugansk regions in the Eastern region, where some localities may not be able to reach out the program as other national development programs.

113. The assessment revealed that State registration of land plots in some of the areas under active conflict situation in Eastern Ukraine, people have their legal documents in the state register of land, provision of information from it was carried out by January 1, 2013 by the territorial authorities of the State Land Agency of Ukraine at the location of the land plot.

114. As of February 2014, in the archives of territorial authorities of the State Land Agency in the Autonomous Republic of Crimea and in the cities of Sevastopol, certain areas of Donetsk and Luhansk regions, land plots located in the respective territories stayed there in paper form (ground books, books of records on state registration of state acts of ownership on a land plot and the right to permanent use of land, land lease agreements, as well as documentation on land management, information from which should include ground books in electronic form).

115. According to part three of Article 25 of the Law of Ukraine "On State Land Cadaster" (hereinafter referred to as the Law), the Land Book is kept in paper and electronic (digital) form.

116. Thus, the lack of information from the local land documentation regarding land plots located in the temporarily occupied territory of the Autonomous Republic of Crimea, certain areas of Donetsk and Luhansk oblasts makes it impossible to enter information into the State Land Cadastre on land plots in the respective territory, the opening of land registers, in the order determined by law. In all other territories of Ukraine, registration of land plots is carried out in accordance with the procedure established by the Law. In other words, the land registration may not be implemented in the areas that are inaccessible. Overall, the complexity related land registration may not pose a serious threat or challenges to the program implementation.
6. STAKEHOLDER CONSULTATION

118. Stakeholder consultations were an integral part of the ESSA process and were carried out keeping in view similar principles and objectives of other Bank operations. Stakeholder consultations carried out at two levels; a) agency level, and b) community level. The first part of the consultations/focus group discussions with key implementing agencies were completed during the period between October to November 2018. The consultations with agencies responsible for implementing DLIs, more specifically the staff who are responsible for administering and managing social and environment regulations, grievance management systems and field staff implementing the laws and regulation were presented at the discussions. These focus groups discussion were carried out through structured checklists/questionnaires. The second part of the multi-stakeholder consultations workshop was held in 4, February in Kiev. Most of the participants in the stakeholder workshop requested that the Program (as well as overarching State Program) should be more clearly defined with scope of each Program, roadmaps for achieving each DLI, timelines and responsibility matrix. Additionally, some definitions require further clarification (for example, what qualifies as SME).

120. NGOs raised concerns regarding transparency and accountability of the Program, suggesting the need for third-party monitoring as well as the need for independent expert opinions on baseline research.

121. Many of the issues raised were in relation to small landowners’ rights, promoting sustainable farming, financing capacity building (education) for beginners, providing preferences for family-owner small businesses and doing nation-wide information coverage to ensure that all the stakeholders are aware of Program-led changes and benefits for these groups of stakeholders.

122. Following is the summary of key points and recommendations from the key stakeholders:

   a. **Overall (Program level)** - the heavy bureaucracy involved and lack of transparency from the Government side constraining a participatory approach of the development program interventions. So the Program requires a strategy to involve final beneficiaries (stakeholders) in the process to make the final product more streamlined? Suggestion is to increase public control over deliverables to prevent corruption and exclusion of vulnerable groups from Program benefits, to involve relevant associations and NGOs.

   b. **DLI 1 - Improving Efficiency of State Support in Agriculture Sector** The Ministry of Agriculture is lacking proper system to engage the public and therefore the program should have proper public engagement strategy and transparency in the Ministry’s service provision under the program. Continuous involvement of stakeholders. It is also important how this program aims at balance natural recourse consumption between SMEs and bigger consumers/producers at the same territory. Similarly, family-owned farming business should be prioritized over big scale agribusiness owners.

   c. **DLI2 - Increasing Private Provision of Irrigation Service in Agriculture** - the State is more favorable for agrobusiness owners, particularly favoring big businesses. An idea was presented to create center of farming capacity building (to teach people to become farmers, to create farming cooperation etc.), to develop storage facilities, to develop biofuel technologies. Can we ensure that this initiative be supported in the Program.

      i. State Agency for Water Resources (the responsible party of irrigation/drainage issues) is not mentioned on the structure. This may hamper the program implementation
ii. Water users are not involved with water resources management – but they should be, it would allow for wholesome approach to agricultural business development.

d. **DLI 3 - Improving Functioning of Land Markets** - it is important to clarify land categories. Ukraine has two kinds of public property on land out of private: communal and state ownership. Communal lands are governed by local councils, but state - by local power which is subordinated to the central power (local state administration and local branch of State GeoCadaster). At the same time, we have process of decentralization which is in progress right now, that means that land is passing from central power to local authorities (local councils).

i. It is necessary to establish baseline data on land registration status. The discrepancy between state statistics and actual data is about 60%. Proposal is to consider engaging benchmark communities to evaluate Program results and continuous monitoring of the land registration process.

ii. How to stimulate productive usage of designated agricultural lands if the owner opposes it due to some complication/restriction on these lands (like peat deposits etc.)? Proposal is to stipulate that peat deposits should be restored to natural conditions, maybe through buying our wrongly designated lands. Suggestion is in order to secure that no lands with such restrictions (see above) are assigned as agricultural, there should be preliminary baseline study and continuous monitoring of newly designated lands.

iii. Moratorium for environmental inspection work will hinder environmental monitoring for all activities, as well as reformation of state environmental services. What are the mechanisms to prevent such moratorium from hindering the Program’s performance?

iv. How would interests of small land lease be covered? Especially, if the land plot is a part of bigger land association and each individual land owner has very little control over usage of their land.

v. How would interests of small land lease be covered? Especially, if the land plot is a part of bigger land association and each individual land owner has very little control over usage of their land.

vi. The Program should make sure Nature reserve, buffer zones are not used for productive. Who will check that these lands are not used? Suggestion to allocate resources to map nature reserves and environmentally, socially-sensitive lands (go and check physically, check the data in the GeoCadaster). Independent assessment of land register and allocation would be useful.

vii. In the land registration process, designate lands that are important for irrigation/drainage around nature reserves.

e. **DLI 4 - Improving Agribusiness SME Access to Export Markets** - good definition of SME requires. What are the sizes of SMEs? Income level? Proposal to define SME after EU approach which were not previously accepted by the Ministry of Agriculture. The application of this approach requires collection of baseline data about agricultural producers.
i. More support should be provided to formalize SME farming (to add definitions of status, sizes etc.) to give them access to Program benefits. Simply put, some of micro producers do not know they qualify for state support and benefits due to lack of information and lack of clearly defined game rules.
7. RECOMMENDATIONS AND PROPOSED ACTIONS

ESSA Recommendations Mainstreamed in the Program Design

This section summarizes the key measures that need to be taken during Program implementation for social as well as environmental aspects. In a broader context, the measures recommended are designed to help proponents improve their system performance and to address important gaps between the provincial systems and the PforR core principles and key elements. The Program should incorporate institutional structures including capacity to adhere social and environmental requirements as well as to track, analyze, and eventually work to mitigate negative effects, and replicate positive ones where applicable. The social assessment makes the following recommendations:

123. The following major actions are proposed:

- **Communications and Outreach**: There is a strong possibility of mitigating the social risks associated with the Program by instituting systems of engagement with stakeholders at an early stage in the program, and keeping these consultations open throughout the period of program implementation. As such, this measure to enhance engagement and outreach is integral to the success of the Program and would go a long way to mitigating identified as well as address unforeseen risks. This is highly important from social accountability perspective where the state land registration is not well understood by people in general and rural land users. The public awareness and outreach strategy must include key messages to be conveyed to stakeholders, explaining the salient features of the program. This may entail using a variety of tools, including social and print media, TV and radio shows and even cell phone-based communication to disseminate the key messages. Systematic registration of state lands by the State GeoCadester may include mandatory public displays and face-to-face meetings/consultations to ensure citizens are engaged and aware of the procedures, activities, and benefits registering unclaimed land lots. Information about the grievance handling system described below will also be distributed to communities across the country. At the meeting with State GeoCadester officials, it is agreed that they can conduct public consultations, public meetings prior to the program implementation, and distribute brochures/pamphlets in local languages, posting on notice boards and online when necessary. The ESSA emphasizes that by carrying out a comprehensive public outreach program, not only public participation and citizen engagement but also lay a foundation for a corrupt free private investment in agriculture in the country.

- **Robust Grievance Redress Mechanism**: Transparency and accountability should be core elements of the program to reduce potential corruption and mismanagement of program benefit distribution. Hence, the ESSA proposes to establish and strengthen a Grievance Redress Mechanism (GRM) at each participating agency level to monitor feedback received from beneficiaries and provide a formal avenue to lodge complains and grievances by the public. This is critically important for the DLI 3 which a robust GRM could enhance the outcome of systematic registration of State lands. The GRM is supported by an information campaign and training for responsible staff. State GeoCadester can respond to all requests, and the information gathered will also be used to improve services provided and to mitigate against negative social impacts on individuals. The main objective of the GRM should be to strengthen accountability to beneficiaries and provide channels for project stakeholders to provide feedback on program deliverables/activities. While acknowledging the existence of dedicated websites by each participating agency to engage with the public, we propose to establish/strengthen such system through following actions:
  - A dedicated email address;
A dedicated phone line;
- Feedback boxes located at each local cadaster office;
- Letters sent to a dedicated address; and
- Verbal or written complaints to agency staff (directly or through public meetings).

- **Capacity building for environmental and social risk management by participating agencies:** The institutional assessment of the ESSA found that the participating agencies of the program are lacking capacity to manage and implement social and environmental risks that may occur during the implementation of the P4R. Even though each agency has its own systems for environmental screening and website for public reporting (i.e. on corruption or other issues in receiving services from agencies), there are no staff dedicated for social and environmental risk management and/or skills and knowledge on Bank policies regarding environment and social aspects. Hence, it is vital that the P4R include a ‘Training Plan’ based on training need assessment on environment and social skills and knowledge and implement training sessions in a systematic manner. This means, the first year of operation of the P4R should include budget and consultancy assignment for environment and social risk management and capacity building program for the staff of participating agencies. The capacity building activity should consider all National requirements and the commitments that should be achieved according to the PforR and strengthen relevant agencies capacities and raise their awareness related to the following requirements:
  - Water extraction and water discharge permitting, including monitoring and reporting on pollutants.
  - Water protection measures should be prominently featured in all WUOs’ documents and be a part of legally-binding obligations of WUO members.
    - Sufficient resources should be allocated to capacity building of WUO members on the subject of protection of water quality, possible negative impacts of unsustainable practices and appropriate mitigation measures.
  - Provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development.
    - Standard ESMP for construction/rehabilitation of BIP should be developed and employed for all ten BIP contracts.

- **Establish a team responsible for coordinating and monitoring P4R implementation:** The P4R is being implemented by several different institutions including the Ministry of Finance, Ministry of Agrarian Policy and Food, Ministry of Justice, Ministry of Environmental Protection, GeoCadaster’s Department on Land Protection and Land Management, State Food and Safety Agency (FSA), Water Protection Agency, GeoCadaster regional units, other regional and local level authorities. Ministry of Finance should appoint a staff member to coordinate, monitor and report on environmental and social risks associated with PforR implementations. Counterparts should also be appointed at each of the relevant implementing agencies.

- **Formulate guidelines on public consultations procedures:** Public consultation is important for the for the lifetime of the P4R and should be regularly carried out under each of the DLIs. Such guidelines allow for: (i) on-going meaningful engagement of interested parties in the land allocation/registration process, particularly with regards to designated protected areas; (ii) broader public access to information on land allocation, including environmental NGOs to secure
access to the full scope of land plot-related information and if it might have any undocumented nature-reservation value; (iii) WUOs’ responsibilities and operation.

- **Ensure WUO fees include capacity building element**: Under DLI2, the strengthening of WUOs would benefit from designated a percentage of fees collected for environment and social capacity building, management and monitoring activities for the WUO. The resources collected could also be used for the hiring of consultants/auditors, at regular intervals, to ensure proper implementation of water protection measures.
### ANNEX 1: RESULTS FRAMEWORK

<table>
<thead>
<tr>
<th>PDO Indicators by Objectives / Outcomes</th>
<th>DLI</th>
<th>CRI</th>
<th>Unit of Measure</th>
<th>Baseline</th>
<th>Intermediate Targets (IT)</th>
<th>End Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medium-term planning in the agriculture sector implemented.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Increased number of registered fertilizer products available to agricultural producers.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased number of fertilizer products available to agricultural producers.</td>
<td>DLI 2</td>
<td></td>
<td></td>
<td>Yes/No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>At least 12 million Ha of State Land registered in the State Land Cadastre.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At least 12 million Ha of State Land registered in the State Land Cadastre</td>
<td>DLI 4</td>
<td></td>
<td>Hectare( Ha)</td>
<td>0.00</td>
<td>8,000,00 0.00</td>
<td>12,000,000.00</td>
</tr>
<tr>
<td>Irrigated area managed by water users of at least 50,000 Ha.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Irrigated area managed by water users of at least 50,000 Ha.</td>
<td>DLI 3</td>
<td></td>
<td>Hectare( Ha)</td>
<td>0.00</td>
<td>0.00</td>
<td>50,000.00</td>
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<tr>
<td>Cost of transporting agricultural commodities reduced.</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Cost of transporting agricultural commodities reduced.</td>
<td>DLI 6</td>
<td></td>
<td></td>
<td>Yes/No</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td>Number of exporters of food of animal origin increased.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of exporters of food of animal origin increased.</td>
<td>DLI 7</td>
<td></td>
<td>Number</td>
<td>840.00</td>
<td>860.00 885.00</td>
<td>925.00</td>
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<tr>
<td>Key information available to registrars of land rights in real time.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Key information available to registrars of land rights in real time.</td>
<td>DLI 5</td>
<td></td>
<td></td>
<td>Yes/No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Intermediate Results Indicators by Results Areas</td>
<td>DLI</td>
<td>CRI</td>
<td>Unit of Measure</td>
<td>Baseline</td>
<td>Intermediate Targets (IT)</td>
<td>End Target</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>RA1. Increasing Competitiveness of Input Markets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Realistic and measurable KPIs adopted by the MAPF and staff trained in M&amp;E for KPIs.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Legislative amendments enacted to adopt the EU Directive on fertilizer (2003/2003, Annex 1)</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
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<td>Yes</td>
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<td>Restructuring completed for SOEs No 2 in the fertilizer market</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
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<td>Yes</td>
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<tr>
<td>Adoption of the primary and secondary legislation enabling secondary market for Crop Receipts</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Adoption of the primary and secondary legislation enabling establishment of Water User Organizations.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<td>Approval of the regulations on water tariffs for WUOs.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Operationalization of the groundwater GIS layers for water extraction licensing.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Operationalization of the Water Information Management System.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>No</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td>Transfer of state land to communal ownership.</td>
<td>Hectare(Ha)</td>
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<td></td>
<td>200,000.00</td>
<td>200,000.00</td>
<td>200,000.00</td>
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<tr>
<td>Pilot land auctions using a transparent e-auction system.</td>
<td>Hectare(Ha)</td>
<td>0.00</td>
<td></td>
<td>70,000.00</td>
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<td>Establish interoperability among Registry of Rights, courts, and Fiscal Service.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>No</td>
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<td>Yes</td>
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<tr>
<td>Upgrade capacity of the Free Legal Aide centers in 20 oblasts.</td>
<td>Number</td>
<td>0.00</td>
<td></td>
<td>20.00</td>
<td>20.00</td>
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<tr>
<td>Establish provisions for mandatory price recording.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td><strong>RA2. Linking Farmers to Domestic and Export Markets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Adoption of the revised port fee calculation methodology.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Adoption of primary and secondary legislation to enable Internal Waterway Reform.</td>
<td>Yes/No</td>
<td>No</td>
<td></td>
<td>Yes</td>
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<td>Yes</td>
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### Installation of 10 BIPs at the State Border of Ukraine

<table>
<thead>
<tr>
<th>Number</th>
<th>0.00</th>
<th>2.00</th>
<th>6.00</th>
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### Implementation of risk-based import/export controls for monitoring of food and other agricultural products.

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>No</th>
<th>Yes</th>
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### Improve the regulatory framework for the national traceability system: adoption of amendments to the relevant law and secondary legislation

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>No</th>
<th>Yes</th>
<th>Yes</th>
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### Operationalize interactive map on use of plant protection products.

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>No</th>
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<th>Yes</th>
<th>Yes</th>
</tr>
</thead>
</table>

### Operationalize interactive information system on food safety and export market requirements.

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>No</th>
<th>Yes</th>
<th>Yes</th>
<th>Yes</th>
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</table>
ANNEX 2: ENVIRONMENT AND SOCIAL ASSESSMENT AND ACTION PLAN

SUMMARY

The Action Plan to strengthen the Government’s environmental and social management system for addressing potential environmental and social risks associated with the PforR implementation. The Action Plan will be part of the credit agreement and is subject to further refinement during the negotiation process.

<table>
<thead>
<tr>
<th>Action description</th>
<th>Due Date</th>
<th>Responsible Party</th>
<th>Completion Measurement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Governance:</strong> Conduct Strategic Environmental Impact Assessment of the Program as it is required by the Ukrainian Law on Strategic Impact Assessment (#2354-VIII, March 20, 2018). Establish a focal point (appoint or employ a person or a unit) responsible for (1) communication and outreach and (2) environmental and social risks mitigation, monitoring, and reporting.</td>
<td>Before start of Program implementation (before signing the loan agreement)</td>
<td>MAPF (MOE) Coordination (MOF) and Implementing Agencies (MAPF, GeoCadaster, FSA)</td>
<td>A Strategic Impact Assessment Report A Focal Pont (a person or a unit) name, contact detail and description of responsibilities (Terms of References for monitoring, addressing and social risk and facilitating capacity building during the Implementation of the Program)</td>
</tr>
<tr>
<td><strong>Stakeholder, CSOs and Citizens Engagement:</strong> Formulate guidelines for stakeholder engagement process and mainstreaming environmental, social, health and safety issues into the implementation of the Program</td>
<td>2 months after signing the Loan Agreement</td>
<td>Coordination (MOF) and Implementing Agencies (MAPF, GeoCadaster, FSA, MinRegDevelopment)</td>
<td>Completed Guidelines on public consultations procedure; Guidelines disseminated, and training provided on their application. Lists of names and contacts stakeholder and CSOs, SMEs, associations to be informed, consulted on regular basis.</td>
</tr>
<tr>
<td>Action description</td>
<td>Due Date</td>
<td>Responsible Party</td>
<td>Completion Measurement</td>
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<tr>
<td><strong>Communications and Outreach – continuous process</strong></td>
<td>3 months after signing the Loan Agreement</td>
<td>Coordination (MOF) and Implementing Agencies (MAPF, GeoCadaster, FSA, MinRegDevelopment)</td>
<td>A Comprehensive Public Outreach Program, including materials to be developed and published (simplified leaflets, booklets on procedures including mainstreaming environmental and social issues where applicable).</td>
</tr>
<tr>
<td>Make information about the Program implementation, particularly information about environmental and social issues more transparent and accessible.</td>
<td>every 6 months</td>
<td></td>
<td>List of The number of involved final beneficiaries (stakeholders) in the process to make the final product more transparent. Ministry of Agriculture will actively seek out public involvement to the point of ignoring public comments. How will the Bank secure proper engagement and transparency? Booklets with simplified language describing procedures to apply for state aid.</td>
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<tr>
<td>Conduct monitoring of progress on environmental and social issues, especially regarding the compliance of the program with the environmental and social laws, regulations and standards.</td>
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<tr>
<td><strong>Robust Grievance Redress Mechanism, GRM:</strong></td>
<td>2 months after signing the Loan Agreement</td>
<td>Coordination (MOF) and Implementing Agencies (MAPF, GeoCadaster, FSA, MinRegDevelopment)</td>
<td>GRM including (1) a dedicated phone line (telephone number); (2) a feedback boxes located at each local cadaster office; (3) a dedicated address; and (4) verbal or written complaints to agency staff (directly or through public meetings).</td>
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<tr>
<td>Action description</td>
<td>Due Date</td>
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<td>Completion Measurement</td>
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<tr>
<td><strong>Capacity building for environmental and social risk management by participating agencies, SME and smallholders, WUO and their respective associations.</strong></td>
<td>During the course of developing legal framework.</td>
<td></td>
<td>Establishment of the legal, regulatory framework, and statutory templates for WUO. Including: water extraction and water discharge permitting, including monitoring and reporting on pollutants, and ensuring WUO fees include capacity building elements. Provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development.</td>
</tr>
<tr>
<td>Water protection measures should be prominently featured in all WUOs’ documents and be a part of legally-binding obligations of WUO members.</td>
<td>3 months after signing the Loan Agreement</td>
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<td><strong>Linking SMEs and Farmers to Export Markets</strong></td>
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<tr>
<td>Installation of 10 Border Inspection Points (BIPs) with SPS and food safety capability at the State border of Ukraine.</td>
<td>Per the Ukrainian EIA regulation if required.</td>
<td>FSA</td>
<td>Training FSA focal point on EIA national procedures and requirements. Completed EIA following the Ukrainian legislation for BIPs projects where required</td>
</tr>
</tbody>
</table>
ANNEX 3: LIST OF PARTICIPANTS IN STAKEHOLDER ENGAGEMENT CONSULTATIONS

Consultation on Environment and Social Systems Assessment for a Program for Results Investment entitled “Accelerating Private Investment in Agriculture”
February 6, 2019, Kyiv, Ukraine

<table>
<thead>
<tr>
<th>№</th>
<th>Name/ІПІ</th>
<th>Organization/Oрганізація</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Myklailo Yatsiuk</td>
<td>Deputy director of scientific work, Institute of Water Problems and Land Reclamation</td>
</tr>
<tr>
<td>2.</td>
<td>Elena Sydorenko</td>
<td>Deputy head of Department of Ecology of Water Ecosystems and Water Protection, Institute of Water Problems and Land Reclamation</td>
</tr>
<tr>
<td>3.</td>
<td>Tetiana Matiash</td>
<td>Deputy head of department of information systems and innovation marketing, Institute of Water Problems and Land Reclamation</td>
</tr>
<tr>
<td>4.</td>
<td>Oksana Dekhtiar</td>
<td>Deputy head of melioration department, Institute of Water Problems and Land Reclamation</td>
</tr>
<tr>
<td>5.</td>
<td>Anatoliy Shevchenko</td>
<td>Deputy head of water resources department, Institute of Water Problems and Land Reclamation</td>
</tr>
<tr>
<td>6.</td>
<td>Olga Zhovtonog</td>
<td>Local consultant of WB on irrigation and RD, Institute of Water Problems and Land Reclamation</td>
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<tr>
<td>7.</td>
<td>Oleg Lystopad</td>
<td>Eko Pravo Kyiv, expert</td>
</tr>
<tr>
<td>8.</td>
<td>Andriy Ohrimenko</td>
<td>Head of state border control department, Food Safety Agency</td>
</tr>
<tr>
<td>9.</td>
<td>Svitlana Sklyarenko</td>
<td>Head of the Unit of international agreements and technical assistance Directorate of International Cooperation, Food Safety Agency</td>
</tr>
<tr>
<td>10.</td>
<td>Ihor Lymarenko</td>
<td>Chief specialist, Ministry of Finance of Ukraine</td>
</tr>
<tr>
<td>11.</td>
<td>Andriy Staroshchak</td>
<td>Senior Project Manager, Ministry of Finance of Ukraine</td>
</tr>
<tr>
<td>12.</td>
<td>Olena Borodina</td>
<td>NGO Ukrainian network of agriculture development</td>
</tr>
<tr>
<td>13.</td>
<td>Zenoviy Bermes</td>
<td>Employers’ association of Lviv region</td>
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<tr>
<td>14.</td>
<td>Zinoviy Sverda</td>
<td>Sustainable market association, Kyiv – Lviv</td>
</tr>
<tr>
<td>15.</td>
<td>Tamara Pidbereznjak</td>
<td>President of NGO Food Safety of Ukraine</td>
</tr>
<tr>
<td>16.</td>
<td>Mykhailo Amosov</td>
<td>Land Matrix Initiative coordinator</td>
</tr>
<tr>
<td>17.</td>
<td>Anna Danyliak</td>
<td>Ecoaction NGO, expert</td>
</tr>
<tr>
<td>18.</td>
<td>Vladlena Martsynkevych</td>
<td>CEE Bankwatch Network</td>
</tr>
<tr>
<td>19.</td>
<td>Victoria Hubko</td>
<td>Lawyer, legal department, Food Safety Agency</td>
</tr>
<tr>
<td>20.</td>
<td>Oksana Zharkova</td>
<td>EBA, committees coordinator</td>
</tr>
<tr>
<td>21.</td>
<td>Viktor Yarovyi</td>
<td>Ukrainian Rural Development Network</td>
</tr>
</tbody>
</table>