

**SUPPORT TO PARCELIZATION OF  
LANDS FOR INDIVIDUAL TITLING  
(SPLIT)  
P172399**

**Environmental and Social Assessment  
(ESA)**

draft for public disclosure only



Republic of the Philippines  
**DEPARTMENT OF AGRARIAN REFORM**  
February 2020

**SUPPORT TO PARCELIZATION OF LANDS FOR INDIVIDUAL TITLING (SPLIT) PROJECT**  
**Environmental and Social Management Assessment**  
**(ESA)**

**EXECUTIVE SUMMARY**

The Environmental and Social Assessment (ESA) evaluates the Support to Parcelization of Lands for Individual Titling (SPLIT) Project's potential environmental and social risks and impacts as well as the management options/measures that can be adopted to avoid/mitigate the negative and enhance the positive impacts. The SPLIT Project is a project of the Department of Agrarian Reform (DAR) of the Government of the Philippines (GoP) which aims to improve security of tenure and strengthen property rights of agrarian reform beneficiaries by accelerating the the subdivision Collective Certificate of Land Ownership Awards (CCLOAs) into individual titles that will be re-awarded to beneficiaries who are co-owners of the project-covered landholdings. Apart from being a requirement of the World Bank's Environmental and Social Framework under ESS1, the assessment of the potential environmental and social risks and impacts will provide an opportunity for the Project to examine project management measures to avoid negative impacts, identify ways of improving the project planning, design and implementation and seek opportunities to enhance the positive impacts of the Project.

Project SPLIT intends to cover around 139,000 CCLOAs involving 1.38 million hectares of CCLOA landholdings located in 77 provinces and 1,252 municipalities that were supposed to be subdivided among around a million agrarian reform beneficiaries (ARBs) when these titles were issued in the '90s. Because these collective titles remained unsubdivided for more than 20 years now, a number of issues had arised in these CCLOAs like boundary conflicts, susceptibility to encroachment by non-beneficiaries, impediments in land payment amortizations (for those awarded with compensable lands), and second generation land transfers for heirs of deceased ARBs, among others. These issues rendered the ARBs holding insecure and unstable property rights.

In addition, some portions of forest lands and/or subsequently declared protected areas were covered by some of the collective titles, which were then largely the adopted instrument in lieu of individual titles to hasten the distribution of large tracts of public, private and government-owned lands to farmers. Some 126,975 hectares of forest lands have already been identified and excluded by the DAR from the Project. An estimate of 31 provinces reveals that there are still approximately 12,369 hectares covered by 1,259 CCLOAs which overlap with inalienable lands which the Project will have to carve out from the CCLOAs and turned over to the jurisdiction of the state environment agency. There are also CCLOAs entirely or partially located in ancestral domain of indigenouse cultural communities/indigenous people's

Agrarian reform beneficiaries (ARBs) are recipients/holders of any of the following: (i) Emancipation Patent (EP); (ii) Certificate of Land Ownership Award (CLOA); (iii) CARP Beneficiary Certificate (CBC); or (iv) Leasehold contract/agreement. From the year 1972 until December 31, 2018, the Department of Agrarian Reform (DAR) registered and distributed a total net area of 4.798 million hectares to 2,867,293 ARBs. In terms of the CCLOAs involved in the SPLIT project, there are more than a million ARBs, including those from the indigenous cultural communities/indigenous peoples (ICCs/IPs). Reports from 15 provinces indicated 1,542 CCLOAs that are located wholly or partially in ancestral domains with 11,552 ICC/IP-ARBs while in 28 provinces, there are 3,633 CCLOAs with 46,661 ICC/IP-ARBs outside ancestral domains.

While the DAR had been incrementally addressing these concerns pursuant to the country law's mandate to subdivide the awarded landholdings, several operational and institutional constraints prevented full implementation of the law. As of January 2019, the agency managed to parcelize only around less than one-third of the 2.25 million hectares issued with collective titles meant for individual titling, with an almost similar number of hectares yet to be resurveyed, and more than one-third still to be subdivided.

Thus, this Project is being proposed to finally resolve the all issues arising from the instability of the ARB's property rights in their awarded lands and provide them with property instruments they can utilize to access markets, programs and incentives that will enable them to improve farm productivity, increase household income and enhance decision-making capacities. The Project will also prevent further degradation of the environment by reverting erroneously titled forest lands to the state agency which has both the jurisdiction and competence to manage and protect these critical environmental resource.

The assessment identified potential risks and impacts associated with the Project, as follows:

- Ground project personnel will be exposed to risks when working in hilly terrains, rough and unstable slopes and cliffs as well as unforeseen calamitous events. This is, however, assessed to be low since project workers will all be of legal age, mostly skilled and professionals in their own fields. This may be addressed by requiring all workers to wear personal protective equipment (PPEs). A labor management plan and Code of Conduct for workers is developed per ESS2.
- Anticipated increase in use of chemical pesticides in the long-term beyond the project lifecycle as ARBs have low or minimal access to integrated pest management (IPM) programs and natural pesticides technologies coupled with the high availability of chemical-based pesticides. This is assessed to be moderate and may be addressed per ESS3 by linking the farmers to existing government programs on IPM and organic farming.
- Potential community health and safety issues due to influx of project workers to the project sites. This is assessed to be low as less than a dozen DAR personnel and hired workers/contractors will be working at each project site who will be guided by a Code of Conduct of Workers to be developed by the Project applying ESS4.
- Potential displacement of ARBs and non-beneficiary occupants of parcels in the CCLOAs that overlap with forest lands due to reversion of these parcels to forest/protected status. This is assessed to be high as some 18,979 ARBs and an undetermined number of non-beneficiary occupants will be affected and left untenured if not issued with appropriate forest tenurial instruments, This may be addressed by deferring parcelization of such CCLOAs at the latter phase of project implementation or until further ES assessments are undertaken and implemented to ensure that this risk is either avoided or mitigated following measures that will be developed by the Project, which must include a Compensation Plan and/or Resettlement Assistance Plan guided by the Resettlement Policy Framework (RPF) to be instituted for the Project in accordance with the standards of ESS1 and ESS5.
- Potential displacement of non-ARB occupants in awarded lands since some ARBs may have mortgaged, "sold", transferred, or allowed occupancy of their lots or land rights to other farmers who may not qualify as beneficiaries. Or some ARBs may have abandoned lots now currently occupied by other farmers who may have been tilling the

land and/or made land improvements but may not qualify as beneficiaries. This is assessed to be high since there have been numerous “reports” of such instances and the magnitude will only be determined upon actual validation of the ARBs and occupants of awarded lands. This may be addressed by adopting the management approach/procedure discussed in the preceding paragraph.

- Potential land boundary disputes and contested claims of inheritance. Boundary conflicts are certain to exist in CCLOAs due to the absence of subdivision survey that demarcates lot boundaries on the ground. On the other hand, potential contestations or claims of inheritance on lands actually exists in CCLOA parcels where the ARB is already deceased or have retired from farming and allowed heirs to occupy and/or till the land. These are the foremost subjects of inclusion and exclusion as the DAR estimates some 21,469 ARBs with these issues both for inclusion and exclusion involving some 27,910 hectares of CCLOA lands. The risks are considered high due to largely undetermined magnitude of affected ARBs and/or legal heirs affected. However, these conflicts and contestations are usually amicably settled upon conduct of parcelization wherein the Barangay Agrarian Reform Committee (BARC) assists in mediation and conciliation of conflicting parties who by themselves are allowed to elect a mutually acceptable personality from the barangay to help facilitate the process. For contested claims among legal heirs, it must be noted that when heirs fail to agree as to whom their title will be name to, the DAR would name the title to the legal “heirs of the ARB”. No displacements are expected since the final master list of beneficiaries are already annotated in the CCLOAs and the issues to be resolved pertain only to lot allocations and the legal heirs to be established and inscribed on the face of the titles. The BARC is a community-based CARP implementation mechanism composed of a majority of elected members from the local farmers’ sector assisted by non-voting non-government organizations and government agency representatives who provide administrative and legal support to the body.
- Potential risks and impacts of unpaid amortization payments, high registration fees and accumulated property taxes. There is widespread concern among ARBs in CCLOAs involving compensable lands who were prevented or stopped from paying amortizations because of the absence of Land Distribution Information Schedule (LDIS) where amortization rates are set by the Land Bank of the Philippines (LBP) and from which payments are based. The LDIS, in turn, is based on the actual lot allocation of ARBs which is lacking in CCLOA. Some estimated 290,546 ARBs based on the 2015 Survey of Agrarian Reform Beneficiaries may have been unable to pay land amortizations due to lack of LDIS on their parcels. The Project will resolve this concern by subdividing the CCLOAs into individual titles. The Project will also finance the registration and other fees involved in the titling process, except for accumulated property taxes being collected by the local governments which is prerequisite to registration of title with the Register of Deeds. This is beyond the DAR’s jurisdiction but consultations have been initiated with concerned agencies and local governments to hammer out institutional arrangements and come up with measures that may include condonation of unpaid taxes and/or accumulated interests, staggered payments over longer periods of time, etc.
- Potential risk that farmer-beneficiaries may resort to selling portions of their awarded lands in order to raise money to repay debts or make investments to the extent of rendering the remaining unsold parcel of their awarded lands unviable for agriculture. Some 6.5 percent of ARBs in CCLOAs (around 65,000 ARBs) may have sold their parcels or land rights, according to the 2015 Survey. To address this, the DAR will conduct an orientation on the rights and obligations of recipients of individual titles and

provide information on existing government programs on micro-credit facilities and livelihood packages which they can access through the DAR and other concerned agencies.

- Protection of watersheds and conservation of existing forest and biodiversity/living resources resulting from the reversion of forest lands and/or protected areas erroneously titled with the CCLOAs to the management of proper state environment agencies mandated to protect the environment and natural resources. This is assessed to be moderate because CCLOAs with portions that overlap with forest lands will be deferred from parcelization until further ES assessments are undertaken and these lands are segregated from agricultural lands.
- Potential risks and impacts on ICCs/IPs in CCLOA lands include the risks and impacts on ARBs and non-ARB occupants as discussed above. In addition, since ICCs/IPs generally have identities/cultures that may be relatively distinct and often perceived to be marginalized from mainstream society, the risks are assessed to be high.

While the ICCs/IPs are already co-owners of the collective titles, they may not want to subdivide their parcels and wish to continue collective ownership thereof. The ESS7 must apply especially on the conduct of free, prior and informed consent (FPIC) in all CCLOAs with ICCs/IPs whether they be beneficiaries or not, to ensure they are adequately informed in a culturally appropriate manner of their rights which are fully recognized and help them arrive at informed decisions whether or not to support and meaningfully participate in the Project. For CCLOAs that are located inside declared ancestral domains, the National Commission on Indigenous Peoples (NCIP) will be engaged in conducting FPIC validation process as required under the Indigenous Peoples Rights Act of 1997 and its implementing regulations, in addition to the application of ESS7.

There are around 11,552 ICC/IP-ARBs in more than 1,500 CCLOA sites located inside ancestral domains while an estimated 46,661 ICC/IP-ARBs are in 3,633 CCLOAs outside of ancestral domains. The Project will ensure as precautionary measure that all CCLOAs with ICCs/IPs identified during inventory shall be deferred from being parcelized to give time for the conduct of a thorough social assessment of the Project's risks and impacts on the ICCs/IPs and identify/adopt measures in accordance with ESS7 to avoid or mitigate any adverse impact. The DAR is currently leading the initiatives to formalize institutional arrangements with the NCIP to help guide project implementation in declared ancestral domains and if possible even in areas outside ancestral domains where there are ICCs/IPs to be affected by the Project.

Although the ESA has been formulated to identify the Project's possible environmental and social risks, the actual impact of the Project can only be ascertained during the conduct of the SPLIT activities. The peculiar environmental and social issues surrounding each CCLOA shall be considered, assessed and addressed at the ground level. All CCLOA to be parcelized will be subject to an environmental and social screening, rapid and participatory rural assessment mainly focused on the environmental and social conditions of the CCLOA area covering issues such as, land classification status, actual terrain, soil erosion, micro watersheds, biodiversity, involuntary resettlement issues, indigenous peoples/communities and vulnerable households.

Based on the rapid assessments and with the mitigation options in this ESA as guide, CCLOA-based management plans including Resettlement Action/Compensation Plans for those that might be displaced will have to be prepared. Hence, the Project will need to develop and adopt the following safeguard frameworks: (i) Environmental and Social Management Framework

(ESMF); (ii) Resettlement Policy Framework (RPF); (iii) Indigenous Peoples Policy Framework (IPPF); (iv) Labor Management Plan (LMP), (v) Environmental and Social Commitment Plan (ESCP) and (vi) Stakeholder Engagement Plan (SEP). These frameworks and plans will also include grievance mechanisms and capacity building plan for the DAR and the Project Management Offices (PMOs).

*Year 1 inventory and assessment.* Project implementation in the first year will focus on parcelization of collective CLOAs with no significant environmental and social (E&S) risks and impacts (e.g. no overlap with forest and protected areas and ancestral domains) in three pilot regions. In parallel with the inventory that will be prepared during early implementation, DAR will undertake a more detailed assessment, including consultations with key stakeholders, of E&S risks and potential impacts and propose additional mitigation measures to be incorporated into the E&S documents. Staffing, technical assistance, training and budgetary resources will be re-assessed. The revised E&S documents will be submitted, together with an assessment report, for World Bank review and approval.

In connection with the detailed assessment, DAR will set-up a working group with partners (DENR, NCIP, DA) to review options for forest and protected areas management. The working group will lead the preparation of a report of scope of overlaps between CLOAs and forest and protected areas, legal technical review, institutional review, socio-economic review, with recommended measures to address risks and impacts, including cooperation between DENR, DAR and other relevant agencies.

## ACRONYMS

ARB = Agrarian Reform Beneficiary  
ARCDP = Agrarian Reform Communities Development Project  
ARCESS - Agrarian Reform Community Connectivity and Economic Support Services  
BARC =Barangay Agrarian Reform Committee  
AD = Ancestral Domain (of certain ICCP/IP group)  
ESS= Environmental and Social Standard  
CLOA = Certificate of Land Ownership Award  
CCLOA = Collective Certificate of Land Ownership Award  
CARP = Comprehensive Agrarian Reform Program  
CARL = Comprehensive Agrarian Reform Law  
DAR = Department of Agrarian Reform  
DENR = Department of Environment and Natural Resources  
DA = Department of Agriculture  
A&D=Alienable and Disposable  
ES = Environmental and Social  
ESF = Environmental and Social Framework  
ESMF = Environmental and Social Management Framework  
FMB = Forest Management Bureau  
GRMF = Grievance Redress Mechanism Framework  
IPRA = Indigenous Peoples Rights Act  
IPPF = Indigenous Peoples Policy Framework  
ICCs/IPs = Indigenous Cultural Community/Indigenous People  
LMP = Labor Management Plan  
LMB = Land Management Bureau  
LRA = Land Registration Authority  
LBP = Land Bank of the Philippines  
NCIP = National Commission on Indigenous Peoples  
OLT = Operation Land Transfer  
RPF = Resettlement Policy Framework  
VLT = Voluntary Land Transfer  
VOS = Voluntary Offer to Sale

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**Environmental and Social Management Assessment**  
**(ESA)**

**Department of Agrarian Reform**  
February 2020

**I. BACKGROUND**

The Support to Parcelization of Lands for Individual Titling (SPLIT) Project is a major project of the Department of Agrarian Reform (DAR) which will involve the subdivision of collectively-owned land titles known as the Collective Certificate of Land Ownership Award (CCLOAs) issued under the Comprehensive Agrarian Reform Program (CARP) into individual titles to be re-awarded to individual farmer beneficiaries who are co-owners thereof. The Project is being considered for funding by the World Bank and will be subject to its new Environmental and Social Framework (ESF). This Environmental and Social Assessment (ESA) is undertaken to comply with the requirements of the ESF, specifically, the standards for "*Assessment and Management of Environmental and Social Risks and Impacts*" (ESS1).

The objective of this assessment is to determine the environmental and social risks and impacts associated with the Project and, based on the result of the assessment, discuss the risks and impacts as well as the mitigation/management options for the Project. The scope of the assessment will cover all of the World Bank's Environmental and Social Standards (ESS1-10).

In particular, this ESA will identify, assess, and discuss the management options for the risks and impacts of the Project with respect to:

- WB ESS2 - Labor and Working Conditions
- WB ESS3 - Resource Efficiency and Pollution Prevention and Control
- WB ESS4 - Community Health and Safety
- WB ESS5 - Land Acquisition, Restrictions on Land Use and Involuntary Resettlement
- WB ESS6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources
- WB ESS7 - Indigenous People/Sub-Saharan African Historically Underserved Traditional Local Communities
- WB ESS8 - Cultural Heritage
- WB ESS10- Stakeholder Engagement and Information Disclosure

In addition to the Bank's ESSs, this ESA will also identify relevant national legislation and pertinent regulations and their applicability to the Project as well as any gap between these and the Bank's ES standards.

**1. Overview of Agrarian Reform in the Philippines<sup>1</sup>**

Early land reform programs in the Philippines began in 1933 through Commonwealth Act 4054 (CA 4054) or the Rice Share Tenancy Act which sought to regulate tenancy in rice lands. This was amended in 1946 by Republic Act 34 (RA 34) and the Agricultural Tenancy Act of 1954 (RA 1199). While the Public Land Act of 1936 (CA 141) defined the administration and

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<sup>1</sup> Reyes, End-term Report 2016

disposition of alienable and disposable public lands, the scheme for distributing agricultural public land was mandated by CA 691 and later by RA 1160 otherwise known as the NARRA<sup>2</sup> Law of 1954. RA 1400 or the Land Reform Act of 1955 provided for the acquisition of private agricultural lands for resale to tenant-farmers under the Landed Estates Program. Tenant-farmers were assisted in purchasing the land and initially issued Certificate of Land Transfer (CLT) and Deed of Sale and eventually Transfer Certificate of Title (TCT).

In 1963, the Code of Agrarian Reform (RA 3844) abolished share tenancy, instituted leasehold system and significantly reduced retention limits for ownership of private agricultural lands to only 75 hectares (from 300 contiguous hectares for private lands planted to rice, 600 hectares for corporate farms and 1,024 hectares for private farms other than rice under RA 1400). The Land Tenure Administration (LTA) was created to implement the acquisition of the big landed estates for resale to tillers under RA 1400. RA 3844 renamed the LTA as the Land Authority mandated to expropriate private landed estates. RA 6389 passed in 1971 created the DAR which absorbed the functions of the Land Authority. In 1972, Presidential Decree (PD) 27 aimed for tenant emancipation and mandated the compulsory distribution of tenanted private rice and corn lands to landless agricultural tenants and lessees.

In July 1987, Presidential Proclamation (PP) No. 131 instituted the CARP and expanded the program's coverage to all public and private agricultural lands regardless of tenurial arrangement and commodity produced, as well as other lands of the public domain including government-owned lands devoted to or suitable for agriculture. Executive Order (EO) No. 229 provided the implementation mechanism for the CARP while the enabling law for CARP was established through RA 6657 or the Comprehensive Agrarian Reform Law 1988. In 2008, RA 9700 further amended some implementation mechanisms and extended the budget authorization of CARP until June 2014<sup>3</sup>. Finally, in February 2019, Executive Order No. 75 mandated the identification and distribution of remaining government-owned lands devoted to or suitable for agriculture for CARP distribution as the program continues to cover the remaining target landholdings.

Since 1972, the government has been undertaking public and private agricultural land distribution through the DAR and the Department of Environment and Natural Resources (DENR). Lands distributed by DAR include:

1. Non-private lands

- Government-Owned Lands (GOL/KKK) – These are (a) land of the public domain placed by law and other executive issuances under the jurisdiction of DAR and; (b) land previously proclaimed for various government departments, agencies and instrumentalities and subsequently turned over to the DAR for distribution under the CARP pursuant to EO 407, series of 1990, as amended by EO 448 [DAR-DENR Joint MC 9 series of 1995]. A large portion of these lands are the so-called KKK lands<sup>4</sup>.

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<sup>2</sup> This law created the National Resettlement and Rehabilitation Administration or NARRA.

<sup>3</sup> The evolution of the agrarian reform program can be found online in the DAR Legal Information System (DAR LIS) under "History and Evolution of Major Agrarian Reform Laws/Issuances/Programs under the Different Philippine Leaderships." <http://www.lis.dar.gov.ph/documents/9300>

<sup>4</sup> Through a presidential proclamation in 1983, these public lands totaling 1.5 million hectares were reclassified as alienable and disposable lands for agricultural and resettlement purposes under the Land Resource Management Program called Kilusang Kabuhayan at Kaunlaran (KKK) of the defunct Ministry of Human Settlements. In 1986, a presidential memorandum order revoked the 1983 proclamation and subsequently ordered these lands to be turned over to the DAR for distribution to CARP beneficiaries. More than half of these lands were issued CCLOAs.

- Settlements. – DAR administers and distributes public agricultural lands in settlement areas which is the function of the predecessor agency of the DAR.
- Landed Estates<sup>5</sup>. – Landed Estates are former haciendas or landholdings of private individuals or corporations established in the 1950s and 1960s which have been acquired by the Government under different laws (particularly RA 1400 and RA 3844) for redistribution and resale to deserving tenants and landless farmers [DAR AO 3, series of 1990].

## 2. Private agricultural lands

- Operation Land Transfer (OLT). – This is the mode of acquisition governed by PD 27 which mandates the compulsory distribution of tenanted rice and corn lands. Tenanted rice and corn land that were tenanted on or before October 21, 1972 or with Order of Placement R.A. 6657 and applies to private agricultural lands regardless of crop or tenurial arrangement.
- Voluntary Offer to Sell (VOS). – This is a voluntary mode of acquisition governed by RA 6657 wherein the landowner voluntarily offers to sell the land to the government at government-determined price.
- Lands Foreclosed by Government Financial Institutions (GFI). – Under EO 407/448, lands foreclosed by government financial institutions were turned over to DAR for distribution.
- Voluntary Land Transfer/Direct Payment Scheme (VLT/DPS). – This is a voluntary mode of acquisition governed by RA 6657 wherein landowner and farmer beneficiaries agree on the terms and conditions for the transfer/sale of the land to the farmer-beneficiaries. The role of government role is to recognize the sale as an agrarian reform-related land transfer.

The DENR, on the other hand, distributes public alienable and disposable (A & D) lands suitable for agriculture through the processing and issuance of Free Patents and Homestead Patents wherein the government recognizes and confirms the rights of farmer-beneficiaries who are actual occupants/tillers over the public agricultural lands. In addition, there is a non-land transfer component to DENR-CARP wherein select forest lands/areas suitable for agro-forestry are allocated by means of stewardship through the awards of Certificates of Stewardship Contract (CSC) for individual occupants, and Community-Based Forest Management Agreements (CBFMAs) for communities/groups and Protected Area Community-Based Resource Management Agreement (PACBRMA) in protected areas.

## 2. Collective CLOAs or CCLOAs

RA 6657 mandated the DAR to issue a Certificate of Land Ownership Award (CLOA) to every farmer beneficiary. Generally, a CLOA is awarded to an individual beneficiary after subdividing CARP-acquired landholdings into a number of lots based on the number of beneficiaries in the master list of farmer beneficiaries. The law also allows the issuance of a collective title or collective CLOA (CCLOA) to a group of beneficiaries who opt to be under

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<sup>5</sup> The Landed Estates Program was piloted in the '50s and '60s in the provinces of Pangasinan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Occidental Mindoro, Camarines Sur, and Misamis Oriental. A total of 18,247 hectares out of a total scope of 18,377 hectares was acquired and distributed to 7,466 farmer beneficiaries [BARIE, 2003]. As of 1986, DAR administered a total of 150 estates.

a co-ownership regime, through farmers' cooperative or any other form of collective organization.

In 1990s, to expedite distribution of numerous landholdings the DAR adopted as an interim measure the issuance of CCLOAs<sup>6</sup> for parcels meant for individual titling to avoid the lengthy process of subdividing the land that required inspection, verification and approval of survey plans which could take at least three months to complete. The beneficiaries were issued a collective title where their names were annotated but were supposed to be subdivided later and lots would be awarded individually. This task, however, was somehow neglected in the years that passed as the DAR field offices remained concentrated on distribution of new lands and had considered the issued CCLOAs as accomplishments in land distribution which left the ARBs with no clearly delineated parcels. In addition, because land surveys have yet to be done, portions of CCLOAs classified as forest lands and non-CARPable areas for common use such as road networks and irrigation were not carved out of the awarded landholdings.

Twenty years after the enactment of the CARP law, since the task of subdividing CCLOAs was has not been completed, the tenure/property rights of beneficiaries in the CCLOAs were somewhat rendered insecure as boundary conflicts became prevalent due to the absence of definite lot allocations for each ARB. Beneficiaries of compensable lands were not able to pay land amortizations since no payment schedules were generated as basis of such payments due to non-issuance of individual titles. The awarded lands virtually became susceptible to encroachers and issues on succession of ownership emerged among heirs of deceased beneficiaries since the CARP does not provide any rule on succession of land rights. Transferring ownership of lands from beneficiaries to legal heirs would entail high transaction costs and estate taxes that discouraged or prevented second-generation land transfers.

Thus, when RA 9700 was enacted in 2008 to extend the funding of CARP for another five (5) years, this law also mandated the overdue subdivision of the CCLOAs<sup>7</sup>. The DAR had since been incrementally subdividing or partitioning these CCLOAs through a process called parcelization but this was again further delayed by operational issues that have accumulated, particularly in the validation of covered lands and in firming up the master list of co-owner beneficiaries due to required but lengthy processes, substantial reduction of DAR's manpower and inadequacy of IT systems needed to accomplish the work.

From 2010 to 2018, out of the total of 2.25 million hectares under collective titles intended for subdivision, the DAR managed to complete parcelization of only around 608,586 hectares. In addition, some 126,975 hectares of forest lands covered with CCLOAs were also identified and these are to be turned over to DENR's jurisdiction, while another 135,505 hectares were not parcelized as the beneficiaries opted to maintain collective ownership. As of January 2019, there were still around 139,000 CCLOAs left to be subdivided and issued individual titles

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<sup>6</sup> Pursuant to Sec. 25 of RA 6675, DAR AO No. 1993-03 laid down specific policies and procedures for the issuance of CCLOAs. The following types of CCLOAs were issued: (1) on co-ownership basis where a CCLOA cannot be issued in the name of a cooperative or farmers association, but **shall be subdivided in accordance with the actual occupancy of the ARBs**; (2) farmers' cooperatives; and (3) some other forms of farmers' collective organization. Sec. 29 of RA 6657 also allows DAR such option in case it is not economically feasible and sound to divide the land among the worker-beneficiaries.

<sup>7</sup> Sec. 25 of RA 6657, as amended by Sec. 10 of RA 9700, provides in part: "With regard to existing collective certificates of land ownership award, the DAR should immediately undertake the parcelization of ... those that do not exhibit the conditions for collective ownership...." The conditions for maintaining collective titles are enumerated therein, as follows: (a) current farm management system will not be appropriate for individual farming; (b) farm labor system is specialized, where the farmworkers are organized by functions and not by specific parcels such as spraying, weeding, packing etc; (c) beneficiaries are currently not farming individual parcels but collectively work on large contiguous areas; and (d) farm consists of multiple crops being farmed in an integrated manner or includes non- crop production areas that are necessary for the viability of farm operations and cannot be subdivided or assigned to individual farmers.

covering more than 1.38 million hectares with around a million agrarian reform beneficiaries (ARBs). This represents 61 percent of the total of hectares of lands issued with CCLOAs (2.25 million hectares) and constitutes 29 percent of the total lands distributed by the DAR (4.8 million hectares) under the CARP. Some 48,133 CCLOAs involving 619,441 hectares have approved survey plans (ASPs) which will have to be revalidated, while around 90,092 CCLOAs involving 760,979 hectares have no ASPs yet and will have to be surveyed/subdivided into individual lots. [See Table 1]

**Table 1. Total Scope of CCLOAs by survey group and land type (DAR-BLTI, 2019)**

Item/Description	No. of CCLOAs	Area (in hectares)	Total Area (in hectares)
<b>TOTAL CCLOA SCOPE</b>			<b>2,251,486</b>
<i>Compensable</i>		703,625	
<i>Non-compensable</i>		1,547,862	
<b>LESS: Parcelized CCLOAs (w/ individual CLOAs)</b>		608,586	
<b>Sub-total</b>			<b>1,642,900</b>
<b>LESS: CCLOAs in forests, roads, watersheds</b>	6,799	126,975	
<i>Co-owners opted to remain in CCLOAs</i>		135,505	
<b>Total Remaining CCLOAs</b>	<b>138,225</b>		<b>1,380,420</b>
<i>With ASP (for Relocation Survey)</i>	48,133		<b>619,441</b>
<i>Without ASP (for Subdivision Survey)</i>	90,092		<b>760,979</b>
<b>Breakdown by Mode of Acquisition</b>			
Compulsory Acquisition (CA)	6,920	96,697	
Voluntary Offer to Sell (VOS)	25,939	259,937	
Operation Land Transfer (OLT)	60	799	
Government Financial Institutions (GFI)	7,535	97,639	
Voluntary Land Transfer (VLT)	50,069	284,445	
Landed Estates (LE)	2,052	7,305	
Settlements (SETT)	8,179	167,266	
Government-Owned Lands (GOL-KKK)	37,471	466,332	

Pursuant to the CARP law and in compliance with President Rodrigo Duterte's directive to the DAR and the DENR to fast track the issuance of individual CLOAs during the 36<sup>th</sup> Cabinet Meeting in April 2019, the DAR has proposed Project SPLIT which has been approved by the National Economic Development Authority-Interagency Coordination Committee (NEDA-ICC) in September 2019 for possible funding by the World Bank. Project Identification, Preparation and Appraisal Missions were subsequently conducted jointly by the Bank and the DAR from October to February 2020 which included among others the assessment of potential risks and impacts that could be associated with the Project as discussed in this document including management options that can be adopted to address possible negative impacts.

## II. PROJECT DESCRIPTION

The Project aims to improve land tenure security and strengthen property rights of agrarian reform beneficiaries (ARBs) by accelerating the subdivision or parcelization of the remaining CCLOAs into individual land parcels and the generation of individual CLOAs to be distributed to the listed co-owners thereof. This objective is in support of the government's development goals of reducing poverty and promoting economic growth in the countryside by improving the beneficiaries' tenure/control over their awarded lands to enable them to utilize the same to improve their productivity, income and/or investment decisions. The Project will help achieve this by (a) strengthening DAR's institutional capability through technical assistance and capacity-building; (b) provision of support to parcelization survey and individual titling of CCLOAs; and (c) strengthening coordination and collaboration with other agencies involved in the Project (i.e. DENR, NCIP and LRA).

## 1. Project Components and Costs

The Project will have the following components:

*Component 1: Parcelization of Collective CLOAs.* This component aims to complete the parcelization of CCLOAs with time and cost efficiencies. This will require the hiring of additional human resources, adoption of a clear communication and outreach program, testing and rolling out of a more efficient parcelization process, the adoption of modern survey techniques, and the development and deployment of digital processes and document management. There will be five (5) sub-components:

- 1.1 Improved Regulatory Framework for SPLIT
- 1.2 IT Support for SPLIT
- 1.3 Completing the Inventory of CCLOA
- 1.4 Field testing of improved procedures to subdivided CCLOA in Regions I, VIII and IX
- 1.5 Rolling out improved procedure in other Regions to complete Project SPLIT

*Component 2. Capability Building and Technical Assistance.* The Project will develop a range of efficiency and change to workflow procedures and explore innovative approaches that will require necessary training of existing and additional staff of the DAR and cooperating line agencies. A comprehensive human resource development plan shall also be developed early in the program. A consultant will be engaged to prepare the comprehensive plan.

*Component 3. Project Management, Monitoring and Evaluation.* This component aims to provide the necessary supervision, technical and funding assistance to the project implementing units and partner agencies at the central, regional and provincial levels to support the management and coordination of project activities including planning, budgeting, technical assistance, financial management procurement and disbursement, monitoring and evaluation, environmental and social safeguards

The Project's proposed total budget is US\$473.5 million, with US\$370 to be sourced on loan proceeds from the Bank and US\$103 million as counterpart of the Government of the Philippines (GoP).

**Table 2. Project SPLIT Proposed Budget**

Component	Item	Total (USD million)	WB (USD million)	GoP (USD million)
	Total budget (with contingency)	473.5	370.0	103.0
	Price Contingency	21.2	0	21.2
	Physical Contingency	10.3	17.7	28.0
	Budget (without contingency)	424.3	359.7	64.6
1	Parcelization of Collective CLOAs	372.8	327.6	45.2
2	Capacity Building and Technical Assistance	3.5	3.5	0.0
3	Project Management and M&E	48.0	28.5	19.5

## 2. Project Coverage, Activities and Their Locations

The Project will be implemented mainly in the rural and agricultural areas of the countryside which include remote, lowlands and hilly agricultural lands, while some may be found in

declared ancestral domain lands of indigenous cultural community/indigenous peoples (ICCs/IPs), and lands at the edges of or within the forest lands, protected areas and/or national parks. The Project's ground activities and processes on parcelization will be site-specific involving some 139,000 CCLOAs covering 1,380,420 hectares of landholdings located in 1,252 cities/municipalities in 77 provinces and 15 regions of the country (Table 3). Project ground activities will include the CCLOA inventory, conduct of meetings/consultations with stakeholders, field validation, segregation/subdivision surveys, field inspection, generation and distribution of individual titles. The Project has been exempted from the Philippine Environmental Impact Statement System's requirement for an Environmental Clearance Certificate (ECC) from DENR because no civil works or activities will be involved throughout project implementation. The Bank's Environmental and Social Framework will instead be applied on the Project's environmental and social safeguards aspects along with applicable national regulations and GoP-ratified international conventions consistent with the Bank's ESF.

**Table 3. Project Coverage: Number of CCLOAs by location and survey status (DAR-BLTI, 2019)**

Region	No. of Prov.	No. of CCLOAs	Area in hectares			Percent to total
			With ASP	Without ASP	Total	
<b>Philippines</b>	77	138,567	619,441	760,979	1,380,420	100%
<b>CAR</b>	6	4,841	22,837	18,108	40,945	2.96
<b>I</b>	4	10,656	15,038	30,802	45,840	3.32
<b>II</b>	5	6,503	51,366	35,095	86,461	6.26
<b>III</b>	7	4,927	10,988	24,071	35,059	2.54
<b>IV-A</b>	6	5,033	11,624	16,781	28,406	2.06
<b>IV-B</b>	5	7,638	24,996	12,913	37,909	2.75
<b>V</b>	6	11,316	37,765	63,788	101,553	7.36
<b>VI</b>	6	14,820	67,689	115,659	183,349	13.28
<b>VII</b>	4	3,804	33,348	17,976	51,324	3.72
<b>VIII</b>	6	16,856	58,352	149,491	207,843	15.06
<b>IX</b>	3	8,627	47,883	60,855	108,738	7.88
<b>X</b>	5	12,609	29,103	72,329	101,432	7.35
<b>XI</b>	6	9,387	64,043	35,237	99,280	7.19
<b>XII</b>	4	13,599	82,674	65,346	148,020	10.72
<b>CARAGA</b>	5	7,951	61,736	42,527	104,263	7.55

### 3. Parcelization Process

The entire parcelization process will start with the inventory of CCLOAs and verification of land classification. If there are overlaps with forests and other inalienable lands, the portion that overlaps will be carved out of the CCLOA. A validation process will also identify ARBs and their parcels in the CCLOA to ensure the master list of ARBs is appropriately documented and approved. The process will confirm land type, survey status, ARB group/type, actual land use of each landholding, and identify CCLOA with issues or pending legal cases. Preparing the inventory will require desk work and ground verification. The ARB validation would involve documentary reviews, consultation meetings, house to house visits, boundary walkthroughs, and formal surveys.

Pursuant to DAR Administrative Order No. 2 series of 2019 which is currently being enhanced to be made an integral part of the Project's overall framework, the entire parcelization process involves: (1) preparatory activities to establish project management structures, preparation of annual work and financial plans, including procurement of IT requirements, appointment/hiring and training of project personnel, monitoring and review/valuation mechanisms; (2) Inventory of CCLOAs; (2) Field validation of CCLOAs and farmer beneficiaries listed as co-owners thereof; (3) Conduct of verification or relocation survey for CCLOAs with ASPs and subdivision survey for CCLOAs without ASPs; (4) Generation of

Individual Titles, (5) Updating/Generation of Land Distribution Information Schedule for compensable lands; and (6) Distribution of Individual CLOAs to ARBs. The phases/stages of parcelization are shown in Figure 1 while the major processes are illustrated diagram in Figure 2.

**Figure 1. Phases of CCLOA Parcelization Process**



*Validation of Land Classification (LC).* The validation of land classification would be based on the Land Classification Maps of the National Mapping and Resource Information Authority (NAMRIA) of DENR. Most of the CCLOAs issued way back in 1990s covered public lands, proclaimed DAR settlements and other government-owned lands turned over to the DAR for disposition under the CARP. The lands devoted to or deemed suitable for agriculture within these areas were supposed to be segregated from forest lands before these were to be awarded to ARBs<sup>8</sup>.

However, there were some errors apparently committed in the projection of some of these CCLOAs on the Land Classification maps and the difficulty at that time of manually plotting the actual boundaries on the ground (due to partly also to issues on accuracy of the maps then) somehow resulted in the overlap of some CCLOA lands with forest lands, which may now include subsequently declared protected areas and, in possibly rare instances, ancestral domain lands. Many such lands were also issued CCLOAs without undergoing inspection and verification surveys, a mode resorted to by the DAR in order to expedite the disposition of these large tracts of government lands, but these were supposed to be subsequently subdivided into individual CLOAs.

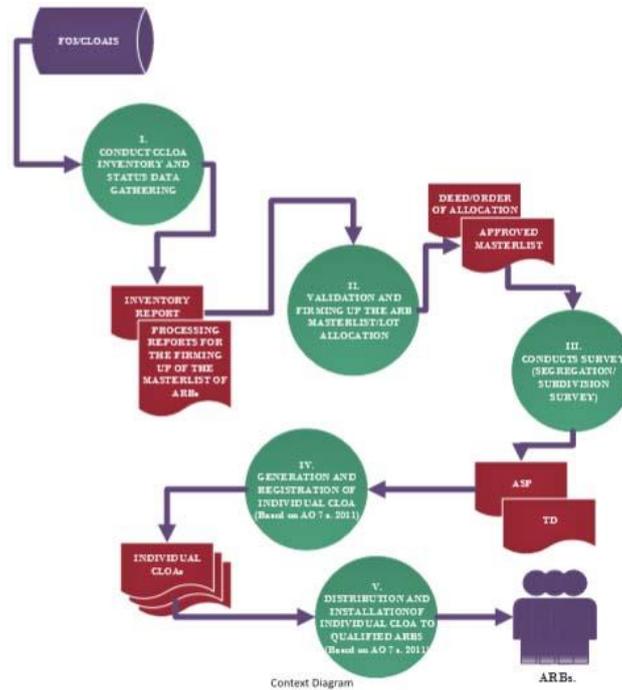
The cleansing of these forest overlaps in the CCLOAs and partitioning of the agricultural lands thereof into titled individual lots has since remained as part of the DAR's unfinished balance for land distribution. Cleansing the CCLOAs of forest lands have been undertaken by the DAR and as of January 2019, the effort netted some 126,796 hectares which will be eventually turned over to the jurisdiction of the DENR.

The remaining CCLOAs covered by the Project will be subjected to verification on both land classification and actual land use to determine the areas to be issued with individual titles and the areas to be turned over to the DENR for the issuance of appropriate tenurial instruments. The DAR estimates around 1.7 percent (or some 24,673 hectares) of the total Project coverage that are within forest lands, protected areas and/or national parks which will be segregated and turned over to the DENR's jurisdiction.

In general, the inventory process will identify CCLOAs with serious/critical issues that need to be addressed and parcelization can commence only after these issues are resolved.

<sup>8</sup> Under both the Presidential Memorandum Order No. 107 series of 1993 and the DAR-DENR Joint Memorandum Circular No. 9, series of 1995.

**Figure 2. Parcelization Process Flow**



*Validation of ARBs and Firing –up of Master List and Lot Allocation.* The validation of ARBs will be based on the list of original ARBs registered as co-owners whose names are annotated in the CCLOAs. There may be replacements ("inclusions") or disqualifications ("exclusions") that will happen during the validation of the ARBs, depending on their status and that of the current occupants of a particular parcel in the CCLOAs. The process of exclusions and inclusions will be guided by the basic eligibility criteria of farmers/tillers to qualify as CARP beneficiaries as provided for in the DAR Administrative Order (AO) No. 7 series of 2011:

- 1) Landless farmers/tillers as defined by RA 6657;
- 2) Filipino citizen;
- 3) Permanent resident of the barangay and/or municipality where the landholding is located;
- 4) At least 15 years of age at the time of identification, screening, and selection; and,
- 5) Willing, able, and equipped with the aptitude to cultivate and make the land productive;

Section 22 of RA 6657 specifies qualified CARP beneficiaries in the following order of priority: (1) agricultural lessees and share tenants; (2) regular farmworkers; (3) seasonal farmworkers; (4) other farmworkers; (5) actual tillers/occupants of public lands; (6) collectives/cooperatives of the above beneficiaries; and (7) others directly working on the land.

The grounds for the replacement and disqualification of ARBs are, as follows: (1) failure to meet the qualifications under Section 22 of R.A. No. 6657, as amended; (2) voluntary execution of a waiver of right to become an ARB in exchange for due compensation, and such waiver has not been questioned in the proper government entity; (3) negligence or misuse of the land or any support extended by the government as provided in Section 22 of RA No. 6657; (4) material misrepresentation of the ARB's basic qualifications under Section 22 of RA No. 6657, as amended, PD No. 27, and other agrarian laws; (5) sale, transfer, lease, or any other form of conveyance by a beneficiary of the right of ownership, right to use, or any other usufructuary right over the land acquired by virtue of being such beneficiary, in order to violate or circumvent Sections 27 and 73 of RA No. 6657, PD No. 27, and other agrarian laws; and (6)

commission of any violation of the agrarian reform laws and regulations, or related issuances, as determined with finality after proper proceedings by the appropriate tribunal or agency.

Most of the “exclusions” and “inclusions” may be expected in cases where (1) an originally listed ARB is already deceased who must be excluded from the master list and substituted/replaced by the heirs of the deceased ARB or (2) an ARB who is unable to directly till the land due to sickness or old age, or has abandoned the awarded lot and who will be replaced by the legal heirs, current occupant, if any, or by other qualified beneficiaries in the master list of the DAR.

*Labor Requirements.* The Project plans to engage around 6,000 workers to implement the activities on parcelization. All of the workers will be of legal age and most of them will be skilled (i.e. surveyors, geodetic engineers, legal officers, researchers and support field staff for field surveys and validation). A Labor Management Plan will be developed to apply to all project personnel.

*Preparatory Activities.* The inventory of CCLOAs consists of revalidation of land classification of CCLOAs with ASPs and verification of land classification of CCLOAs without ASPs. This will require the projection of these CCLOAs on the Land Classification Maps (LCMs) to be undertaken jointly by the DAR, DENR and LRA. CCLOAs with overlaps on forest lands, which could include protected areas and national parks, will be further subjected to segregation survey to exclude forest lands from the CCLOAs prior to parcelization while CCLOAs without any land classification issue will be automatically included in the list of CCLOAs to be parcelized. Furthermore, CCLOAs with potential overlap on ancestral domain lands will be processed for clearance by the DAR in coordination with the NCIP before these are included for parcelization. The inventory will also determine CCLOAs with or without master lists of co-owner ARBs annotated thereon. Finally, the original hard copies of CCLOAs to be parcelized will be retrieved from the vault of LRA-ROD. CCLOAs with damaged, missing or lost original copies will undergo reconstitution but may already be simultaneously included for parcelization if the owners duplicate copy (ODC) either from the ARBs, the DAR or LBP is available, pending the processing and issuance of reconstituted titles thereof.

#### 4. Ground Activities in CCLOA Sites

The Project’s ground activities will commence with preliminary consultations, processing of master list of ARBs, consultation meetings with ARBs on the parcelization process, conduct of surveys and concluded with the distribution of individual CLOAs.

*Preliminary Consultations in firming up the list of ARBs.* The DAR will conduct preliminary consultation meetings with the ARBs listed as co-owners on the CCLOA, the current actual occupants on subject landholdings and representatives from the Barangay Agrarian Reform Committee (BARC)<sup>9</sup> and the barangay chairman. Formal invitations will be sent out and all efforts will be exhausted to locate all of them through various means available and this will be done at least 15 days prior to the scheduled meetings. The agenda for the meetings (to be specified in the invitations) will include: (1) overview of the Project SPLIT (2) redocumentation and verification of the ARBs and actual/current occupants (3) gathering of information as to the actual tillage/occupation of both the ARBs and non-ARBs, (4) mode and

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<sup>9</sup> The Barangay Agrarian Reform Committee (BARC) is a multi-stakeholder community-based implementing and coordinating mechanism for the CARP specifically created as a council under EO 229 Series of 1987 pursuant to the national policy of encouraging people's initiative and self-reliance. RA 6657 as amended, changed the nomenclature of the BARC from a council to a committee and vested additional functions thereof in addition to assistance in the identification of farmer beneficiaries and attestation of the accuracy of parcellary maps, among others.

date of occupation of both ARBs and non-ARBs, (5) current/actual land use of the landholding, (6) status of organization/cooperative and existence of agribusiness venture agreement contracts (if any), (7) availability of CCLOA ODC from ARBs, if any, (8) signing of request for parcelization from ARBs and (9) discussion of Project-related issues, concerns and feedback from invited participants.

During the preliminary meeting, in case all co-owner ARBs or their authorized representatives are present, and all the information required have been documented (with no issues raised and the master list of ARBs have been agreed upon by the participants, both ARBs and non-ARBs), the ARBs will sign a request for parcelization. The names of the ARBs in the final master list will be annotated in the CCLOAs by the LRA-ROD. In case of married ARBs, the names of both spouses will be annotated.

Certain lots in CCLOAs with ASPs that have no issues/disputes involved will be automatically included in the list of CCLOAs parcelization and the names of the corresponding ARBs thereof will also be annotated in the CCLOAs by the LRA-ROD.

The consultation meetings will be fully documented using IEC materials and methods to be developed by the Project in forms, languages or dialects easily understood by the ARBs. The resulting final master list of co-owner ARBs (partial list in case there are ARBs who opted for parcelization in CCLOAs with ASPs) will be posted in prominent area/s of the landholdings, the barangays and cities/municipalities where these are located.

*A Note on Substitution/Inclusion and Exclusion of ARBs.* In case there will be issues on substitution, inclusion and/or exclusion of ARBs or any agrarian dispute raised during the meeting, the BARC will assist the DAR in resolving these issues guided by the principles of transparency and due process in conducting mediation and conciliation efforts aimed to persuade contending parties to settle any dispute amicably without resorting to judicial remedies that would only unnecessarily delay the process. The rules governing mediation and conciliation of agrarian disputes embodied in the DAR AO No. 8 series of 1994 shall generally apply on this aspect subject to further enhancements and integration into the updated AO 2, series of 2019 on parcelization. The parties involved in any issue for resolution will be informed of their rights to pursue judicial remedies or undergo the alternative mediation and conciliation process. Affected CCLOAs will be included for parcelization only after the issues are settled. The procedures for inclusion/exclusion of ARBs is further discussed in detail in the Resettlement Policy Framework (RPF) attached to the ESMF.

*Meetings with ARBs re CCLOA Parcelization.* After 15 days of posting the master list of ARBs, CCLOAs with no protests received thereon (or for CCLOAs with ASPs, the lots with no protests thereon) shall proceed to the next step of the parcelization process which is another meeting to include detailed orientation on the Project for the ARBs in the final master list of CCLOAs (partial list of ARBs who opted for parcelization in case of CCLOAs with ASPs), documentary requirements, signing of lot allocation agreements, actual conduct and subsequent approval of relocation and/or subdivision survey as well as segregation survey on common service facilities (in case of CCLOAs with such existing facilities) and common use areas such as existing roads or road-right-of-ways that made need to be established, and the signing of deed/order of parcelization.

*Conduct of Land Survey.* Geodetic mapping of lands will be undertaken in accordance with the lot allocation plan which will be submitted to the DENR for the conduct of inspection, verification and approval of surveys (IVAS) and submission of approved survey plans (ASP). Upon accomplishment and submission of the deed/order of parcelization along with the corresponding ASPs of the CCLOAs, the LRA-ROD will proceed to cancel the CCLOAs

(wholly or partially, as applicable) while the DAR will generate the individual CLOAs and forward these to the LRA-ROD register the same in the official land registry. For married beneficiaries, the names of both spouses will be inscribed in the titles.

**Individual CLOA Distribution.** Registered individual CLOAs will be distributed to the ARBs, along with the conduct of orientation on their rights and obligations as beneficiaries, and dissemination of information on linkages/access to existing programs of the DAR and other government agencies that can help enable ARBs to improve productivity, income and investment decisions that would lead towards environmentally sustainable farming.

### III. WB ENVIRONMENTAL AND SOCIAL SAFEGUARDS POLICIES AND GOP REGULATIONS

The World Bank’s Environmental and Social Framework (ESF) requires the Project to apply the relevant Environmental and Social Standards (ESSs) in assessing and managing associated risks and impacts of project activities and/or processes. Table 2 below shows the ESS standards, the counterpart country laws and their applicability to the Project.

**Table 4. Gap Analysis: WB ESSs and Philippine Laws/Regulations**

WB ES Standard	Philippine Laws and Regulations	Applicability to SPLIT
ESS1 - Assessment and Management of Environmental and Social Risks and Impacts	<ul style="list-style-type: none"> <li>• PD 1586 (The Philippine EIS System) and DENR AO 2003-30</li> </ul>	The Project is not covered by PD 1586 as it does not involve any physical development works. However, ESS1 does apply as the Project will have environmental and social impacts and risks.
ESS2 - Labor and Working Conditions	<ul style="list-style-type: none"> <li>• PD 442 (The Labor Code of the Philippines)</li> <li>• RA 11058 occupational safety &amp; health standards and DOLE DO 198-2018.</li> </ul>	The Project will hire and/or mobilize 6000 workers nationwide, including contractors, local government staff and community volunteers. Less a dozen personnel will work on a CCLOA site plus LGU and community representatives. The country labor laws contain key elements of ESS2, including prohibition against child labor, women's rights, freedom of association, grievance and arbitration. They do not however recognize community worker as special case and does not extend requirements to supplier workers. ESS2 will apply to fill in all the gaps.
ESS3 - Resource Efficiency and Pollution Prevention Management	<ul style="list-style-type: none"> <li>• RA 3931 (National Air and Water Pollution Control Commissions)</li> <li>• PD 1152 (Philippine Environment Code)</li> <li>• RA 8749 (Philippine Clean Air Act)</li> <li>• RAP 9275 (Philippine Clean Water Act)</li> </ul>	The Project does not have any significant impact to air and water quality. Hence pollution prevention laws do not apply. There is however a potential long-term increase in the use of pesticide and other agrochemicals in Project areas. The Project will ensure the ARBs will be oriented on and linked to existing related key government programs.
ESS4 - Community Health and Safety	<ul style="list-style-type: none"> <li>• PD No. 856 – Code on Sanitation of the Philippines</li> <li>• EO No. 489 s. 1991 – The Inter-Agency Committee on Environmental Health (IACEH)</li> <li>• National Objectives for Health (NOH) 2011-2016</li> <li>• DOH AO 2010-0021 - Sustainable Sanitation as a National Policy and a National Priority Program of the DOH</li> <li>• DOH AO 2014-0027 – National Policy on Water Safety Plan (WSP) for All Drinking-Water Service Providers</li> <li>• DOH AO 2017-0006 – Guidelines for the Review and Approval of the Water Safety Plans of Drinking-Water Service Providers</li> <li>• DOH AO 2017-0010 – Philippine National Standards for Drinking Water (PNSDW) of 2017</li> </ul>	Less than a dozen workers from outside the communities will be conducting surveys and consultations and walkthroughs on each CCLOA site. The ESS4 and all Philippine regulations emanating from the public health laws will apply to all workers in the Project. Community workers/volunteers should be provided with the same personal protective equipment when working in dangerous terrain.
ESS5 -Land Acquisition, Restrictions on Land Use and Involuntary Resettlement	<ul style="list-style-type: none"> <li>• Constitutional provisions that private property shall not be taken without just compensation.</li> <li>• RA 10752 (The Right of Way Act)</li> <li>• RA 386 (The Civil Code of the Philippines) Book IV - Damages</li> <li>• PD 1529 (Property Registration Decree)</li> </ul>	RA 10752 will not apply. However, ESS5 will apply as there might be ARBs affected by the reversion or cancellation of portions of CCLOAs that fall within forest lands which would leave them untenured if not granted alternative instruments. There may also be current occupants of land parcels within CCLOA who may fail to qualify or be ruled illegal and may need to be resettled and/or compensated.
ESS6 - Biodiversity Conservation and	<ul style="list-style-type: none"> <li>• PD 705 (Revised Forestry Reform Code)</li> </ul>	Some measures under ESS6 will apply.

<b>WB ES Standard</b>	<b>Philippine Laws and Regulations</b>	<b>Applicability to SPLIT</b>
Sustainable Management of Living Natural Resources	<ul style="list-style-type: none"> <li>RA 7586 (National Integrated Protected Areas System)</li> </ul>	There are CCLOAs issued in forest lands and protected areas. Some CCLOAs are also situated in upland agroecological zones requiring ARBs to be linked to government programs related to sustainable land management, and maintenance of micro watersheds.
ESS7 - Indigenous Peoples	<ul style="list-style-type: none"> <li>RA 8371 (Indigenous Peoples Rights Act)</li> </ul>	There are CCLOAs issued to ICC/IP-ARBs. Some CCLOAs may also overlap with some IP group's Ancestral Domains. In all cases ESS7 will apply. In cases of ICC/IP-ARBs inside ADs, the IPRA applies in addition to ESS7
ESS8 - Cultural Heritage	<ul style="list-style-type: none"> <li>RA 10066 (The Philippine Cultural Heritage Act)</li> </ul>	RA 10066 and ESS8 is not applicable for this Project
ESS9 - Financial Intermediaries	<ul style="list-style-type: none"> <li>No equivalent legislation</li> </ul>	ESS9 is not applicable for this Project
ESS10 - Stakeholder Engagement and Information Disclosure	<ul style="list-style-type: none"> <li>DENR AO 2003-30</li> <li>DENR AO 2017-15</li> <li>DAR AO no. 2 series of 2019 provide for dialogue and consultation with ARBs</li> </ul>	Consultation with ARBs and other affected or interested parties will ensure better project design and implementation and may help/offer solutions to problems or mitigate risks and negative impacts.

### III. ENVIRONMENTAL PROFILE OF THE PROJECT AREA

#### 1. General Location of CARP Areas

The Project will be implemented mainly in the rural and agricultural CARP areas of the countryside which include remote areas, lowlands and hilly agricultural lands, declared ancestral domain lands of indigenous group/community, and lands outside of the of forest lands, protected areas and/or national parks. From 1972 to 2018, the DAR has distributed a total of almost 4,993,773 hectares of land to 3,057,227 beneficiaries. Almost 50 percent of these lands are in Regions XII (Central Mindanao), VIII (Eastern Visayas), III (Central Luzon), VI (Western Visayas) and II (Cagayan Valley). These areas distributed are public lands that have been declared as alienable and disposable (A&D), a good portion of these lands would be in the rolling or hilly terrain. In the same manner, 45 percent of the unsubdivided CCLOAs targeted by the Project are located in the same regions of Eastern Visayas, Western Visayas, and Central Mindanao.

#### 2. Agroecological Zones

The ecosystems of land acquired through CARP consist of more than one-third of the lands in upland areas and more than 40 percent of these are non-irrigated farms. There is a larger percentage of lands in upland areas for the GOL/KKK and GFI land types. The crops mainly planted in lowland irrigated lands are rice (palay) and vegetables while in non-irrigated lowland, there are still palay farms but some are also planted to other crops such as banana, corn, and coconut. In the uplands, the major crops are palay, banana, coconut, corn, and sugarcane (Barrios et al 2015).

The 2015 Survey of Agrarian Reform Beneficiaries<sup>10</sup> revealed that around 90.11 percent of the CCLOA lands are still primarily used for agricultural purposes which is lower than those under individual CLOAs at 97.28 percent. There are few parcels used exclusively for residence by both the collective (19.25 percent) and individual (6.19 percent) types of beneficiaries. Barely 0.24 percent of the CCLOA parcels and 0.07 percent for individual CLOA lands are used for commercial/industrial purposes.

<sup>10</sup> The 2015 Survey of Agrarian Reform Beneficiaries (SARB) was a joint undertaking of the DAR and the Philippine Statistical Research Training Institute (PSRTI). This research project aimed to gather the necessary information to assess the status of agrarian reform beneficiaries (ARBs) under the various modes of land acquisition.

Non-compensable government-owned lands, with the exception of landed estates, were generally of low productivity or “poor quality” (WB 2009) because these were former proclaimed reservations reclassified as alienable and disposable lands (GOL/KKK) and were not yet developed. This was also true for former DAR settlements since they were delineated from public domain lands through Presidential Proclamations, unlike the landed estates (LE) where lands were relatively more productive because these were already developed agricultural estates at the time these were acquired under CARP.

**Table 5. Agroecological zones of CARP Areas (Ballesteros et al 2018)**

Mode of Acquisition	Lowland Irrigated	Lowland Non-Irrigated	Upland	Total
VLT/DPS	523	729	417	1669
<i>Priority for Subdivision</i>				
CA	83	202	174	459
VOS	96	333	298	727
OLT	184	214	242	640
GFI	5	13	24	42
KKK/GOL	1	14	11	26
SETT	51	64	73	188
LES	8	6	6	20
Total	428	846	828	2102
%	<b>20.36</b>	<b>40.25</b>	<b>39.39</b>	<b>100</b>
All parcels	951	1575	1245	3771

Based on DAR records as reflected in Table 5, CCLOAs to be covered by the Project would be within these 60% lowland and 40% upland areas, although the proportion may not likely be similar. It is in the upland areas where most environmental issues may be present due to their intrinsic characteristics as natural habitats and delicate ecosystems with environmentally-sensitive flora and fauna because of unique landforms that comprise mostly of steep slopes and rugged terrain with the ground highly susceptible to loss of nutrient-rich top soil and sedimentation of waterways caused by fast-flowing waters during heavy rainfalls. These lands may also be prone to long-term soil erosion and land degradation. Most of the lands parcels in these areas have long been occupied and subjected to cultivation even before they had been transferred/awarded to ARBs. Currently these lands are planted with food and cash crops such as corn, banana, upland rice varieties and sugarcane, and perennial crops such as coconut, rubber, coffee and cacao. However, some portions in these areas still contain small thickets in gullies that provide natural habitats to flora and fauna, and waterways that are critical components of micro watersheds.

Site visits conducted by DAR so far confirms that occupants in CCLOAs are planting permanent crops such as coconut and fruit trees, and cropping system is generally monocrop as shown in Table 5 (Survey conducted for 85% of the landholding areas).

**Table 6. Crops planted on areas likely to covered by the Project (Source: Ballesteros et al, 2018).**

Mode of Acquisition	Irrigated Lowland	Non-Irrigated Lowland	Upland
CA	Rice	rice, banana, corn	coconut, corn, banana
VOS	rice, sugarcane	sugarcane, banana, rice	corn, coconut, sugarcane
OLT	Rice	rice, corn	corn, coconut, rice
GFI	rice, calamansi	rice, coconut	corn, coconut
KKK/GOL	Rice	rice, coconut, banana	sugarcane, corn
SETT	Rice	corn, rice	coconut, corn, rice
LES	Rice	corn	coconut



**Figure 3. Upland CCLOA areas to be covered by the Project**

### 3. CCLOAs in Areas Still Classified as Forest

Due to difficulties encountered by the DAR in delineating agricultural lands and segregating forest lands thereof, some CCLOAs have had overlaps with lands that are still officially classified as forest lands which may include lands within officially declared protected areas or national parks, although these land parcels have already been occupied during the issuance of the CCLOAs. Joint efforts by the DAR and the DENR as of end-2018 have resulted in the inventory of around 126,976 hectares in certain CCLOAs that are located in forest lands which may include watersheds, protected areas, national parks and common use areas such as road networks. These land parcels have been excluded from the Project coverage and will be turned over to DENR for management and issuance of appropriate tenurial instruments.

The exact area of the remaining CCLOA lands that may still overlap with forest lands and the number of CCLOAs and ARBs involved can be ascertained only during the actual inventory and field validation of CCLOAs which is expected to be completed in June 2020. It should be noted, though, that forest land<sup>11</sup> classification does not necessarily mean the lands are actually forested areas or serving as natural habitat for species. Many of these CCLOA lands have been occupied and in continuous cultivation for decades now, some as early as 70 years ago, especially in the case of the former landed estates and DAR-administered settlements. The general agroecological profile of these lands is characterized by gently rolling terrain with some steep slopes, substantial agricultural clearings and isolated thickets of natural vegetation. The current agricultural use of these lands makes it difficult to exactly delineate the boundaries of forest lands and alienable and disposable lands. Land classification (LC) maps in the Philippines have issues of accuracy vis-à-vis cadastral and other maps as these date back to the 1950s when the country's population was only 20-25 million. While the need for agricultural lands had increased many folds, land reclassification had been very slow.<sup>12</sup>

<sup>11</sup> In *Heirs of Jose Amunategui v. Director of Forestry* the Court stated that classification is descriptive of the legal nature or status of the land, not its natural state or what it actually looks like. 126 SCRA 69, 75 (1983)

<sup>12</sup> The first mapping effort under the National Forest Resources Inventory (NFRI) Project was undertaken only in 1969 by the then Bureau of Forestry and was based on aerial photographs taken from 1962-1968, supported with some forest inventory/ground measurements. This was followed by the second NFRI in 1988 (when the CARP was instituted) undertaken by the then Bureau of Forest Development based on aerial photographs taken in 1979 for northeastern Mindanao and satellite imageries for the rest of the country taken from 1982-1985, also supported with ground measurements. These images were what the LC maps were based wherein the CARP landholdings were projected. A series of National Land Cover Mapping efforts followed in 2003, 2010 and 2015 when most of the CCLOAs had since been issued 20 years back. The current Land Cover Mapping Project of the NAMRIA started in 2017 and is expected to be completed this year.

## IV. SOCIOECONOMIC PROFILE OF THE PROJECT AREA

### 1. Demographic Profile of ARBs

The Philippine Statistics Authority (PSA) reported in the annual Agricultural Indicators System (AIS)<sup>13</sup> for 2019 that there were are around 2.8 million ARBs recorded from 1972 to 2018. Almost half were found in five regions, namely: Western Visayas (11.47%), Central Mindanao (10.23%), Central Luzon (10.05%) Northern Mindanao (7.66%) and Cagayan Valley (7.43%). The Philippine Commission on Women (PCW) also estimated some 32.8 percent of the ARBs were women.<sup>14</sup>

The 2015 Survey of Agrarian Reform Beneficiaries<sup>15</sup> on the other hand, estimates the number of ARB households at around 1.78 million. The households represent around 7.75 percent of the total of 22.97 million<sup>16</sup> households in the country. This is higher than the previous 2010 Census on Population and Housing (PSA, 2011) which captured only 7.3 percent of the 4.1 million country's agricultural households, or only around 305,894 ARB households, which may be explained by the probable lack of knowledge of respondents on whether or not there were beneficiaries in their household. According to the 2015 Survey, more than half of them were found in five regions: Central Luzon (15%), Central Mindanao (13%), Eastern Visayas (12%), Southern Mindanao (9%) and Cagayan Valley (9%). Some 13.15 percent of the total ARB household heads were females.

The heads of CARP beneficiary households (which are assumed to be the beneficiary themselves) were found to be generally older than non-CARP beneficiaries. In 2015, the median age of CARP beneficiary household head was 55 while that of non-CARP beneficiary agricultural household was only 48. The average age of CCLOA household heads ranged from 51 to 56 years with the median age at 55. For individual CLOA holders, average age ranged from 50 to 55 years with the median age at 53. The average ARB household size in 2015 was 4.08, a little lower than the national average of 4.38 for the census period.

### 2. Ethnicity and Presence of Indigenous Cultural Communities

The ARB profile captured from the 2000 Census on Population and Housing showed that close to 20 percent of the ARBs classified themselves as Tagalog, 16 percent Ilocano and 30 percent are Visayans (Tia and Orteza, 2000). Although these figures were taken 20 years ago, they still reflect the regions that currently recorded the highest number of CARP beneficiaries in 2019 (PSA, 2019). These are in Central Mindanao which is predominantly Visayan with significant number of Ilocanos, in Western Visayas which is predominantly Visayan, and Central Luzon with a significant number of Ilocanos.

The Census data also revealed that about 9.6% of the CARP beneficiary households (44,410 households) belong to Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) as defined under the Philippine Indigenous Peoples Rights Act (IPRA). In fact, some of the ARBs registered in CCLOAs targeted for parcelization under the Project are members of the ICCs/IPs. This was confirmed by the DAR Preparation Team during a site visit to one CCLOA site in Iloilo Province. The ARB representatives who attended the first stakeholders consultation for the Project in the Cordillera Administrative Region (CAR) last 23 January 2020 also revealed that around 90 percent of beneficiaries in the region are ICCs/IPs of the Ibaloi and Kankanaey tribes. It is expected that most, if not all, of the CCLOAs are outside the ICCs/IPs declared

<sup>13</sup> Agricultural Indicators System (PSA, 2019)

<sup>14</sup> <https://www.pcw.gov.ph/statistics/201809/agriculture>

<sup>15</sup> 2015 Survey of Agrarian Reform Beneficiaries (PSRTI, 2016)

<sup>16</sup> 2015 Census on Population and Housing (PSA, 2019)

ancestral domains which are the official territories of the ICCs/IPs, although there is a rare chance that the Project may include CCLOAs inside ancestral domains.

Approximately ten percent (10%) of the population in the Philippines is considered as ICCs/IPs. They live in several regions but are particularly concentrated in the mountains of northern Luzon and the island of Mindanao. The social make-up of communities with ICCs/IPs varies. Some CCLOAs may only have members from the same indigenous group while others may have members from different social groups, including some in mixed communities where some members are non-ICCs/IPs. A more detailed discussion profile of the ICCs/IPs in the Philippines is presented in the IPPF.

The actual area or number of CCLOAs that may overlap with or located within the ADs would be determined during project implementation. In general, these lands were already placed under CARP coverage before the effectivity of the IPRA and although most CCLOAs were issued before IPRA, there were some CCLOAs issued after the IPRA which are yet to be segregated from ancestral domains.

### 3. Literacy and Educational Attainment

Census in 2000 revealed that the heads of households with CARP beneficiaries had a literacy rate of 88.9 percent, lower than the literacy rate (90.8 percent) of heads of households without CARP beneficiaries. So far there is no newer data on this. In 2008, about 45 percent of the CARP beneficiary household heads have high school or higher levels education. The Functional Literacy, Education and Mass Media Survey (FLEMMS, 2008) of the PSA found that household members of ARBs had an average of 38.7 percent who are high school graduates. The 2015 Survey revealed a significant improvement wherein household members of ARBs in CCLOAs have 45.55 percent high school graduates which is slightly lower than those with individual CLOAs who have 46.89 percent.

### 4. Socioeconomic Conditions of CARP Beneficiary Households

Some 82.8 percent of heads of households with CARP beneficiaries in 2015 were economically active but only 71 percent of them consider themselves farmers, forestry workers and/or fishers. Seven percent (7%) were laborers and unskilled workers; five (5%) percent plant and machine operators and assemblers and 4.5 percent traders and related workers. It should be noted however that while 28.9 percent of the heads were not engaged in agriculture, fishery and forestry, other household members may be the ones engaged in this sector.

**Table 7. Living Conditions of CARP beneficiary vs Non-CARP beneficiary households (PSRTL, 2015)**

<b>Amenities</b>	<b>ARB HH</b>	<b>Non-ARB HH</b>
Have electricity for lighting	60.2 %	64.1%
Use Kerosene for lighting	36.4%	33.0%
Use Wood for Cooking	50.2%	46.7%
Use LPG for Cooking	37.0%	40.4%
Ownership of Radio/TV	52.8%	75.0%
Ownership of Motor Vehicles	18.5%	12.0%
With GI sheets for roof materials	67.6%	69.2%
With Nipa/cogon roof materials	24.1%	23.0%
With concrete/tile roof materials	5.2%	3.5%
With concrete/brick/stone outer walls	32.0%	33.0%
Bamboo and other light materials	25.1%	21.4%
Wood	21.6%	24.7%
Need minor repairs	69.4%	72.2%
Need major repairs	17.7%	16.3%
Under construction/renovation	4.3%	3.6%

Housing unit median floor area	24.6 sq.m.	26.3 sq.m.
Household with less than 30sqm	60%	56.4%

In general CARP beneficiaries are slightly lower level socioeconomic development than non-ARB households. CARP beneficiary households have generally lower percentage in terms of use of electricity for lighting and ownership of radio/TV sets, compared to non-ARB households (Table 6). CARP beneficiary households tend to use kerosene lamps for lighting and fuelwood for cooking but have more motor vehicles than non-CARP beneficiary households which also reflect their remote locations. They are also at the slightly lower level in terms of housing conditions. ARB households generally lived in slightly smaller housing units and tend to be built on light materials compared to non-ARB households. However, the differences are not very pronounced.

## 5. Support Services

A key feature of the CARP is the provision of support services for the beneficiaries. There had been numerous programs of government that were designed to support the ARBs.

(1) *ARC and ARB organizations.* DAR adopted the ARC strategy in the provision of support services to ARBs and agrarian reform areas. ARCs are formed through clustering of contiguous barangays where the concentration of ARBs is highest. The ARCs are envisioned as economic growth points in rural areas and as such have received substantial resources from ODA funds, including from the World Bank, under ARCDP I and II. The investment in the ARCs benefits both ARBs and non-ARBs and encompasses a wide spectrum of development assistance that includes infrastructure such as farm-to-market roads, irrigation, and farm facilities. As of 2016, about 1.5 million ARBs are already covered by ARCs while around 1.3 million are still outside of ARCs. Despite the substantial resources provided to ARCs, studies noted only minimal gains. In particular, the Asia-Pacific Policy Center (APPC) reported that although the income of ARBs in ARC areas is higher than ARBs in non-ARCs, the difference is negligible (APPC 2007 as mentioned by Ballesteros et al, 2018).

(2) *Agrarian Reform Community Connectivity and Economic Support Services (ARCESS).* In 2012, DAR adopted the ARCESS strategy to address the high production cost, low profit, and low income of smallholder farmers. These goals are to be met by strengthening farmers' organizations by providing them access to farm machinery and equipment, and services. A component of the ARCESS is the provision of common service facilities (CSFs) to smallholder farmers' organizations. CSFs are farm implements, equipment, and machinery that were given as grants to farmers' organizations on condition that these will be used as a business asset. On the other hand, access to services includes professional support for capacity building on business development, agri-extension, farm equipment/machineries and access to credit and crop insurance. The interventions under ARCESS are channeled to farmers' associations or agrarian reform beneficiary organizations (ARBOs) in both ARC and non-ARC areas. The interventions include collaborative efforts and partnerships programs among government agencies (e.g., DA, DILG, DTI, DSWD, DOH, and DepEd) designed to improve farm productivity and income, ensure food security, and mitigate levels of malnourishment and other poverty. As of December 2017, there were 5,228 ARBOs operational wherein 4,268 (82%) were in ARCs and 960 (18%) in non-ARCs (Table 8).

**Table 8. Operational ARBOs, By Type of Organization in ARC & Non ARCs**

Type of Organization	No of ARBOs		
	In ARCs	In Non-ARCs	Total
Cooperatives	2,126	401	2,527
Non-cooperatives	2,142	559	2,701
Farmers Association/Organization	1,296	427	1,723

Irigators Association	506	69	575
Women's Association	156	44	200
Water Users' Association	153	16	169
Other types of Organizations	31	4	34
Total	4,268	960	5,228

Source: 2018 ITeMA Report

(3) *Sugarcane Block Farming (SBF)*. A major project that emerged from ARCESS and considered to be a good model of support services is the sugarcane block farming (SBF), which enabled smallholder farmers to synchronize their efforts without compromising their property rights. SBF entails consolidation of small farms into business units to result in: (1) reduced cost of production; (2) increased farm productivity from 60 to 75 tons of cane/ha; and (3) at least one agribusiness activity established per block farm.

(3) *Agribusiness Venture Arrangements (AVA)*. The AVA has been adopted as a strategy for agribusiness development especially for reformed lands cultivated for commercial crop production since 1998 intended to address the concerns on economies of scale. AVAs may involve ARB, individually or as an ARB association, entering into a lease agreement with investors for the control and management of the land; or an ARB, individually or collectively, entering into a marketing ("contract growing" and "joint ventures") arrangement with investors wherein the ARB individually or collectively remains as the operator or manager of the farm. As of 2015, a total of 452 AVAs nationwide (involving a total of 59,195 ARBs) had been recorded, with nearly 92 percent (approximately 71,330 ha) in Mindanao involving commercial crops. Crops involved in these arrangements include banana, pineapple, fruit trees, root crops and oil palm.

## 6. Legal Status of the Current Occupants of the Lands inside CCLOAs

Since the CCLOAs were issued some 15-20 years ago, many of the current occupants of the land parcels within the CCLOAs are no longer the original ARBs registered in the CCLOAs. If the average age of ARBs at the time of the award was 47 years, then they would now be in their 60s and 70s and many may have already died and left their landholdings to their heirs while some may have already informally sold or mortgaged their rights and occupation over the landholdings to other farmers. Indeed, the 2015 Survey of ARBs actually revealed that the age of CCLOA awardees then ranged from 58 to 70 years old, and the average age was 64 years old. This was confirmed during site visits conducted by the DAR-WB project preparation team to at least three CCLOA sites where some ARBs interviewed were already aging, some were heirs of ARBs already deceased while a few were possessors of parcels either mortgaged or "sold" to them by ARBs.

The Survey also estimated that 91.56 percent of the CCLOA parcels were still under the names of the original beneficiaries which is lower compared to individual CLOAs at 99.26 percent. However, less parcels issued with CCLOAs are still being cultivated at 84.87 percent compared to individual CLOA parcels at 95.19 percent average and as much as 98 percent on particular types of lands (OLT, VOS and SETT). The percentages of awarded lands located in the same barangay where beneficiaries reside were 89.04 percent for CCLOAs and 97.11 percent for individual CLOAs.

According to the same Survey, some parcels which are no longer under the names of some 22.67 percent of the number of original CCLOA beneficiaries were transferred to their heirs. DARPO officials stated that previous parcelization efforts involving determination of ARBs who are listed in CCLOAs and the identification of actual occupants of the CCLOA landholdings also revealed that there were some ARBs who were no longer tilling the land and/or had transferred (or "sold") their rights to other farmers. This was reflected in the Survey

which estimated their number at 6.58 percent of the original CCLOA holders. Some actual tillers or occupants of the CCLOAs were also not in the original list of ARBs. In addition, some CCLOAs were in the name of farmers' organization but the names of the collective owners or ARB members were not annotated in the document and must be verified at the DARPO level.

The non-beneficiary occupants may either be the heirs or relatives of the original ARBs, some "informal buyers," or possessors and/or cultivators by tolerance or informal settlers who occupied abandoned farm lots. There may also be poor tillers or agricultural workers employed by the original ARBs or their heirs. These occupants who could include elders, women or minors may also belong to vulnerable or disadvantaged groups who may be unable to equitably access or share the same project benefits and privileges as the qualified ARBs. Most of these occupants were captured in the Survey which revealed that the tenure of households in most CCLOA parcels consist, in part, of owner-like occupation (tenant/lessee type) at 13.5 percent. There is a possibility that a few of these occupants may also not legally qualify as agrarian reform beneficiaries.

## 7. Attitudes Toward the Project

A huge majority of 80 percent of the respondents in 2015 Survey who have CCLOAs preferred that their titles be subdivided. The Project identification, preparation and appraisal missions confirmed this overwhelming support of the ARBs towards parcelization during site visits. All the ARBs including the ICCs/IPs who were consulted during the site visits in Batangas, Iloilo, Negros, Leyte and Benguet provinces were eager to go ahead with the individual titling under the Project. They have always wanted to have proof of their landholdings and to be able to formally pass on their properties to their heirs. Some ARBs also complained that until their CCLOAs are subdivided they have nothing to present as definitive proof of personal ownership of their respective lots against encroachers and squatters, particularly for properties that are located along roads which are usually ideal for residential and susceptible to illegal occupation.

The ICC/IP-ARBs interviewed in two sites in Atok town (which was entirely issued with a Certificated of Ancestral Domain Title or CADT<sup>17</sup> subject to segregation of non-CADTiiable areas) in Benguet province expressed preference for individual CLOAs which boundaries are clearly delineated to avoid any conflict with their adjoining lots, although they conduct collective farm enterprises through the cooperative system. Some ARBs with compensable CCLOA lands in Batangas and Iloilo also said they are worried about not being able to pay for their amortization<sup>18</sup> because no Land Distribution Information Schedule (LDIS) can be generated by the LBP until their CCLOAs are parcelized. The generation of LDIS is required for the LBP to set the amortization rates of particular ARBs, without which the LBP would refuse any payment even if voluntarily offered by the ARBs.

The DAR has also conducted various partner agencies, including FMB and LMB of the DENR, DOF and LRA-ROD, who have all expressed strong support and pledged full cooperation for the Project. These agencies were actually involved in the Project identification, preparation and appraisal.

Likewise, the DAR Project preparation team have met with NCIP officials both in Central Office and the Regions. NCIP officials agreed that the CCLOAs issued by the DAR are honored under IPRA and the DAR-DENR-NCIP-LRA Joint Administrative Order No. 1, series of 2012 (JAO 2012-01) provided these were deemed vested and/or existing rights conferred or obtained

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<sup>17</sup> Under the IPRA, formal right to ancestral domains can be acquired through native title or a CADT/CALT from the NCIP. These are not considered as marketable instruments compared to CLOAs.

<sup>18</sup> Amortization will be based on the original valuation of landholding covered by CCLOAs taken as early as 25 years ago.

before the effectivity of the IPRA, and should be segregated from ancestral domains. The NCIP officials expressed their agency's need for support on CADT and CALT segregation surveys for titled properties (including the CCLOAs), having very limited budget to finance geodetic surveys. Defining the boundaries of proposed ancestral domains is also required for titling and these could be projected and delineated vis-à-vis the agricultural lands covered by the CCLOAs and other alienable and disposable lands as well as protected areas and other lands of the public domain to be segregated before titling. The NCIP would have much better capacity to protect the rights and welfare of indigenous peoples if it is able to delineate ancestral domain titles and/or claims against any future encroachments. As the Project also covers parcelization of CCLOAs issued to ARBs including IPs in areas outside of their AD, inputs from the NCIP may also be needed during project implementation and this will be confirmed in a MOA between DAR and NCIP.

It should be noted that project implementation will be participatory and if some ICC/IP communities would want to maintain collective ownership of their CCLOAs, this will be allowed under the Project. Meaningful consultations with ICCs/IPs shall be done wherein the pros and cons of the Project shall be disclosed and thoroughly explained to help them come up with an informed decision and the NCIP is crucial in helping conduct social assessments and formally validating the FPIC process to be undertaken in accordance with ESS&.

The WB-DAR Project preparation team also consulted some non-government organizations (NGOs) who are active in ARB development efforts and who expressed strong support for the Project. During a consultation meeting in Iloilo province last November 2019, provincial representatives from Center for Agrarian Reform and Rural Development (CARRD), an NGO working with ARBs, emphasized the need to stabilize ARB property rights by subdividing CCLOAs. The various NGO farmer organization representatives in the Provincial Agrarian Reform Coordinating Committees (PARCCOMs)<sup>19</sup> also gave their support and vowed to push for the Project during their annual national conference held in Zamboanga City in October 2019.

This support was further bolstered by the NGO and farmer organization representatives in the BARCs who attended the Project's stakeholder consultations in Baguio City last 23 January 2020, and the national representatives of farmer organizations in the PARC during the subsequent National Stakeholders Consultation held on 28 January 2020 at the DAR central office. The latest National Stakeholders Consultation also brought much wider support for the Project from representatives international and local non-government organizations, indigenous peoples and other peoples' organizations who attended the consultations on 19 February 2020 held in DAR central office in Quezon City.

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<sup>19</sup> Pursuant to Sections 44 and 46 of RA 6657, Provincial Agrarian Reform Coordinating Committees (PARCCOMs) were established to coordinate, monitor, and provide information on guidelines CARP implementation in the provinces and report to the Presidential Agrarian Reform Council (PARC). DAR AO No. 5 series of 1989 operationalized the PARCCOM and subsequent new guidelines governing these committees are established in DAR AO No. 7 series of 1994. Each PARCCOM consists of thirteen (13) members, with four (4) non-elective members (Provincial Agrarian Reform Officer, PARO; Provincial Agriculture Officer; Provincial Environment and Natural Resources Officer (PENRO) and LBP representative) and nine (9) elective members (One representative each from provincial farmers' organizations, agricultural cooperatives, NGOs and ICCs/IPs, if any; and Two representatives each from the ARBs and landowners. The chairman is nominated from among the elective members and is appointed as such by the President upon recommendation from the PARC Excom.

## V. ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS

The following are the Project's environmental and social risks and impacts.

### 1. Occupational Health and Safety and Labor and Working Conditions

The Project will mobilize less than a dozen project workers in each CCLOA site during implementation and there would be only minimal occupational health and safety issues that are anticipated. The Project will engage the services of about 6,000 workers who are at least 18 years old to implement project activities and most will be professional and skilled personnel (i.e. surveyors, enumerators, geodetic engineers, legal officers and support field staff for field surveys and validation). Some of these project workers may be exposed to a few occupational and health and safety (OHS) risks when working on rough or unstable slopes and cliffs, and during unforeseen calamitous events. Community-based volunteers including the ARBs themselves, the BARC and representatives of the Barangay LGUs may be allowed to support the project survey teams and may be exposed to the same OHS risks as the DAR field personnel, hired surveyors and contractors. Overall, occupational health and safety concerns are expected to be minimal and manageable. In all cases, proper courtesy to the local government units should be done together with the Municipal or Provincial Agrarian Reform Program Officers prior to the conduct of field works or surveys.

The Project will include a Labor Management Plan (LMP) in accordance with ESS2 to be applied to the project workers. Likewise, the protection against OHS risks to the workers embodied in various international laws adopted by the GoP, national laws and administrative issuances governing the public sector, shall be observed. The concerned DAR offices shall ensure that the workers are well protected against possible OHS risks. Moreover, the locality shall be the main source of labor support such that the project workers to be engaged are preferably residents of the barangay or municipality where the landholding covered by the CCLOA is located.

There may be special cases where project implementation may require assistance from the police and/or military personnel to escort project personnel. The DAR may seek such security assistance when needed and/or warranted, particularly on ground activities in CCLOA sites located in remote and/or conflict areas especially during actual land survey and/or installation of the ARBs on their awarded lots. Most of the ARBs however have already been actually occupying the lots for a long time and most of the CCLOAs were also government lands so these cases are expected to be few since the actual land awards for the CCLOAs to be covered by the Project have already been done long ago, albeit collectively. Should there be cases that might require the assistance of law enforcers, the Project will ensure that the such assistance will be carried in accordance with the long-standing Memorandum of Agreement in 1993 between the DAR, the national police and the military pursuant to the CARP law, along with pertinent implementing rules and regulations thereof.<sup>20</sup> Rule 30 of the 2013 Police Operational Procedures sets out the rules of providing security assistance in CARP implementation, which is limited to the maintenance of peace and order, crowd control, and the security of the Project personnel. Police personnel are bound to observe maximum tolerance and respect for individual rights at all times, use reasonable force only for self-defense and/or defense of others and should exercise utmost impartiality and neutrality.

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<sup>20</sup> Pursuant to Section 69 of RA 6657, the Memorandum of Agreement dated 03 May 1995 between the DAR, DILG and PNP, the DAR-DILG-DND Joint Circular No. 5, Series of 2002, the Revised PNP Operational Procedures of 2013 (PNPM-DO-DM-DS-3-2-13), particularly Rule 30 on police assistance in CARP implementation, and applicable provisions of the AFP's Standing Rules of Engagement (SROE).

Generally, issues and risks involving labor and working conditions would be minimal for this Project. Less than a dozen workers are expected to be present in a particular project site at a given time and most of them would be skilled and professional workers. The ESS2 standards will apply to all project personnel and, in addition, the DAR staff (both organic and contractual) and those of partner agencies are subject to national legislation on government workers while for private contractors and their workers, the country's labor laws which are compliant and fully aligned with international labor standards will also be applied.

## 2. Resource Efficiency and Pollution Prevention and Management

The Project is not expected to have significant impact on water and energy consumption as well as on air and water pollution. The Project does not include nor support activities or processes that require the use of chemical fertilizers or pesticides, as well as extract or convey more water for irrigation. However, it may be fairly anticipated in the long term that the Project's outcome of secure land tenure resulting from stabilization of the ARBs' property rights might contribute to incentivizing higher investments for intensified and diversified crop production that may likely result to increased use of fertilizers and pesticides, as well as higher demand on limited water resources for irrigation.

In the 2015 Survey, CARP beneficiaries already showed high adoption rates for accessed fertilizers and pesticides across regions with the average of 93 percent and 94 percent, respectively. Access rates of the ARBs to fertilizers were at 70 percent for CCLOA holders and 75 percent for individual CLOA holders while 62 percent for CCLOA holder and 70 percent for individual CLOA holders accessed available chemical pesticides.

Irrigation, on the other hand, still had low availability for ARBs across regions while access to irrigation was moderate to high (63 percent for CCLOAs and 74 percent for individual CLOAs). Accessed fertilizers and pesticides are mostly from government programs promoting organic agriculture, however, and the ARBs rely mostly on government irrigation projects except in most upland areas which are underserved and are mainly rain-fed.

During the distribution of individual CLOAs, the ARBs will be oriented on their rights and obligations as CARP awardees and informed of or linked to existing government programs on sustainable farming that they can readily access. The DAR will facilitate the ARBs' access to such programs which include trainings on resource efficiency and pollution control, capacity development, integrated pest management, organic/ natural farming systems, rainwater harvesting, soil and water conservation, slope stabilization and erosion control, among others.

## 3. Community Health and Safety

The community health and safety risk of the Project is deemed manageable. Project field personnel will be dispersed/deployed into thousands of CCLOA sites, with only around less than a dozen personnel to work at any given site during project implementation. The ground activities will be limited to the conduct of land surveys, consultation meetings, house-to-house visits and walkthroughs. Workers would include a few organic and contractual staff of DAR from the municipal and provincial offices and staff of the private survey contractors.

Nevertheless, the DAR teams and private survey contractors will be required to observe a Code of Conduct for Workers (CoCW) instituted based on ESS4 standards as part of the Project management measures incorporated in the ESMF and LMP to address community health and safety risks. Proper coordination will be done with the barangay local government units at all times prior to the conduct of surveys and 'pulong-pulong' (participatory community consultations). A security management plan is included in the ESMF and will be put in place

in accordance with the ESS4 requirements. In special cases, the DARPOs may request the assistance of law enforcers when situations in specific CCLOA sites warrant security precautions and government law enforcement personnel would be needed in order to maintain community peace and order for the successful conduct of project ground activities. The ESS4 standards will apply to all community health and safety issues that may be associated with the Project.

#### 4. Biodiversity Conservation and Sustainable Management of Living Natural Resources

The risks and impacts on Biodiversity and Sustainable Management of Living Natural Resources is assessed to be moderate. The Project will be implemented mainly in the rural agricultural areas of the country. As of 2018, an estimated 126,975 hectares of CCLOA lands have been identified by the DAR and DENR as overlapping with forest lands and these have not been included in the Project but would be turned over to the DENR's jurisdiction. Forest lands, which may include protected areas or national parks, are inalienable lands not covered under that RA 6657.

The Project assessed that there are CCLOAs with portions that overlap with forests, protected areas and/or national parks. Based on data submitted by the DARPOs during the Project preparation mission in November 2019, some 1,259 CCLOAs involving a total of 123,369 hectares may still have portions that overlap with forest lands and protected areas. More than half of these CCLOA areas are in Western Visayas (16,682 hectares), Zamboanga Peninsula (34,986 hectares) and Northern Mindanao (20,017 hectares) and the DAR provincial officials who attended the Project preparation writeshop initially estimated that around 20% of the total CCLOA area, or some 24,673 hectares, may actually fall under forest land classification. This would be roughly 1.7 percent of the Project's target area of 1.38 million that could be excluded from the issuance of individual titles once the land classification status of these lands is validated.

**Table 9. CCLOAs with overlaps on forests (Based on data from DARPOs, November 2019)**

Region	No. of Prov.	No. of Towns	No. of CCLOAs	Area covered (has.)	No. of ARBs	TOTAL PROJECT SCOPE	
						No. of Prov.	Target Area (has.)
<b>Philippines</b>	31	166	1,259	123,369	38,543	77	1,380,420
<b>CAR</b>	3	8	78	7,644	3,610	6	40,945
<b>I</b>	2	6	95	1,164	653	4	45,840
<b>II</b>	2	5	2	9,167	630	5	86,461
<b>III</b>	1	3	37	10,006	0	7	35,059
<b>IV-A</b>	1		5	58	27	6	28,406
<b>IV-B</b>						5	37,909
<b>V</b>	3	21	229	1,795	975	6	101,553
<b>VI</b>	3	14	61	16,682	5,615	6	183,349
<b>VII</b>						4	51,324
<b>VIII</b>	3	41	153	4,248	931	6	207,843
<b>IX</b>	2	10	44	34,986	12,119	3	108,738
<b>X</b>	4	35	231	20,017	6,152	5	101,432
<b>XI</b>	3	4	185	2,449	1,224	6	99,280
<b>XII</b>	1	2		10,771	4,492	4	148,020
<b>CARAGA</b>	3	17	139	4,380	2,115	5	104,263

The DAR officials disclosed during Project preparation mission in November 2019 that the President has directed the DAR and the DENR to explore possible options on how proceed with the parcelization of CCLOA lands with overlaps on forests and distribute these to individual farmers who have been occupying and cultivating these lands for quite some time.

Both agencies had since been drafting the policy framework and institutional arrangement to implement the presidential directive and on February 4, 2020, a DAR-DENR Joint Administrative Order has been signed by the DAR Secretary to be followed by the DENR secretary. (FOR UPDATE)

The JAO provides the general framework on parcelization of CCLOAs that overlaps with forest lands and unclassified public forests and states that these would be included for geodetic surveys but to be eventually issued with proper forest tenurial instruments by the DENR. Subdivision/segregation surveys will be conducted by the DAR with the assistance of the DENR to determine portions of the CCLOAs that are forest lands to be segregated and issued with forest tenurial instruments, and the survey plan to be generated by the Project would be the basis of the DENR in issuing such tenurial contracts with the affected ARBs. However, portions of CCLOA lands still legally classified as forests but have been previously covered by titles prior to the effectivity of the Revised Forestry Code (PD 705) in March 19, 1975, or at least 45 years ago will be screened according to the ESMF and assessed for eligibility to be issued individual CLOAs since these are already alienable and disposable lands deemed exempt from application of the Code. The JAO states that both agencies will still have to come up with the joint/separate implementing circular of the JAO.

A separate detailed assessment will be undertaken after identification of these lands during projection of the CCLOAs on the LC map, actual field validation and prior to parcelization to determine the extent and magnitude of environment and social impacts that would be associated with the implementation of the JAO and the necessary management measures to mitigate potentially negative impacts. As a precautionary measure, the Project would defer parcelization of these CCLOAs to the latter phase of project implementation (probably on the 2<sup>nd</sup> or 3<sup>rd</sup> year) and a joint DAR-DENR working group will be organized to undertake a more thorough assessment on the environmental and social risks and issues involved and identify the mitigation options that may be adopted by the Project.

It should be noted that legal forest classification in the Philippines indicates official public domain status and does not necessarily mean they still contain forests or serving watershed and/or ecological functions. These lands however are usually high or mountainous but would likely be already agricultural in use, although they may still have significant potentials for natural habitat and ecological functions. Retaining these lands' original status would be legally expedient and will have positive impact on the environment as this will contribute to forest conservation even as these lands will continue to be occupied and cultivated by the ARBs under an alternative tenurial grant with regulations aligned with the standards of ESS6. However, it has been estimated that 20-30 percent of the Philippine population live in lands still classified as forest lands (Esplana and Quizon, 2017) and there might be potentially negative social impacts associated with the retention of forest land classification of these CCLOA parcels already occupied by ARBs that need to be further assessed.

One example would be the CCLOAs involving KKK lands which were originally open denuded public domain lands reclassified in 1983 through Presidential Proclamation No. 2282 as alienable and disposable lands intended for agricultural and resettlement purposes. The proclamation was revoked after three (3) years by Memorandum Order No. 17 in 1986 and subsequently turned over to the DAR for disposition under CARP after seven (7) years through Executive Order No. 407 in 1990. MO 107 issued in June 1993 prescribed guidelines in clarifying the status of such lands due to the absence of such rules under MO No. 17 series of 1986 that revoked PP 2282. In ten years that elapsed after these lands were reclassified for agriculture and settlement uses, and seven years after such reclassification was revoked, MO 107 finally recognized that portions of these lands were actually devoted to agriculture and settlements relying on the effect of PP 2282. MO 107 provided that reclassified A&D

agricultural lands and lands actually classified and used as agricultural before PP 2282's effectivity shall remain as such. The DAR and the DENR were tasked to jointly determine these areas for disposition by the former under EO 407, and in 1995 DAR-DENR JAO No. 9 (JAO 1995-09) clarified and restated the jurisdiction of both agencies on such lands of the public domain. JAO 1995-09

At any rate, the joint DAR-DENR working group will apply the standards under ESS6 in addressing all the potential issues on biodiversity/sustainability of living natural resources associated with the Project that may emerge from the detailed assessment. The working group will be tasked to review options for forest and protected areas management, lead the preparation of a report of scope of overlaps between CCLOAs and forest and protected areas, legal technical review, socio-economic review, with recommended measures to address risks and impacts.

## 5. Potential Displacement of Occupants of Land Parcels in Forest Lands

Considering the DAR-DENR JAO on forest overlaps and the AO 2019-02, the validation and rectification of CCLOAs would result in the return of some parcels of land back to the DENR's jurisdiction upon determination that these were erroneously issued and deemed invalid, and reclassification will not be resorted to as a possible remedy under existing laws. This may in turn result in the possible displacement<sup>21</sup> of the affected ARBs if they are not subsequently issued any alternative tenurial instrument under DENR's regulation. During the projection on the LC maps and actual field inspection/validation of CCLOAs, landholdings or portions thereof that fall within areas classified as inalienable (forest land and/or protected areas) will be carved out from the CCLOA and reverted back to the DENR's management.

The ARBs on these affected lands that would be turned over to DENR will be subject to the laws on forest lands and/or protected areas. Current regulations allow the awarding of tenurial rights (25-year lease or forest management agreements issued by the DENR, i.e. Certificate of Stewardship Contract (CSC), Community-Based Forest Management Agreements or CBFMAs, and Protected Area Community-Based Resource Management Agreement or (PACBRMA) on portions of forest land for qualified occupants. The grant of appropriate/alternative tenurial rights by the DENR is a viable option to avoid any displacement of the affected ARBs.

In the case of affected ARBs located in protected areas, the National Integrated Protected Areas System (NIPAS) law generally allows access by traditional forest occupants and forest dependent communities to some zones of the protected area. The DENR can enter into an agreement with the affected ARBs and non-beneficiary occupants who will be organized under a PACBRMA which allows certain economic activities within areas considered as buffer zones. The affected ARBs of CCLOA parcels that may be deemed void or invalid because these are within officially declared protected areas would therefore retain possession of their parcels subject to regulations by the protected area authorities.

The DAR estimated that around 20 percent of the 123,369 hectares of CCLOAs with forest overlaps, or around 24,673 hectares, would actually fall within forest land classification and thus would be carved out from the CCLOAs before parcelization. An approximately 18,979 ARBs and an undetermined number of other occupants therein would be affected and would

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<sup>21</sup> There will be no attenuation of land rights since the CCLOAs issued in inalienable lands such as forests are null and void, and the awardees thereof have not really acquired ownerships or titles to these lands. (Tiamson, Review of Institutional, Legal and Regulatory Framework, Policies and Guidelines for the Recognition of Land Tenure Rights Associated with the SPLIT Project, 2020)

have to be issued appropriate tenurial instrument by the DENR to avoid their possible displacement. This number is still preliminary and a joint DAR-DENR team will determine during actual field validation and land survey the final figures on this concern.

As stated earlier, a separate more thorough assessment will have to be undertaken first (prior to parcelization) to determine the environmental and social impacts and the possible management options which should include measures to address issues regarding the affected ARBs and other occupants and facilitate their access to necessary support services to ensure they will continue or establish their own economic activities subject to applicable environmental and other regulations. The Project must ensure that the standards of ESS1 and/or ESS5 are properly applied in addressing the above risks.

## 6. Potential Displacements of Current Non-ARB Occupants

Since the CCLOAs were issued as early as 25 years ago, it is inevitable that some of the parcels therein are now occupied by persons who were not the original identified ARBs but who may have been tilling, building structures and making improvements on the land. The process of individual titling will involve validation of the qualification and legal status of current occupants of the land parcels within the CCLOAs. This may result in the possible displacement of some of the current non-ARB occupants who may not qualify as farmer-beneficiaries.

A current occupant could be a buyer of land rights from the original awardee, a tenant/caretaker of the original awardee, an heir, or an informal settler with permission from the owner, or possessor/cultivator by tolerance or illegal settler. During the first consultation meetings, the DAR will undertake a thorough review of their circumstances of occupancy, as well as the validity of any land or land rights transfer made from the original awardees to the current non-ARB occupants. In most cases this would result in a transfer of award from the original ARB to the current occupant. However, there could be a possibility that the current occupant would not legally possess the qualification provided under Section 22 of the CARP law and hence may be displaced or may lose rights on the parcels they currently occupy, along with any improvement made therein.

Initial assessment by the DAR-WB safeguards team during Project preparation mission (field visits in Iloilo province and discussions with select DAR regional and provincial officials during a mission workshop in Cavite province) showed that indeed there are non-beneficiary occupants who may be actually tilling the lands for quite some time who may be possibly displaced by the Project. It should however be noted that as far as DAR is concerned there has been no instance wherein parcelization of CCLOA landholdings resulted to any kind of displacement, much less eviction of non-beneficiary occupants because they were either accommodated in the CCLOAs or awarded lands in alternative CCLOA sites. This is true in the case of a total of 608,586 hectares of CCLOA lands that the DAR had subdivided into individual CLOAs as of January 2019. Nevertheless, as a precautionary measure, a resettlement policy framework (RPF) will be formulated to serve as guidance in formulating resettlement plans to address any resettlement impact that may emerge during project implementation.

In general, the Project must defer parcelization of CCLOAs with such impacts to the latter phase of implementation or until resettlement issues have already been addressed and prioritize only the CCLOAs which have no issues. During the conduct of the first consultation meeting with ARBs and other occupants of CCLOA lands, project-affected persons should be identified, if any. Occupants who would not qualify in the master list of beneficiaries must be screened to determine who would qualify for resettlement/compensation, and involve them in the subsequent formulation of resettlement or compensation action plan which should include actual compensation measures or resettlement assistance to be provided. The plans will have

to be implemented first, ensuring that the standards in ESS1 and ESS5 are properly applied, before any CCLOA involved could proceed to the next steps of the parcelization process.

## 7. Presence of Indigenous Cultural Communities/Indigenous Peoples

The social risks to ICCs/IPs and/or ICC/IP communities are assessed to be high. There are around 11,552 ICC/IP-ARBs in more than 1,500 CCLOA sites located inside ancestral domains while an estimated 46,661 ICC/IP-ARBs are in 3,633 CCLOAs outside of ancestral domains.(Table 10)

In addition to the Project's potential risks and impacts on ARBs and non-ARBs discussed in the sub-sections 5, 6, 9, 10, 11 and 12 of this ESA, the partitioning of their co-owned CCLOA lands into individual lots may impact on the ICCs/IPs' distinct identities and culture, particularly on the use or occupation of lands as some ICCs/IPs may wish to continue collective ownership in accord with their traditions and customary laws.

It must be emphasized that the Project aims to stabilize the property rights of CCLOA holders, which include the ICC/IP beneficiaries. Formal subdivision of lands that are already individually occupied under a CCLOA will not have any adverse impact on land use on the members of the ICCs/IPs since the Project would actually confirm existing ownership arrangements. The ICCs/IPs in general have rights strongly recognized under the IPRA law. Moreover, under the Project, each individual ARBs or group of ARBs, which include ICCs/IPs, are actually given the option under the CARP law to remain as co-owners of the collective titles originally issued them. Pertinent DAR regulations also permit ARBs to remain as co-owners of a CCLOA, while any ARB therein who opts for an individual title would be issued an individual CLOA on the lot assigned to such ARB which would be segregated from the CCLOA.

Indigenous communities with CARP beneficiaries visited by the WB-DAR safeguards team in Iloilo province last November 2019 and Benguet province last January 2020 have been managing their farms on an individual household basis. The ICC/IP-ARBs in Iloilo who are co-owners of a CCLOA are cultivating their own parcels but are at the same time collectively engaged in agro-enterprise through their cooperative. They have expressed eagerness to received individual titles as it has been more than 20 years since they were issued a collective title meant to be subdivided but without specific lots assigned to them. Conflicts over boundaries often occurred and they were unable to pay for the land due to absence of payment schedules which is based on lot areas that ought to be individually demarcated and allotted to them.

In Benguet, site visit to Barangay Tulodan in Atok town showed that ICC/IP-ARBs have been managing their farms since they received their individual CLOAs and at the same time are collectively engaged in a cooperative producing and marketing cassava products. The same situation exists in Caliking village visited by the team where the beneficiaries are engaged in individual coffee bean production but doing processing and marketing of coffee products through their cooperative. The beneficiaries said they preferred such arrangements to prevent ownership or boundary conflicts among family and community members over their respective landholdings. The DAR regional and provincial officials who accompanied the team confirmed such existing setup is prevalent and generally accepted as the norm in the Cordilleras.

However, while cases discussed above show that the Project will not impact negatively on ICCs/IPs or their communities, this may not be the case in other regions. According to the NCIP representative interviewed by the team during the stakeholders consultation in Quezon City, ICCs/IPs in many some parts of Mindanao are still collectively attached to land and seem

to have maintained the system of communal ownership of ancestral domains or lands. Furthermore, the ICCs/IPs are often perceived to be generally marginalized in most aspects of life from mainstream society (De Vera, 2007) and thus may be susceptible to inherent risks associated with the titling of lands which could include discrimination, manipulation or intervention from vested interests, disagreements within their communities and potentials for local mismanagement and differential recognition of land rights. The Project is also likely to operate in some conflict areas and some sites may have conflicts over land.

All the potential risks and impacts discussed in this section and in sub-sections 5, 6, 9, 10, 11 and 12 of this ESA will have to be more carefully assessed further given that in general IPs across generations are recognized to have collective attachment to their ancestral lands. All CCLOAs with ICC/IP beneficiaries would have to be initially deferred or excluded from parcelization until the necessary assessments are undertaken and measures as required in ESS7 are put in place to avoid or mitigate any adverse impact on the ICCs/IPs and/or their communities. The participatory process and the provisions of the ESF documents, particularly the Project's IPPF, RPF and ESMF, are designed to mitigate these risks. The detailed assessment of E&S risks and potential impacts to be undertaken on affected CCLOAs during the first year of implementation will identify/enhance mitigation and risk management measures and the ESF documents will be revised as needed in agreement with the World Bank.

## 8. Legal status of CCLOA or portions thereof that are inside IPRA

During Project preparation mission, DAR officials indicated that some of the CCLOAs covered by the Project might be located within or overlap with the declared ancestral domain of certain indigenous cultural communities, a case which may require project application of the provisions<sup>22</sup> under the IPRA law in addition to the ESS7 requirements on free and prior informed consent (FPIC). There are also ARBs that are members of the ICC/IP communities in CCLOAs outside ancestral domains which would require project compliance with ESS7 requirements for FPIC.

**Table 10. CCLOAs with Overlaps on Ancestral Domain (Data from DARPOs, November 2019)**

Region	No. of Prov.	No. of Towns	No. of CCLOAs	Area covered (has.)	No. of ARBs	TOTAL PROJECT SCOPE	
						No. of Prov.	Target Area (has.)
<b>Philippines</b>	15	50	1,541	37,032	11,552	77	1,380,420
<b>CAR</b>	1	1	1	1,198	400	6	40,945
<b>I</b>						4	45,840
<b>II</b>	1	1		12,124	1,788	5	86,461
<b>III</b>						7	35,059
<b>IV-A</b>						6	28,406*
<b>IV-B</b>						5	37,909
<b>V</b>	2	3	92	580	284	6	101,553
<b>VI</b>						6	183,349*
<b>VII</b>	1	3	65	164	208	4	51,324
<b>VIII</b>						6	207,843
<b>IX</b>	2	8	189	1,639	1,181	3	108,738
<b>X</b>	3	19	536	5,941	3,636	5	101,432
<b>XI</b>						6	99,280
<b>XII</b>	3	3	7	8,130	2,975	4	148,020
<b>CARAGA</b>	2	12	651	7,256	1,080	5	104,263

*Overlaps of CCLOAs with Ancestral Domain.* Based on submitted data from DARPOs as of 25 November 2019 (Table 10), there are 1,541 CCLOAs involving 37,032 hectares of lands with 11,552 ICC/IP-ARBs in eight (8) of the 15 regions that may either overlap or be located entirely

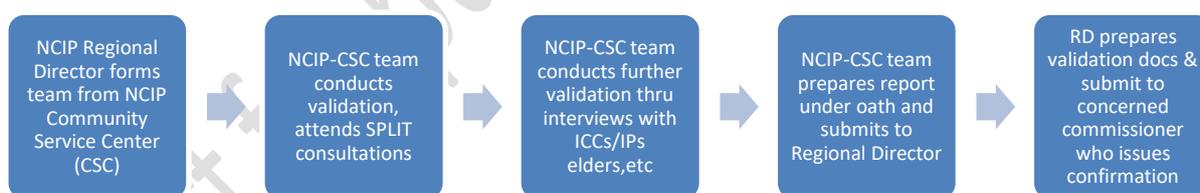
<sup>22</sup> Sections 6-38 of NCIP AO No. 3 s. 2012

within declared ancestral domains. The area comprises around 2.7 percent of the total lands targeted for parcelization. The total ICC/IP-ARBs occupying these lands constitute around one (1) percent of target project beneficiaries. It is not indicated in the data when these CCLOAs were issued or which of the lands are, in their entirety, or just portions thereof, within ancestral domains. This shall be continuously assessed further during the inventory and validation to be done in the early phase of project implementation to determine the actual magnitude of CCLOA lands that may be subjected to provisions and processes under the IPRA, in addition to the full application of the Bank's ESS7 especially on the conduct of social assessment and compliance with FPIC requirements.

In general, the Bank's ESS7 applies to CCLOAs with ICCs/IPs whether within or outside ancestral domains, while the IPRA and implementing protocols will cover only those with overlaps on ancestral domains.

Pursuant to the IPRA, the implementation arrangements under both the JAO 2012-01<sup>23</sup> and Joint Memorandum Circular No. 8-2012 (JMC 2012-08)<sup>24</sup> provide for the segregation of titled properties (including CCLOAs) from ancestral domain titles (CADTs) while subsequent issuance of new titles (or CLOAs by the DAR) would require certification of no-overlap (CNO) from the NCIP. Both regulations also state that ICCs/IPs are not precluded from questioning the validity of the CLOAs before the DAR Secretary, who has exclusive authority over the issuance and/or cancellation of CLOAs. Since the project-covered CCLOAs are considered titles only to be partitioned by the Project among co-owners pursuant to existing law, these implementing protocols of IPRA would require validation of FPIC<sup>25</sup> by the NCIP for the CCLOAs that are within or overlap with ancestral domains (Figure 4). The Project will have to fully apply the ESS7 on conduct of FPIC process for all CCLOAs with ICC/IP-ARBs whether inside or outside ancestral domains.

**Figure 4. FPIC Validation Process per Section 43 of NCIP AO No. 3-2012**



It is important to note that existing property rights prior to the effectivity of the IPRA are excluded from ancestral domains and, in principle, property rights vested prior to any declared ancestral domain land are to be respected<sup>26</sup>. While the IPRA was enacted in October 1997, the NCIP started delineating ancestral domain titles only in 2001 after the Supreme Court had ruled with finality in December 2000 that the IPRA is constitutional. Thus, it can be assumed that the issued CCLOAs, including CCLOA landholdings that were already turned over to the DAR for disposition under CARP prior to 2001 even if the corresponding CCLOAs were issued thereafter, would have to be honored under the IPRA. Figure 5 shows the CCLOAs issued by year and land type or mode of acquisition. Should these protocols be formally reconfirmed or reaffirmed between the DAR and NCIP, as contained in the JAO and JMC or in another institutional arrangement that would be finalized for the Project, most if not all of the CCLOAs

<sup>23</sup> Sections 10, 14, 15, 16, 17 of JAO 2012-01

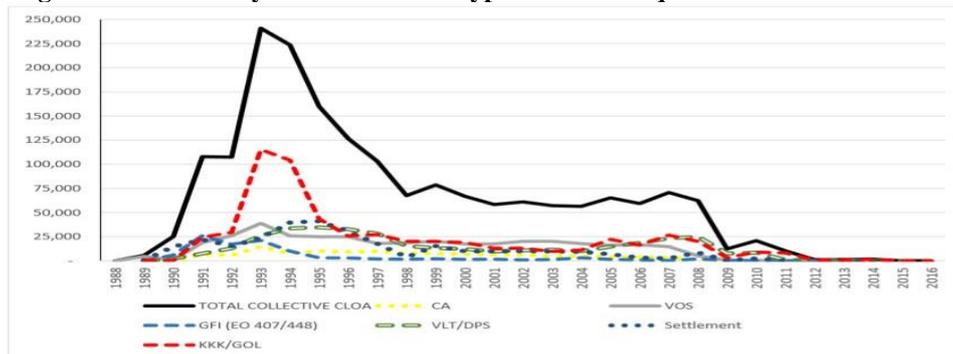
<sup>24</sup> Section 13, 17-20 of JMC 2012-08

<sup>25</sup> Section 43 NCIP AO 2012-03

<sup>26</sup> Section 56 of IPRA and Section 3.13 JAO 2012-01

would no longer need to go through the rigorous FPIC process provided under the IPRA because the CCLOAs were largely issued in the 1990s and are deemed honored under the IPRA.

**Figure 5. CCLOAs by Year and Land Type/Mode of Acquisition**



In addition, while NCIP regulations require new titling projects to undergo a more thorough, lengthy and often costly FPIC process under Sections 6-38 of NCIP AO No. 3 series of 2012, DAR officials initially indicated that such rigid FPIC process would not be necessary since CCLOAs, which are considered by law as land titles in themselves, have been already issued and the Project would merely segregate these from CADTs and partition the landholdings into individual lots to be re-awarded on an individual basis to the listed co-owner ICC/IP-ARBs upon their informed consent or request.

The BARC representatives who attended the Regional Stakeholders Consultation in CAR last January who are ICCs/IPs themselves from the Ibaloi and Kankannay tribes, were apprehensive of IPRA’s full FPIC process as they said it is no longer needed nor required since they have only to decide by and among themselves whether they want individual or collective titles. They said a mere simple validation by the NCIP that the ICCs/IPs gave their informed consent to the Project under Section 43 of NCIP AO 2012-03 would amount to compliance with the IPRA. The NCIP representative who attended the National Stakeholders Consultation in January also agreed with this view.

At any rate, the FPIC standards under the Bank’s ESS7 shall apply in the parcelization of these CCLOAs, along with the simpler process of validation of consent from the ICCs/IPs referred to under Section 43 of the NCIP AO 2012-03 which would be deemed sufficient/adequate for the purpose of complying with the FPIC validation process required under IPRA. (Figure 4) The project implementation guidelines on this is discussed separately in the IPPF.

Meanwhile, the Executive Director of NCIP, who expressed support for the Project, had informed the WB-DAR safeguards team during Project preparation meeting held at DAR central office that the agency withdrew from the JAO 2012-01 and JMC 2012-08 due to certain issues concerning compliance by the other agencies on the requirements for CNO. However, upon instruction of the President during a cabinet meeting in December 2019, the DAR is currently leading efforts with the assistance of the Cabinet Secretary to restore the NCIP into the JAO. The NCIP officials from Iloilo had earlier attended the consultation meeting in the province with WB-DAR safeguards mission in November while two (2) representatives from the NCIP central office also attended the National Stakeholders Consultation held last month at the DAR central office. They are invited again to the upcoming stakeholders’ consultation on February 19, 2020. During stakeholders engagement, pertinent information on the Project is disclosed to the concerned ICCs/IPs, together with NCIP representatives.

ARBs who are members of the ICC/IP communities. Regardless of whether the CCLOA is within or outside ADs, the ESS7 will apply when the policy is triggered. Based on submitted data from DARPOs as of 25 November 2019, there are 46,661 IP-ARBs in 11 of the 15 regions covered by the Project, or around 4.4 percent of the target project beneficiaries of 1.1 million farmers. The number of ICC/IP-ARBs, whether all or only some of them are within lands overlapping with ADs will also have to be ascertained after the validation of the ARBs and actual occupants in these CCLOA lands. While the IPRA does not require FPIC validation by NCIP on CCLOAs outside ancestral domains, it would be prudent that the Project adopt the same process as with CCLOAs inside ancestral domains since the NCIP has the expertise needed in dealing with ICCs/IPs.

**Table 11. CCLOAs with ICC/IP-ARBs Outside Ancestral Domain (Data from DARPOs, 2019)**

Region	No. of Prov.	No. of Towns	No. of CCLOAs	Area covered (has.)	No. of ARBs	TOTAL PROJECT SCOPE	
						No. of Prov.	Target Area (has.)
<b>Philippines</b>	28	110	3,633	86,783	46,661	77	1,380,420
<b>CAR</b>	6	38	1,391	29,249	25,477	6	40,945
<b>I</b>	2	9	1,128	3,399	3,867	4	45,840
<b>II</b>	2	7	61	1,034	79	5	86,461
<b>III</b>						7	35,059
<b>IV-A</b>						6	28,406
<b>IV-B</b>	1	1	1	112	48	5	37,909
<b>V</b>						6	101,553
<b>VI</b>	4	4	7	206	135	6	183,349
<b>VII</b>						4	51,324
<b>VIII</b>	1	3		57		6	207,843
<b>IX</b>	3	20	259	2,022	1,318	3	108,738
<b>X</b>	2	7	152	8,388	1,526	5	101,432
<b>XI</b>	2	5	189	12,581	1,160	6	99,280
<b>XII</b>	2	3	29	23,291	9,843	4	148,020
<b>CARAGA</b>	3	13	416	6,444	3,208	5	104,263

Finally, a screening and/or assessment tool would have to be developed to help project implementers identify CCLOAs that trigger ESS7, which will be included in the IPPF to serve as guidance in addressing all issues/concerns to ensure that parcelization of these CCLOAs include adequate and timely provision of information and the conduct of consultations with the concerned ICCs/IPs for them to be able to meaningfully participate in the Project, especially the ICC/IP-ARBs. The Project must ensure that requirements for FPIC on these CCLOAs under the Bank's ESS7 and the IPRA (when applicable) are undertaken. The Project's stakeholder engagement plan should also ensure proper and timely disclosure of sufficient project information to enable the ICCs/IPs to freely come up with an informed decision and meaningfully participate in the Project. The screening/assessment tool on ICCs/IPs shall further inform the design of participatory project activities and processes and this tool will be discussed and included in the ESMF and IPPF to be developed.

## 9. Potential land boundary disputes during individual parcel delineation

Since the current occupants of land parcels have only informal boundaries, it is expected that there would be boundary disputes during the formal delineation of boundaries under the Project. Cases of ARBs' conflicts have been noted in many reports and is one of the many reasons for delays or stalled processing of individual titles. The Project will resolve this concern during the conduct of the second pulong-pulong (consultations) with the beneficiaries included in the final master list of ARBs wherein lot allocation shall be firmed up prior to actual relocation or subdivision surveys.

The involvement of the BARC and the Barangay Chairperson and the ARBs themselves will help address conflicts/grievances related to boundary delineation. One major function of the BARC involves mediation, conciliation or arbitration of agrarian disputes at the community level. It is composed of elected voting members from beneficiary and non-beneficiary landless farmworkers, agricultural cooperatives, farmer organizations, ICCs/IPs and rural ARB women. Non-voting members include representatives of local non-government organizations, the barangay council, local agriculture office, community environment and natural resources office (CENRO), municipal planning office, DAR and LBP. The latest guidelines for the formation, organization, operationalization and strengthening of the BARC are contained in DAR AO No. 5 2010 while the rules governing mediation, conciliation and arbitration of agrarian disputes by the BARC are embodied under DAR AO No. 8, 1994.

#### 10. Contested inheritance of parcels within CCLOAs

Another likely scenario on the ground is when the parcel to be titled is being contested by heirs of deceased ARBs. Many of the land parcels whose ARBs have died or have retired are now occupied by their heirs. However, sometimes the ownership of the parcel by the occupying heir is contested by the other heirs. It is highly likely that Project may inadvertently weigh in on the side of the current occupant. The Project will adopt a clear and fair policy in dealing with this situation, including possible validation of occupancy status of the original ARB if he/she is still available, and/or validation inheritance documents to determine all the legal heirs of the ARB, consultation and seeking the extrajudicial agreement of other and among heirs, etc.

The RPF is prepared to address potential impacts on land or livelihoods of affected people. The DAR estimates around 21,469 ARBs with these issues both for inclusion and exclusion involving some 27,910 hectares of CCLOA lands. These are usually settled amicably with the engagement of the BARC (or BARC representatives) that assist in the resolution of issues, particularly in the screening and identification of beneficiaries and mediation/conciliation of disputes between concerned parties who will elect from among the BARC representatives or any barangay official or person mutually acceptable to the parties to facilitate the mediation/conciliation process.

#### 11. Concerns about registration fees, unpaid taxes and amortization payments

In general, land titling involves significant costs, i.e. geodetic surveys, settlement of real property taxes imposed by the LGUs and payment of land registration fees imposed by the LRA-ROD and all these apply to every CLOA registration in addition to land amortization to be collected by the LBP in the case of compensable lands (around 33 percent of project scope) once the individual titles are issued. Among the benefits foreseen by the government through the Project aside from improved land tenure security and stabilized property rights of ARBs in their CARP-awarded lands are payments of land amortization and taxes. The Project will finance all fees and charges to be incurred in the subdivision of the CCLOAs and the titling fees required for the generation and registration of individual CLOAs.

However, since most of the CCLOAs were issued ten to twenty years ago, unpaid real property taxes on these CCLOAs have certainly accumulated and could pose a potential risk or challenge in the registration of generated individual CLOAs before the LRA-ROD which requires full payment of property taxes prior to registration. In addition to the ICCs/IPs, there are other vulnerable groups and individuals who are co-owners of the CCLOAs, or would qualify as ARBs thereof, such as the direct tillers or farmworkers, single-parent household heads, women-led households, elders/senior citizens and the poor who would face the risk of not being able to pay the accumulated taxes.

Moreover, during site visits in Batangas and Iloilo provinces, it was learned that the ARBs in the CCLOAs who have the capacity to pay for the amortization have not been able to do so due to lack of individual titles while those who had started to pay amortization were stopped/refused by the LBP pending issuance of the Land Distribution and Information Schedule (LDIS). The LDIS specifies the amortization payment based on the actual lot size of the ARB indicated in the title registered with LRA-ROD, and which in turn has yet to be done by the DAR under the Project.

The issue on amortization regarding compensable lands covered by the Project will be addressed by subdividing the CCLOAs into individual titles and ensuring registration of the titles with the LRA-ROD so that the LBP can start issuing the LDIS and resume acceptance of amortization payments. Compensable CCLOA lands constitute 33 percent (455,072 hectares) of the total project scope with an estimated 350,055 ARBs involved, while the 2015 Survey showed that only 17 percent or some 59,509 ARBs in CCLOAs were paying amortizations which means that around 290,546 ARBs may have not been able to pay land amortizations due to lack of LDIS on their parcels. It must be noted that amortization payments would still be based on the original valuation of CCLOA lands when these were acquired under CARP in the 90s or even earlier. One possible option to minimize the impact of unpaid amortizations would be for DAR to coordinate with the LBP on possible condonation of accrued interests thereon since the ARBs were not the ones at fault with the non-issuance of their individual CLOAs.

The concern on real property tax, however, is beyond the DAR's jurisdiction. Nevertheless, the DAR has initiated consultations with concerned agencies (DOF-Bureau of Local Government Finance, DILG, LGUs, etc.) on possible arrangements or measures. These measures may be in the form of restructured, staggered or deferred payments, or even to the extent of condonation or declaration of tax amnesty as may be granted by the LGU. Initial representations with LGUs at the field level are also being done by some DAR provincial offices. Once the results of inventory and validation of CCLOAs are available, further assessment and dialogues shall be done to with the LGUs, the DILG and BLGF-DOF to determine the appropriate institutional agreements to be forged by the concerned agencies to avoid risks posed by accumulated and unpaid taxes to the ARBs.

## 12. Concerns About ARBs Selling Awarded Lands to Pay Off Loans

When their new individual CLOAs are awarded (post-parcelization), there is potential risk that farmer-beneficiaries may resort to selling portions of their awarded lands in order to raise money to repay debts or make investments to the extent of rendering the remaining unsold parcel of their awarded lands unviable for agriculture. The 2015 Survey of ARBs show that the percentage of awarded land sold by ARB is higher for collective at 6.5 percent compared with that of individual CLOAs at 2.79 percent. The Survey reported further that the 99.28 percent of awarded individual parcels are still with ARBs while for collective parcels around 92 percent are still with ARBs. Some 97.28 percent of awarded lands under individual type are currently used for agriculture while only 90 percent under collective scheme are still used for agriculture. For compensable CCLOAs, the subdivided individual titles have a prescription period until amortizations are paid before these can be sold in the land markets.

This will be assessed further once the results of the inventory and validation of CCLOAs are available to determine specific safeguards to be developed to avoid or minimize the above risk. One possible option is for the Project to conduct orientation with project beneficiaries during individual CLOA distribution to facilitate their access to support services readily available to farmer-beneficiaries from the DAR and/or various government agencies to enable them to enhance their livelihood and income, as well as negotiate (with the possible assistance of DAR after parcelization) for restructured or staggered repayments and lower fees on their loans.

The sale, transfer or conveyance of agricultural lands, including CARP-awarded lands that has prescribed the limitations set by the CARP law, still requires clearance from the DAR as provided in Section 70 of RA 6657 before such transactions can commence, subject to compliance with provisions of applicable laws, rules and regulations. Such requirement can serve as a means for DAR to monitor/flag sale of lands covered by the Project and recommend/undertake measures to avoid or mitigate the risk of beneficiary farmers selling the lands issued with individual CLOAs.

## **VII. ES RISK MANAGEMENT CAPACITY OF THE DAR**

DAR does not currently have a specialized or fully dedicated unit that handles environmental and social safeguards matters for its projects. Capacities for safeguards are developed on a per project basis, and experienced staff are assigned to the Project as needed. For this Project, a team consisting of four (4) organic DAR staff has been formed to undertake the preparation of the required safeguards instruments. At least two (2) of these staff have worked on safeguards-related assignment in one of the DAR's World Bank-funded projects and ADB-funded projects.

Under the Project, project management shall hire the services of a Senior Environment and Social (ES) Safeguards Adviser, an ES Safeguards Specialist and a Biodiversity Conservation Specialist throughout the project lifecycle to provide capacity development and mentor the DAR personnel who will be designated as safeguards point persons in the provinces and regions. It will also engage safeguards consultants who provide necessary technical assistance in the preparation of safeguards instruments and its implementation.

## **VIII. ES RISK MANAGEMENT/MITIGATION OPTIONS**

This ESA has identified the likely risks and impacts which the Project will encounter during the implementation of the Project. It is evident that each CCLOA will likely have its own peculiar environmental and social issues which can only be ascertained during project implementation. These issues will have to be assessed and addressed at the ground level on a per CCLOA basis. Thus, for each CCLOA, there is a need to conduct environmental and social screening, rapid and participatory rural assessment mainly focused on the environmental conditions of the CCLOA area, covering such issues as, land classification status, actual terrain, micro watersheds, involuntary resettlement issues, indigenous peoples and vulnerable households.

Based on the rapid assessments and with the above mitigation options as guide, Project guidelines on safeguards shall be prepared, together with CCLOA-based management plans on resettlement and/or compensation for those that might be displaced. Hence, the Project will need to develop, adopt and regularly update the following safeguard frameworks: (i) Environmental and Social Management Framework; (ii) Resettlement Policy Framework; (iii) Indigenous Peoples Policy Framework; (iv) Labor Management Plan; (v) (Environmental and Social Assessment); and (vi) Stakeholder Engagement Plan. These frameworks and plans will also include grievance redress mechanisms (GRM) and capacity-building plan for the DAR and Project PMO.

### **1. Management Options for Environmental and Social Risks and Impacts**

*Occupational Health and Safety Risks and Labor Management concerns.* Bidding documents for geodetic surveys shall include occupational health and safety provisions a Code of Conduct as well as Labor Management Procedures (LMP) to be applied for hired personnel community

volunteers (when applicable and/or required) who may be allowed to assist in surveys. The LMP shall include a grievance redress mechanism that conform with ESS2, national law and regulations on occupational health and safety. Survey contractors will be required to provide their workers with necessary personal protective equipment (PPEs) such as boots, hardhats and harnesses when working on cliffs and rough or unstable slopes.

*Potential increase use of pesticides and agrochemicals.* The DAR shall include orientation of the ARBs during the distribution of individual CLOAs to inform them about existing programs of the DA and the LGU on Good Agricultural Practices, Organic Farming and IPM. The DAR will also facilitate the ARBs' access to DAR's own training programs on sustainable farming technologies and practices like the Farm Business School, though these programs will not be financed by the Project. The Project will facilitate linkage of the ARBs to the existing regular programs and projects of the DAR, Department of Agriculture (DA) and partner agencies that can be tapped for organic agriculture promotion to avoid possible excessive use of chemical fertilizers and pesticides and manage pollution from agricultural activities.

*Community Health and Safety concerns.* Only a few workers would come from outside the communities and only for a few days. Community health and safety concerns due to the presence of these workers will be dealt with applying ESS4 and provisions under the Code of Conduct for Workers which DAR shall prepare based on ESS4 standards and which contractors shall abide. This includes the courtesy call and proper coordination with the LGUs by the project team prior to their entry to the community. In special cases, coordination or request for police assistance will be done when necessary to ensure peace and order in the conduct of project activities. The Code of Conduct for Workers shall also address potential exposure of the workers to endemic vector-borne diseases in the area such as malaria and schistosomiasis. A security management plan is included in the ESMF.

*Protection of micro watersheds within CCLOA areas.* Landholdings or portions thereof within forest lands and protected areas will be carved out of the CCLOA and reverted back to the management of DENR. Affected farmer beneficiaries shall be issued appropriate tenurial instruments in lieu of CLOAs and those in hilly and rolling areas of forest lands shall continue to farming the lands within the forest management plans and protected areas management plans as required by the tenurial instruments. They will be encouraged to improve and preserve existing waterways, gullies and patches of natural vegetation subject to existing forest resource use regulations.

*Potential Displacement of ARBs in parcels classified as Forest Lands and Protected Areas.* The DAR would first review and carve out the portions of CCLOAs that overlap with forest land classification and/or protected areas and the DENR will subsequently issue appropriate tenurial instruments to the affected ARBs. This should avoid ARBs from being potentially displaced or end up with no tenure rights.

To address potential risks on the ground, the Project adopted a Resettlement Policy Framework (RPF) providing guidelines, among others, on dealing with any potential loss of rights and resettlement issues arising from the carving out of forest land overlaps from the CCLOAs. The RPF includes compensation measures and resettlement assistance which shall be further enhanced during consultations with DENR-FMB over the suitable alternative tenurial instruments such as Certificate of Stewardship Contract (CSC) to individual ARBs or Community-Based Forest Management Agreement (CBFMA) and/or Protected Area Community-Based Resource Management Agreement (PACBRMA) in the case of protected areas, that will be awarded to groups of ARBs or ARBOs in case the lands they currently occupy are reverted back to DENR. The RPF shall also request other concerned agencies to provide appropriate necessary assistance/support to avoid displacement of affected ARBs or

other occupants resulting from possible issuance of DENR's tenurial instruments. The RPF shall include screening tools to identify as early as possible the CCLOAs with overlaps.

*Potential Displacements of Current Occupants.* There is a need to further assess the extent and prevalence of these risks on the ground during project implementation. The detailed policy and approach to address potential displacements will be contained in the Resettlement Policy Framework which will be developed and adopted for the Project. The framework shall address both the potential cases of displacement/resettlement of ARBs due to reversion of current landholdings to forest land status, and cases of displacements/exclusions of current occupants resulting from disqualification.

*Potential Conflict in Boundaries and Contested Claims.* DAR has a system for dealing with boundary issues on contested claims. If the Project encounters such conflict during the conduct of delineation of individual land parcel boundaries, the case will be referred to the Barangay Agrarian Reform Committee (BARC). The BARC acts as mediator and conciliator in agrarian disputes and assists in the identification of qualified beneficiaries and landowners. It also attests to the accuracy of the parcellary mapping of CARP lands and helps in the initial determination of land values.

Screening tools shall be developed during project preparation and inventory of CCLOAs to find out early on the actual extent and magnitude of these overlaps and consider/include such CCLOAs for parcelization only in the latter phase of project implementation or when segregation surveys are done to give time for further assessment of potential risks and impacts and preparation of specific mitigation measures and actions like proper turnover of excluded lands to the jurisdiction of the DENR.

#### *Presence of ICCs/IPs.*

There are two cases for these: One is when the CCLOA is within an ancestral domain; the other is when the CCLOA or the land parcel to be titled is outside the ancestral domain but is owned by members of the ICCs/IPs.

- (a) *When land parcels to be issued title is inside AD.* The ancestral domain is a territory which the ICCs/IPs collectively has jurisdiction and control. According to the IPRA law and its implementing rules and regulations, when the project or intervention is within Ancestral Domain it will normally be subject to the process of free and prior informed consent under the auspices of NCIP, except when the project itself is a government project specifically benefiting the ICCs/IPs or if the intervention is part of the ICCs/IPs's Ancestral Domain Sustainable Development and Protection Plan (ADSDPP). In both cases, the NCIP will provide a Certificate of Precondition for intervention that complies with the rules. The Project will therefore comply with the IPRA requirements when the parcels to be titled are within Ancestral Domain.
- (b) *When CCLOA is outside AD and the ARBs to be issued title are members of the ICCs/IPs.* The World Bank ESS7 however, does not depend upon the concept of Ancestral Domain. On the other hand, if the land parcels subject to titling are owned by members a group of the ICCs/IPs but outside the Ancestral Domain, the situations will be further assessed to determine if free and prior informed consent is required.

In both of these cases, ESS7 applies and culturally appropriate consultation and FPIC processes will be conducted. The ICCs/IPs communities inside or outside ADs may opt out of the parcelization and continue collective land ownership status within the CCLOA. For CCLOAs inside ancestral domains, the IPRA and related guidelines will apply in addition to ESS7.

*Legal issues: CARP versus IPRA.* Both CARL and IPRA are land rights laws. But IPRA has an additional concept of ancestral domain which defines the territory under control of the ICCs/IPs for which the AD is awarded. The instrument for this is called Certificate of Ancestral Domain Title (CADT). The IPRA recognizes pre-existing vested rights (i.e. other forms of ownership titles) on land within ancestral domains. Therefore, CCLOAs or CLOAs issued prior to the declaration of the AD do not conflict with IPRA or ancestral domain rules. But CCLOAs or individual CLOAs that overlap with or are entirely within AD and which are issued after the AD is declared, are technically in conflict with the IPRA. Thus, CCLOAs issued after IPRA took effect will require further assessment and consultations with the IPs and NCIP officials to discuss how to resolve any legal, cultural and such other issues raised before these are included for parcelization. The JAO 1-2012 is intended to deal with these conflicts and the Project will abide by this agreement or any update thereof.

An adequate review of ESS7, the IPRA and related regulations like the requirements for FPIC has been undertaken and considered in the formulation of the IPPF to serve as guidance in preparing the Project's site-specific ICC/IP Plans, when required/needed, for parcelization of lands that overlap with ADs or lands outside ADs with IP-ARBs. The IPPF is made integral part of the Project's overall management framework.

## 2. ES Risk Management Capacity Building for the Project

There is a need for DAR to hire environmental and social safeguards specialists/consultants, with strong background in involuntary resettlement and biodiversity conservation/protection, during the project implementation to provide advisory and oversight functions at Project Management Office (PMO). In addition, environmental and social development specialists should be hired at the regional levels to provide technical support to provincial and municipal offices in the implementation of the ESMF. At the provincial and municipal levels, safeguards focal persons shall be designated and trained on the implementation of the ESMF and associated plans, frameworks and protocols.

This ESMF will be implemented through an Environmental and Social Sub-Unit (ESSU) within the SPLIT Project Management Office (PMO) to be composed of hired specialists and designated organic staff and administrative headed by a DAR organic staff and technically led by a Senior Safeguards Advisor. The ESSU shall have a total of approximately 687 staff consisting of 17 hired specialists and 677 organic staff designated as Safeguards Officers or Safeguards Focal Persons. At the Central PMO the safeguards team will be composed of one (1) DAR organic staff designated as ESSU Head, one (1) Safeguards Officer, one (1) hired Senior Social Safeguards advisor, one (1) hired Social Safeguards Specialist and one (1) hired Environmental Specialist with strong background in conservation/biodiversity conservation. In each regional office, the Project shall hire one (1) Environmental/Social Safeguards Specialist and designate one (1) organic staff as Safeguards Officer. At each provincial office, one (1) organic staff shall be designated as ES Safeguards Officer while at each strategic municipal office there will be one (1) Safeguards Focal Person.

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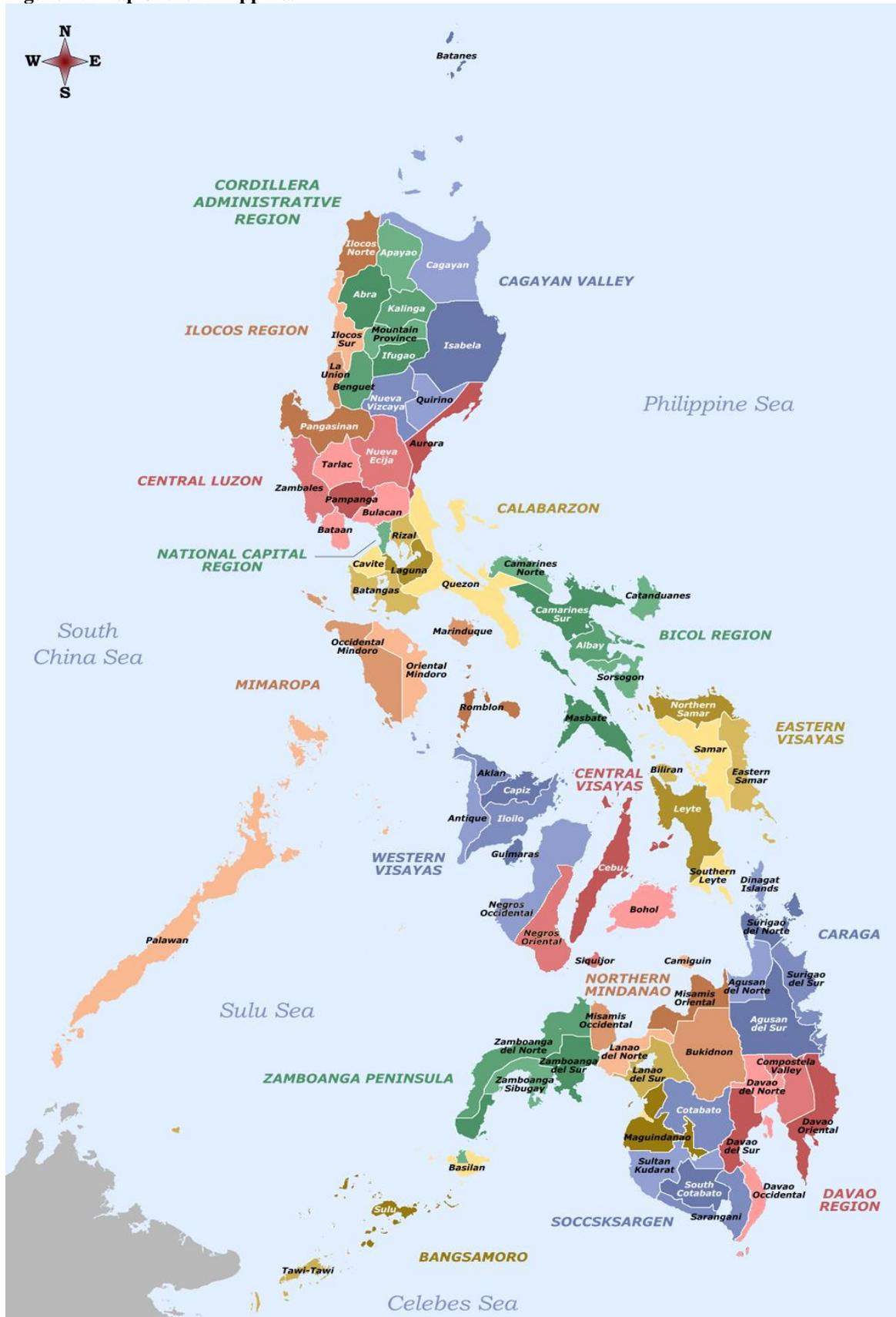
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draft for public disclosure

Figure 5: Map of the Philippines



## ATTACHMENTS

### Attachment 1

#### **Review of the Country's Existing Institutional, Legal and Regulatory Framework, Policies and Guidelines for the Recognition of Land Tenure Rights Associated with the SPLIT Project**

*Prepared by:* Atty. Erwin L. Tiamson  
*For:* World Bank  
22 January 2020

#### SUMMARY

One of the main sources of instability of property rights in agricultural lands are the issuance of a large number of collective CLOAs issued over lands that are meant for individual and not collective cultivation.

These CLOAs are mostly issued during the early part of CARP in the 1990s to hasten the acquisition and distribution of agrarian reform lands by skipping the tedious process of formal subdivision of the parcels for individual awards and instead, award to land to the group. CLOAs creates a co-ownership regime in appropriate to the ARBs. Although there could have been an actual lot allocation for each of the farmer-beneficiaries on the ground, the same is not reflected in the formal title or the CLOA issued to the collective. The subdivision of collective CLOAs was avoided, delayed or slowed down by issues and problems emanating from the fact that these collective CLOAs were issued one to two decades ago. There are operational problems, among many others, in the identification of ARBs and validation on the location of the landholdings assigned to them. Some ARBs listed in the CLOAs are now deceased and there is a need to go through the process of inclusion and exclusion of ARBs which is a requirement for the subdivision survey. Some ARBs are no longer tilling the land and have transferred his/her rights to another. Some tillers in place are not in the original list of ARBs. Some collective CLOAs are in the name of the farmers' organization but the names of individual beneficiaries are not annotated in the collective CLOA. Furthermore, a significant number of collective CLOAs include non-CARPable portions and non-A&D lands.

To address this issue, DAR created a parcelization program to subdivide these collective CLOAs. In support of the program, DAR issued DAR DAO No. 02-2019 (Guidelines and Procedures on the Parcelization of Landholdings with Collective Certificate of Land Ownership Award).

#### **Non-A and D Lands Are Excluded from Parcelization**

In these guidelines, DAR will not be including in the program CLOAs falling within inalienable lands (i.e. forest lands and protected areas) thereby avoiding issues with DENR regarding tiling of non-A and D lands by DAR. However, from the guidelines, it appears that DAR will be covering CLOAs in ADL lands as long as it is within A and D lands. DAR did not consider an overlap with an ADL as an impediment to parcelization nor a diminution of its issued CLOAs. Reading from the DAO, it is possible that DAR thinks that the declaration of the land by NCIP as ADL did not affect legality of the title it issued provided that the land is within A and D lands.

#### **ADL Lands Are Included from Parcelization**

CLOAs issued in A and D lands that is part of an ancestral domain lands are valid titles that are registered in the Torrens system of land registration and are considered as “indefeasible” and afforded the same status as those issued under the public land act and those confirmed by the courts under Act No. 496 and PD No. 1529. As an indefeasible title, the land is generally protected against all claims or encumbrances except those that are annotated in the certificate of title issued to him. Indefeasible titles are not subject to prescription and collateral attacks and are conclusive against the whole world. Unlike forest lands and protected areas that are inalienable, the declaration of NCIP that the land is part of ADL or the issuance of an CALT, by itself, does not remove the land from coverage of the CARP since the program covers all agricultural lands both public and private subject only to exception on retention.

### **Conflict in ADL Lands Will Be Focus Mostly in Areas with Exclusionary Claims**

Conflict may arise if there are persons in possession that have an exclusionary claim against the DAR or ARBs or the NCIP or ICCs/IPs as the case may be. If there are exclusionary claims, the risk of displacement or dispossession is high since a decision in favor of one the parties will mean displacement or loss to the other. If this reaches the court, the court will more likely favor the holder of the older title (CLOA or CADT) if the A and D land was public land when disposed. However, if the land distributed was acquired from private domain lands by DAR, the court will more likely uphold the CLOAs issued to ARBs especially if they have amortized already.

If there is no exclusionary claim as when the recipient of the CLOA is the same IP with ADL claim, the issue regarding whether the occupant will receive a CLOA or a CADT from either the DAR or the NCIP has no immediate effect since there will be no displacement. Since CLOA has already been issued, most probably the occupant, whether IP/ICC or not will mostly likely participate in the parcelization process and it is more likely that they will not demand for a CADT (instead of the separated CLOAs) because CLOAs are marketable instrument unlike CADT that has a lot of limitations, especially on transfers. In Trento (Agusan del Sur) GIZ has documented a joint process between the DAR and NCIP where the agencies sensitively respected the choice of indigenous peoples to opt for receipt of CLOAs for A&D land within an area originally claimed by other indigenous peoples as their ancestral domain. Ninety-three percent of the CLOA beneficiaries belong to the same IP group that is claiming ancestral domain ownership. The two types of land tenure arrangement have not diminished the social ties that bind the IP community.

### **Problems Expected in Parcelization**

Since the mother CLOAs were issued many years back, these are some of the problems that may be encountered during the process:

1. Some of the land parcels within the CLOA are now occupied by persons who were not the original ARBs but who may have been planting, building structures and making improvements on the lands.
2. The current occupants are not the original awardee but are:
  - a. Heirs or some of the heirs of the original awardee who had predeceased the parcelization
  - b. Buyer of land rights from the original awardee or from his heirs
  - c. A tenant/caretaker of the awardee or his heirs
  - d. An informal settler who is merely tolerated by the awardee or his heirs

- e. A trespasser without permission from the original awardee or his heirs
3. The transfer between the original awardee and his successor is informal
  - a. The transfer has no formal documentation
  - b. The transfer taxes are not paid or settled
  - c. The transfer is not authorized by DAR
4. The actual area occupied by the awardee or his successors is in excess of the award limit.
5. The actual area occupied by the awardee or his successor is different from the original agreement/plan.
6. Payment issues of beneficiaries in lands distributed under Compulsory Acquisition or Voluntary Offer to Sell Mode

### **Recommendations**

Because of these potential problematic situations on lands covered by collective CLOAs the DAR placed a through process under DAR AO No. 02-2019 in the field validation of the status of the beneficiaries of collective CLOAs. The data gathered from this would give implementers information on how to proceed with the parcelization considering the changes in the situation of tenure on the land. Hereunder are my suggestions to alleviate the problem.

1. Undertake extensive trainings of field implementer regarding rights transfers, the documents/evidence necessary, rules on successional rights, etc. in order for the implementers to understand "each" situation on the area.
2. Undertake trainings on mediation and alternative dispute resolution to avoid potential property rights conflict that might go to a court proceeding if not handled properly, i.e. successional rights.
3. Meaningfully engage the community in the process to ensure social support to the outcome of the parcelization.
4. Engage the Local Government Units, especially in the Barangay and Municipal.
5. Undertake a thorough review of the circumstances of the occupancy and the validity of the transfer from the original awardees to the current occupants.

### **Identification of the Most Vulnerable Groups**

The actual occupant/tiller who are be deemed ineligible under the law and hence would be displaced or lose their rights on the parcels they currently occupy. This could be due, but is not limited, to the following circumstances:

1. The actual occupant is not the ARB and has no formal documentation to show how he acquired the land (trespasser);
2. The actual occupant is not the ARB has insufficient documentation on the acquisition but the ARBs or his heirs refused complete the documentation process or refute the transaction;
3. The actual occupant is not the ARB, claims his rights under him but is disqualified as FB due to land holdings, etc.

4. The actual occupant is an heir of the ARBs but his siblings/co-heirs refused to waive their rights on the land. The heirs of ARBs who are actually tilling the land but may lose the land or portion thereof to some siblings who are no longer tilling the land but is entitled to it under the rules of succession;
5. Those ARBs who are listed in the CLOAs but for some reasons is no longer in the area or is not present at the time of parcelization is also vulnerable. This could be due, but is not limited, to the following circumstances;
  - a. The ARB is currently working in another area and was not informed of the parcelization;
  - b. The ARB was displaced due to various reasons and was not able to comeback;
  - c. The ARB is dead and some of the heirs were not informed of their rights of succession; and
  - d. Other analogous situations where the ARBs or his successor is not present during the process.

### **Recommendations**

The process of inclusion and exclusion under DAR AO No. 02-2019 is exhaustive enough to address this issue and to capture the situations above-mentioned. In the implementation process, the Project should:

1. Ensure that all interested parties on the land subject of parcelization is informed through a community base information process and not merely on the common legal standard of “postings” and “publications” of legal notices;
2. Ensure the dissemination of information on each of the activities of parcelization
3. Engaged the community for transparency and communication to all interested parties
4. Engaged the LGU in the whole process of parcelization
5. Provide legal assistance during the process to ensure grievance redress
6. Look for alternative public lands for disposition to those who are eligible but will be displace in the parcelization process.