INDONESIA

AMDAL Reform and Decentralization
Opportunities for Innovation

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AMDAL Reform and Decentralization:
Opportunities for Innovation in Indonesia
This study was prepared by the Environment and Social Development Unit (EASES) of the East Asia and Pacific Region. The world bank’s environment and social development strategy for the region provides the conceptual framework for setting priorities, strengthening the policy and institutional frameworks for sustainable development, and addressing key environmental and social development challenges through projects, programs, policy dialogue, non-lending services, and partnerships. The EASES discussion paper series provides a forum for discussion on good practices and policy issues within the development community and with client countries.

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CONTENTS

Acknowledgments ....................................................................................................................... v
Abbreviation and Acronyms .................................................................................................... vi
Executive Summary .................................................................................................................. vii

1. The AMDAL System ........................................................................................................ 10
   1.1 Policy, Institutional and Regulatory Setting ............................................................... 10
   1.2 Diagnosis of Issues and Concerns .............................................................................. 12
   1.3 The AMDAL Revitalization Program of the Ministry of Environment ................... 15
   1.4 The World Bank AMDAL Reform Study ................................................................... 16
   1.5 Organization of the Report ......................................................................................... 19

2. Issues in a Decentralized Environment .......................................................................... 20
   2.1 Clarifying Functions ................................................................................................... 20
   2.2 Streamlining Government .......................................................................................... 22
   2.3 Building Regional Capacity ....................................................................................... 24
   2.4 Building Transparency and Accountability ............................................................... 25
   2.5 Stimulating Innovation and Learning ......................................................................... 27
   2.6 Conclusions: A New Lease of Life for AMDAL? ..................................................... 28

3. Localizing AMDAL: Regional Case Studies .................................................................. 29
   3.1 The Aceh Case Study ................................................................................................. 29
   3.2 The West Java Case Study ......................................................................................... 31
   3.3 The East Kalimantan Case Study ............................................................................... 35

4. Opportunities for Innovation and Reform .................................................................... 40
   4.1 Summary of Conclusions ........................................................................................... 40
   4.2 Opportunities for Innovation and Reform .................................................................. 42

Selected Bibliography .............................................................................................................. 48
Boxes

Box 1. The ‘Big Bang’ Decentralization
Box 2. Improving the Quality of Environmental Management Plans in Jakarta and Yogyakarta
Box 3. How Has Decentralization Affected AMDAL? A Private Sector View
Box 4. Pre-existing Role of the Ministry of Environment in Relation to AMDAL
Box 5. Balikpapan Bay Strategic Management Plan
Box 6. PT BASF Indonesia and Public Participation in the AMDAL Process
Box 7. Aceh Province at a Glance
Box 8. West Java Province at a Glance
Box 9. Counterparts in Developing the Regional Case Studies
Box 10. The East Kalimantan Province at a Glance

Figures

Figure 1. The AMDAL Process in Indonesia under Regulation 27/1999
Figure 2. How the World Bank AMDAL Reform Project Works
Figure 3. Proposed AMDAL Procedure from the West Java Case Study
Figure 4. Proposed Procedures for Monitoring and Oversight from the East Kalimantan Case Study

Tables

Table 1. Summary Diagnoses of AMDAL Issues and Concerns
Table 2. Provincial and District Government Environmental Authorities Involved in the AMDAL Reform Study
Table 3. Human Resource Capacity of Select Local Government Environment Offices
Table 4. Suggested Priorities for AMDAL Revitalization
Table 5. Reform Options for AMDAL Revitalisasi.
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Definitions

EIA and AMDAL: These terms are used interchangeably throughout the report with EIA generally being used when referring to the international context and AMDAL when talking more specifically about national procedures.

Local Government: This entity refers to Indonesia’s 400+ district and city governments.

Regional (and the Regions): This geographic region, as used in the report, encompasses all subnational levels of government, including provincial government and local government (district and city).
EXECUTIVE SUMMARY

Analisis Mengenai Dampak Lingkungan (AMDAL) is Indonesia’s environmental impact assessment (EIA) system. It was officially introduced under the Basic Environmental Law No. 4 of 1982 at a time of increasing foreign support and investment, particularly in large-scale and extractive industries. Over the next two decades the system was periodically refined to reflect both institutional changes within Indonesia, and the wider evolution in thinking on EIA that was on-going in other countries. However, until recently, it remained to all intents a centralized system with all policy, regulatory, administrative, and institutional requirements established by the central government.

AMDAL Reform and Decentralization Project

This report presents the results of the AMDAL Reform and Decentralization Project, an 18-month engagement by the World Bank in support of an Indonesian Government-initiated review of its EIA systems and procedures. The AMDAL Project, which started in October 2004, focused on the core issue of adapting the existing regulatory regime for EIA in Indonesia to political and administrative decentralization—a process that began with the introduction of far-reaching regional autonomy laws in January 2001. One of the central themes was the need to identify the opportunities afforded by decentralization in improving the efficiency, effectiveness, and impact of AMDAL. The outcomes of the AMDAL Project are not intended to be prescriptive but rather to inform discussion and stimulate comment among key stakeholders.

The AMDAL System changed with the introduction of regional autonomy laws. Critically speaking, authority for AMDAL review and approval was transferred de facto to Indonesia’s 400-plus local governments while the role of the provinces was significantly weakened. This had the effect of placing the bulk of the responsibility for EIA—Indonesia’s only widely recognized environmental management tool—where there is least capacity. An initial wait-and-see policy at the Ministry of Environment or Kementerian Lingkungan Hidup (KLH), particularly in the lead up to reforms to Regional Autonomy Law 22/1999, was gradually replaced by the realization that a new contract on EIA with the regions was necessary. A strong focus on improving the climate for investment, following the economic crisis years of the late 1990s, has also put increasing pressure on KLH to deliver greater efficiencies by streamlining EIA procedures.

AMDAL Revitalisasi

In late 2003, KLH launched a new phase of reform to its EIA system with the objective of adjusting the legal framework for AMDAL to regional autonomy. From the outset, AMDAL Revitalisasi focused on the need to strengthen enforcement and clarify authority for AMDAL between national and subnational levels. Assistance from the World Bank was requested at this time, leading to a preliminary assessment of the state of AMDAL carried out in early 2004.²

¹ Environmental Management Act (No 23/1997) and its implementing regulation on AMDAL (No. 27/1999).
² Scoping Exercise on Environmental Assessment and Decentralization in Indonesia (World Bank, East Asia and Pacific Environment and Social Development Unit., Washington D.C. 2004); also see http://www.worldbank.or.id/amdal
The assessment confirmed many of the known weaknesses of AMDAL: (a) development decisions continue to be made without proper consideration for environmental consequences (i.e., the impact of the system is barely visible despite fairly established procedures); (b) environmental authorities, particularly at local government level, lack resources and expertise; (c) AMDAL regulations and guidelines lack clarity and contradict regional autonomy laws; (d) integration with project design and approval processes is poor; and (e) the completion of AMDAL processes could be long and cost up to one percent of the total cost of the project. Even more significantly, while the weaknesses in AMDAL are generally well-known and well-documented, there is visible acceptance of the status quo among policymakers and practitioners alike.

The assessment identified several issues more directly associated with decentralization, in particular the potential for a further weakening of AMDAL as local governments increasingly interpret environmental standards to suit their own needs. The classic example here is the proliferation of local—both formal and informal—environmental retribusi or fees for environmental services. Furthermore, in most cases, local governments do not have the access to necessary financial resources and technical expertise to ensure adequate implementation of AMDAL, particularly in relation to review, approval, and monitoring functions.

On the positive side, the assessment confirmed that KLH’s policy leadership is still recognized and valued by local authorities; most AMDAL practitioners support the need for reforms to address decentralization; and home-grown good practice is emerging around Indonesia’s main economic centers. The emergence of good practices, albeit patchy, is largely driven by the broader democratization process and the need for local governments to demonstrate greater transparency and accountability to voters.

In October 2004, a package of support for AMDAL Revitalisasi was agreed between KLH and the World Bank comprising (a) pilot studies to be carried out in two provinces; (b) a range of supporting analytical studies; and (c) support for national to local policy dialogue. The main premise underlying AMDAL Revitalisasi was that policy dialogue should be informed by empirical evidence derived from the experience of some of the more capable local authorities across the country. These local authorities, it was assumed, could provide a nucleus of experience from which best practices could be derived and applied more broadly in Indonesia.

1 World Bank. 2005. What is Right with AMDAL - A Study on Emerging EIA Good Practice in Selected Provinces in Indonesia. Background paper prepared for the World Bank AMDAL Reform and Decentralization Project. This paper takes a close look at a series of recently completed EIAs, identifies discrete examples of good practice and assesses critical factors contributing to improved performance. An indication of the alignment of these good practices with the international experience is provided via comparison with selected middle-income countries (Also see http://www.worldbank.or.id/amdal).

4 Detailed information about the length of AMDAL in Indonesia remain limited and inconsistent; research conducted when preparing the AMDAL regional pilots and the analytical pieces on AMDAL good practices and public participation indicated that national-level AMDALs can take anything between two and fifty months, with an average ranging between five and seven months (Also see http://www.worldbank.or.id/amdal). Official figures on AMDAL costs are not available for Indonesia; anecdotal evidence, however, suggests that AMDAL costs can range between 0.1 and 1 percent of the total project costs. This information appears to be consistent with what presented in the 1997 report from ADB on Environmental Impact Assessment for Developing Countries in Asia (http://www.adb.org/Documents/Books).
Issues in a Decentralized Environment

The challenges of reforming AMDAL and adapting it to regional autonomy are germane to those being faced in most sectors. Stumbling blocks include the need to (a) clarify the functions of local government; (b) increase bureaucratic capacity and efficiency; (c) build regional capacity; (d) deepen local-level transparency and accountability; and (e) stimulate learning and innovation.

(a) Clarifying Functions

There is clear recognition within KLH of the need for adjustment to the Environmental Management Act (23/1997) and its implementing regulations, including Regulation 27/1999 on AMDAL. The prevailing obstacle, in terms of better defining the role and functions of local government, has been the view that local governments lack the capacity to manage AMDAL effectively and will inevitably favor the interests of the developer. On this basis a policy of retrenchment of authority for environmental management from local government to provincial level was pursued by KLH. However, with time there has been gradual recognition of the futility of seeking to restrict powers already given to local government under regional autonomy laws in favor of a more balanced set of measures to strengthen the powers of the Minister to enforce AMDAL; improve the quality and coverage of national guidelines; and provide capacity building for local government. Progress now needs to be made in terms of defining a positive list of environmental management functions both for local governments and provinces, and the establishment of minimum standards of performance. The functions of KLH’s AMDAL Directorate also need to be more clearly stated with an increased focus on guidance, supervision, and promoting innovation.

(b) Streamlining Bureaucratic Procedures

The prospect of increasing the efficiency of AMDAL by streamlining bureaucratic procedures presents one of the most significant potential benefits of decentralization but also a major risk area. Where there is greater capacity for environmental management, decentralization could present real opportunities for promoting environmentally sustainable economic growth. For example, the West Java case study has identified a number of ways in which AMDAL could be made more efficient while also delivering a better product for its clients. By contrast where there is more limited capacity (the majority of regions in Indonesia), greater delegation of authority could have the effect of significantly undermining environmental standards. Here a more cautious and incremental approach to strengthening and clarifying existing AMDAL procedures is favored.

(c) Building Regional Capacity

The need for environmental management capacity building is obvious. What is less clear is who should be responsible and where the capacity building should be targeted. From a management and financial perspective, it makes most sense for resources to be concentrated at the provincial level where they will be equally accessible to all districts and cities. However, from a political perspective this solution may be difficult to implement given the significant shift in the balance of power in favor of districts and cities under regional autonomy. Consequently, the role of the provinces in implementing
AMDAL is unlikely to be resolved in a clear-cut way for some years to come. Yet, even within the current regulatory environment, there is much that provinces can do to help facilitate and encourage improved performance at local government level, particularly through the transfer of know-how and best practice. At local government level, the key question of resourcing arises—an area that remains entirely a local government issue beyond the influence of KLH or other national ministries. Here, a combination of measures will be needed to ensure that local governments place a greater priority on environmental management including establishment of clearer national guidelines and performance standards, strengthened ministerial powers to apply sanctions, and increased politicization of environmental issues via public awareness and engagement.

(d) Building Transparency and Accountability

In the more economically developed centers expectations have been raised that the business of government will be more responsive to public scrutiny in the future. This force for change presents the prospect that environmental issues can become more politicized at local level and therefore of higher priority. The analytical studies carried out by the World Bank indicate that increasing public scrutiny and access to information is already having an impact on the sense of accountability felt by environmental and other officials in some local authorities, leading to better environmental outcomes. However, existing regulations and guidelines that govern public participation in EIA would benefit from being more discreetly focused on the identification and analysis of project-related impacts, but also to be less prescriptive in terms of methods. Indonesia’s wide cultural diversity demands that decisions on how to achieve the objectives of public participation in EIA entail delegation of greater decisionmaking authority to local level.

(e) Stimulating Innovation and Learning

For the AMDAL process to take advantage of the opportunities presented by regional autonomy, it must find ways to make innovation a more integral part of the process. This implies measures to allow greater flexibility with the way in which AMDAL rules and procedures are applied, particularly within jurisdictions with higher than average environmental management capacity. It also implies building a better understanding of home-grown good practice in AMDAL and disseminating this information widely among practitioners. There is a delicate balance between encouraging innovation without undermining the overall integrity of the system and recognizing that bureaucracies are risk averse favoring gradual increments of change. This central dilemma provided the justification for the implementation of three regional cases studies in order to further explore the practical implications of allowing variations to emerge from one region to another.

Regional Case Studies

During 2005, the KLH and the World Bank, in collaboration with local authorities of the provincial governments of Aceh, West Java and East Kalimantan carried out case studies to deepen the understanding of constraints faced by the regions in implementing existing AMDAL procedures. The ideas and lessons generated from these case studies demonstrate some of the opportunities that exist for improving efficiency and effectiveness of AMDAL under decentralization.
(a) Aceh and Nias

Following the December 2004 earthquake and tsunami that decimated coastal areas of Aceh and Nias, KLH introduced new procedures designed to streamline AMDAL. Initiated not only to support the urgent need for reconstruction but also to inform AMDAL Revitalisasi, the Aceh case study applies changes to national procedures in two fundamental ways: (i) it significantly reduces the timeframe required for development and approval of AMDAL terms of reference; and (ii) it requires that proponents consult with the Tim Teknis (Technical Commission) during the implementation of environmental studies to ensure quality control. The concept is designed to fit a very low capacity situation, requiring strong central intervention. It does not promote concepts of local variation leading to innovation, but rather the reinforcement of a centralized system through KLH intervention.

(b) West Java

The foundation of the West Java case study is a set of reaffirmed core definitions on the purpose, meaning, and objective of AMDAL. The resulting modified AMDAL system relies on a higher level of trust between the proponent and the government, and assumes that proponents will respond positively to the incentive of a shorter AMDAL process providing that environmental issues are well integrated into the planning and feasibility of new investments. It introduces several new concepts including "residual environmental impacts" and "consequences of an activity" as a means of more clearly defining the purpose of AMDAL. It also introduces a number of new procedures, including formal entry into the AMDAL process; a fast-track option for projects for responsible projects; and a concise (20-page) environmental clearance document as the principal output of AMDAL. The importance of a more developed information management system supporting AMDAL is recognized, with the potential to provide a foundation for Strategic Environmental Assessment approaches. The West Java concept provides an indication of what can be achieved in high-capacity, high-growth scenarios, perhaps relevant and viable in a handful of regions only.

(c) East Kalimantan

The East Kalimantan case study focuses on post-AMDAL elements of monitoring the implementation of the environmental management plans, demonstrating that much more clarity is needed on authority, roles, and responsibilities with regard to environmental monitoring and supervision. While the East Kalimantan concept is less innovative, it is perhaps the most representative of Indonesia as a whole. It suggests that for most regions AMDAL revitalization should support incremental change in a few priority areas, with a focus on clarifying roles and responsibilities, improving the quality and availability of technical guidance, and increasing the visibility and accountability of the process.

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5 Residual environmental impacts contain characteristics not known at scoping stage, thus justifying the need for additional analysis. Consequence of an activity has significant impacts that cannot be mitigated by a project. For further information, see AMDAL Reform Program – Regional Pilot Projects Final Report (World Bank, East Asia and Pacific Environment and Social Development Unit, Washington D.C., 2005).
**Implications**

Radical changes to the AMDAL system are unlikely to attract widespread regional-level support at this time. The main priority for AMDAL revitalization should be to clarify and improve existing procedures, and to put in place incentive systems to help local environmental authorities to lobby for increased resources for environmental management. At the same time, KLH should now begin to work with a coalition of the most willing and competent local authorities to promote innovation and learning and to engender a stronger tradition of home-grown good practice.

**Conclusions**

The World Bank AMDAL Reform and Decentralization Project asked a number of fundamental questions about the nature of changes necessary to improve the efficiency, effectiveness, and impact of AMDAL within a decentralized context. More specifically it asked whether or not the delegation of authority to local government presents an opportunity to revive AMDAL and make it more effective. In the interests of promoting innovation and greater relevance to local conditions, it challenged the need for AMDAL to be overly prescriptive in its rules and procedures. It sought also to demonstrate that one of the main pathways toward improving AMDAL is by stimulating and disseminating home-grown good practice rather than importing foreign models.

Evidence emerging from the analytical pieces, the regional case studies, and the ongoing policy dialogue largely confirm the need for greater innovation and evidence-based learning to be introduced into AMDAL, and for existing procedures and guidelines to be better adapted to local needs and priorities. A one-size-fits-all approach to AMDAL can no longer be applied. A new policy direction—one more sensitive to difference—is now required. Greater priority should be placed on defining suitable incentives in order to increase the perceived value of AMDAL to its customers: investors, project-affected people, and the general public. This could be achieved by introducing the possibility of regional variations to emerge in a number of well-defined procedural areas.

At the same time the national AMDAL system should not be permitted to fragment. The role of KLH as a policymaker and caretaker of the AMDAL system should be strengthened, implying regulatory and administrative changes backed by an on-going program of capacity building. Reforms should include (a) clarification of the roles and responsibilities of KLH, the provinces, and local governments; (b) establishment of minimum standards of performance for local authorities as a means of beginning to understand the critical capacity gap that exists at this level; (c) introduction of workable enforcement mechanisms at all levels to include both administrative and criminal sanctions; (d) revisions of existing environmental screening procedures for AMDAL, including the re-integration of preliminary environmental management plan (UKL) and preliminary environmental monitoring plan (UPL) into a two-stage screening process; and (e) development of strengthened systems for monitoring and quality control.

In order to challenge a pervasive and disturbing level of comfort that has emerged among policymakers and practitioners with AMDAL’s lack of impact, there is a need to promote measures to challenge the status quo. Selected willing and competent local environmental authorities, such as in West Java and DKI Jakarta, can be key reformers.
A further key source of innovation is likely to be the private sector, which is constantly looking for ways in which to introduce new approaches and technologies. This will require a re-thinking of the way that government interacts with investors, as visibly demonstrated by DKI Jakarta's focus on creating a sense of public-private sector partnership in implementing environmental management plans.

**Opportunities for Reform and Innovation**

A range of policy reform options are presented in Chapter 4 of this report as a basis for stimulating discussion within KLH and other key stakeholders. Policy options are drawn from the results of the various analytical studies completed under this study, the findings of the regional case studies, and the on-going policy dialogue underpinning both of these activities. The policy options are grouped according to five thematic areas common to many studies on decentralization: (a) clarifying functions, (b) streamlining government, (c) building regional capacity, (d) building transparency and accountability, and (e) stimulating learning and innovation. Even though, in agreement with KLH and local governments' counterparts, this report does not provide a blueprint for AMDAL revitalization, it distinguishes among the level of priority among the proposed policy options in terms of relative importance and ease of implementation (between achievable and moderate); as a result, the following actions have been identified as:

(i)  *Top priorities*

   i.  Define the function of AMDAL more clearly;
   ii. Revise environmental screening procedures;
   iii. Introduce regional flexibility in AMDAL legislation;
   iv.  Establish minimum standards for local government;
   v.   Revise procedures for public involvement

(ii) *Medium priorities*

   i.  Replace EIA review commission with expert panel
   ii. Revise key national guidelines
   iii. Define the role of provincial government
   iv.  Redefine the role of sectoral ministries in AMDAL

(iii) *Lesser priorities*

   i.  Audit subnational EIA legislation
   ii. Engage with the private sector
   iii. Create information sharing and learning networks for EIA

Even after proposing such prioritization of suggested actions, it is of utmost important to recognize that all listed actions are significant, representing a continuum of required reforms to adapt and strengthen the AMDAL system for greater effectiveness and impact even if some of the options might be more fundamental than others. More importantly, the ongoing policy dialogue suggests that the development of an overall plan for AMDAL reform should be guided by these priorities and other considerations open to negotiation and change resulting from contributions from all key stakeholders at different levels of government, within the private sector, academia, and civil society.
RINGKASAN EKSEKUTIF


Proyek Reformasi dan Desentralisasi AMDAL


Revitalisasi AMDAL

Menjelang akhir tahun 2003, KLH melancarkan tahap reformasi baru dalam sistem AMDALnya dengan maksud menyesuaikan kerangka hukum AMDAL dengan otonomi
Sejak permulaan, Revitalisasi AMDAL memusatkan perhatian kepada kebutuhan untuk memperkuat pemberlakuan dan memperjelas wewenang atas AMDAL antara tingkat-tingkat pemerintahan nasional dan sub-nasional. Bantuan dari Bank Dunia diminta pada saat itu, yang mengarah pada pengkajian sementara tentang keadaan AMDAL yang dilaksanakan pada awal tahun 2004.2

Pengkajian tersebut mengkonfirmasikan banyak kelemahan-kelemahan AMDAL yang telah diketahui, yaitu: (a) keputusan-keputusan pembangunan tetap diambil tanpa pertimbangan memadai tentang akibat-akibat terhadap lingkungan hidup (y.i., dampak sistem tersebut tampaknya tidak tampak walaupun telah ada prosedur-prosedur yang telah ditetapkan); (b) instansi yang berwenang di bidang lingkungan hidup, terutama pada tingkat pemerintah daerah, kurang memiliki sumber daya dan keahlian; (c) Peraturan-peraturan dan garis-garis panduan tentang AMDAL kurang memiliki kejelasan dan bertentangan dengan undang-undang otonomi daerah3; (d) integrasi dengan rancangan proyek dan proses persetujuan sangat lemah; dan (e) penyelesaian proses-proses AMDAL bisa memakan waktu yang lama dan biaya banyak dapat mencapai sampai dengan satu persen dari biaya total proyek tersebut4. Bahkan lebih penting, walaupun kelemahan-kelemahan AMDAL pada umumnya cukup diketahui dan didokumentasikan, namun ada penerimaan nyata dari status quo baik oleh kalangan para pembuat kebijakan maupun para pelaku.

Pengkajian tersebut telah mengidentifikasi beberapa isu yang terkait lebih langsung dengan desentralisasi, khususnya potensi semakin melemahnya AMDAL bila pemerintah-pemerintah lokal semakin menafsirkan standar-standar lingkungan hidup untuk memenuhi kebutuhan mereka sendiri. Contoh klasik di bidang ini ialah semakin berekarya retribusi – baik resmi maupun tidak resmi – untuk jasa lingkungan hidup. Di samping itu, dalam kebanyakan hal, pemerintah lokal tidak mempunyai akses terhadap sumber data dan keahlian teknis yang diperlukan untuk memastikan

1 UU Pengelolaan Lingkungan Hidup (No 23/1997) dan Peraturan Pelaksanaannya tentang AMDAL (No. 27/1999).
pelaksanaan AMDAL yang memuaskan, terutama sehubungan dengan fungsi-fungsi peninjauan, persetujuan dan pemantauan.

Pada sisi positif, pengkajian tersebut telah mengkonfirmasikan bahwa kepemimpinan kebijakan KLH masih tetap diakui dan dihargai oleh pihak berwenang pada tingkat pemerintah lokal; kebanyakan pelaku AMDAL mendukung perlunya reformasi untuk menyikapi desentralisasi; dan praktek yang baik yang diciptakan sendiri mulai muncul di sekitar pusat-pusat ekonomi Indonesia yang paling penting. Lahirnya praktek-praktek yang baik, kendatipun masih tambal sulam, kebanyakan didorong oleh proses demokratisasi yang semakin luas dan kebutuhan pemerintahan lokal untuk menunjukan transparansi (keterbukaan) dan akuntabilitas (dapat di pertanggungjawabkan) lebih besar kepada para pemilih/pemberi suara.

Pada bulan Oktober 2004, telah disepakati suatu paket dukungan untuk Revitalisasi AMDAL antara KLH dan Bank Dunia yang terdiri dari (a) Studi percontohan yang dilaksanakan di dua propinsi; (b) serangkaian kajian analisis pendukung; dan (c) dukungan untuk dialog tentang kebijakan antara tingkat nasional dan tingkat lokal. Pemikiran utama yang mendasari Revitalisasi AMDAL ialah bahwa dialog tentang kebijakan hendaknya memiliki informasi dari pembuktian empirik yang diperoleh melalui pengalaman beberapa pihak berwenang yang berkemampuan lebih di seluruh Indonesia. Diasumsikan bahwa para pihak berwenang tersebut dapat dijadikan suatu inti dari pengalaman yang mana praktek-praktek terbaik dapat diambil dan diterapkan lebih luas di seluruh Indonesia.

**Isyu-isyu Lingkungan Hidup yang Didesentralisasikan**

Tantangan-tantangan dalam mereformasikan AMDAL dan menyesuaikannya dengan otonomi daerah berhubungan erat dengan tantangan-tantangan yang dihadapi oleh kebanyakan sektor. Hal-hal yang menjadi penghalang adalah termasuk kebutuhan untuk (a) memperjelas fungsi-fungsi pemerintah daerah; (b) meningkatkan kapasitas dan efisiensi birokrasi; (c) membangun kapasitas daerah; (d) memperdalam transparansi dan akuntabilitas pada tingkat lokal; dan (e) gairahkan pembelajaran dan inovasi.

(a) **Memperjelas Fungsi-fungsi**

Kalangan KLH sangat jelas mengakui perlunya penyesuaian UU Pengelolaan Lingkungan Hidup (No. 23/tahun 1997) dan peraturan pelaksanaannya, termasuk Peraturan No. 27/1999 tentang AMDAL. Hambatan yang ada, dalam arti mendefinisikan lebih baik peranan dan fungsi-fungsi pemerintahan daerah, adalah pendapat bahwa mereka tidak mempunyai kemampuan untuk mengelola AMDAL secara efektif dan tak pelak lagi akan berpikah pada kepentingan pihak yang membangun. Atas dasar ini KLH telah menelusuri suatu kebijakan untuk mengurangi wewenang atas pengelolaan lingkungan hidup dari pemerintah lokal ke tingkat pemerintah propinsi. Akan tetapi, dalam perjalanan waktu secara bertahap telah diakui bahwa sangat sukar untuk mencoba membatasi kekuasaan-kekuasaan yang telah diberikan kepada pemerintah lokal berdasarkan undang-undang otonomi daerah dalam upaya untuk lebih menyeimbangkan tolok ukur untuk memperkuat kekuasaan-kekuasaan Menteri dalam pelaksanaan AMDAL; meningkatkan mutu dan cakupan garis panduan nasional; dan mengadakan pembangunan kapasitas bagi pemerintah daerah. Sekarang diperlukan kemajuan dalam arti mendefinisikan suatu daftar positif tentang fungsi-fungsi pengelolaan lingkungan,
baik untuk pemerintah-pemerintah daerah dan propinsi, serta penetapan standar-standar prestasi minimal. Fungsi-fungsi Direktorat AMDAL KLH juga perlu dinyatakan lebih jelas dengan peningkatan fokus pada pembinaan, pengawasan dan mendorong inovasi.

(b) Menyelaraskan Prosedur-prosedur birokrasi

Prospek untuk meningkatkan efisiensi AMDAL dengan menyelaraskan prosedur-prosedur birokrasi menyajikan salah satu manfaat potensial terpenting dari desentralisasi tetapi juga merupakan hal yang memiliki risiko utama. Bila ada kapasitas lebih besar untuk pengelolaan lingkungan hidup, desentralisasi dapat menyajikan kesempatan-kesempatan nyata untuk mendorong pertumbuhan ekonomi yang berkesinambungan dari segi lingkungan hidup. Misalnya, studi kasus Jawa Barat telah mengidentifikasi sejumlah cara untuk membuat AMDAL menjadi lebih efisien sementara juga menghasilkan produk yang lebih baik bagi para klienya. Sebaliknya bila kapasitas lebih terbatas (sebagaimana halnya di mayoritas daerah di Indonesia), pengalihan wewenang lebih besar bisa mengakibatkan penggerogotan standar-standar lingkungan hidup secara sangat berarti. Dalam hal ini dikehendaki pendekatan yang lebih hati-hati dan bertahap untuk memperkuat dan memperjelas prosedur-prosedur AMDAL yang telah ada.

(c) Pengembangan Kapasitas Wilayah

Kebutuhan akan adanya pengembangan kapasitas wilayah adalah sangat jelas. Hal yang kurang jelas adalah, siapa yang harus bertanggungjawab dan ke mana pembangunan kapasitas harus diarahkan. Dari segi manajemen dan keuangan, lebih tepat bagi sumber daya-sumber daya dipusatkan pada tingkat propinsi di mana mereka akan dapat diakses sama rata oleh semua kabupaten dan kotamadya. Akan tetapi dari segi politik solusi ini mungkin sulit dilaksanakan mengingat pergeseran cukup berarti dalam keseimbangan kekuasaan yang berpindah kepada kabupaten dan kotamadya di bawah otonomi daerah. Akibatnya, peranan propinsi dalam pelaksanaan AMDAL tidak mungkin diselesaikan dengan cara yang jelas dalam beberapa tahun ke depan. Namun, bahkan dalam peraturan lingkungan yang ada sekarang, banyak yang dapat dilakukan oleh propinsi untuk membantu memfasilitasi dan mendorong kinerja yang lebih baik pada tingkat pemerintah daerah, terutama melalui pengalihan pengetahuan dan praktek terbaik. Pada tingkat pemerintah daerah, timbul pertanyaan yang bersifat mendasar tentang sumber daya - suatu bidang yang tetap merupakan masalah pemerintah daerah di luar pengaruh KLH atau kementerian tingkat nasional lainnya. Di sini, akan diperlukan kombinasi langkah-langkah untuk memastikan bahwa pemerintah daerah memberi prioritas lebih besar kepada pengelolaan lingkungan hidup termasuk penetapan garis panduan nasional yang lebih jelas dan standar kinerja, kekuasaan menteri yang diperkuat untuk untuk menerapkan sanksi, serta peningkatan politisasi isyu-isyu lingkungan hidup melalui kesadaran dan keterlibatan masyarakat.

(d) Membangun Transparansi/keterbukaan dan Akuntabilitas/dapat dipertanggungjawabkan

Di beberapa badan organisasi (centers) yang terlah berkembang secara lebih ekonomis, telah timbul harapan bahwa upaya pemerintah akan lebih responsif terhadap pengamatan masyarakat di masa depan. Kekuatan untuk perubahan ini menyajikan prospek bahwa permasalahan lingkungan hidup dapat dipolitisasikan lebih banyak pada tingkat lokal dan karenanya memperoleh prioritas lebih tinggi. Studi-studi analisis yang dilakukan oleh
Bank Dunia menunjukkan bahwa peningkatan pengamatan masyarakat dan akses terhadap informasi sudah mulai berdampak terhadap rasa akuntabilitas yang dirasakan oleh pejabat-pejabat lingkungan hidup dan pejabat lainnya pada beberapa instansi berwenang, yang mengantar pada hasil-hasil lingkungan hidup yang lebih baik. Akan tetapi peraturan dan garis panduan yang ada yang mengatur partisipasi masyarakat dalam AMDAL akan memperoleh manfaat lebih besar dengan berfokus lebih bijaksana terhadap identifikasi dan analisis dampak-dampak yang terkait dengan proyek, akan tetapi juga mengurangi sifat mengatur dalam arti cara-cara yang harus digunakan. Keanekaragaman budaya Indonesia yang luas menuntut bahwa keputusan tentang bagaimana mencapai tujuan-tujuan partisipasi masyarakat dalam AMDAL mencakup pengalihan wewenang pembuatan keputusan lebih besar kepada tingkat lokal.

(e) Menstimulasikan Inovasi dan Pembelajaran

Agar proses AMDAL dapat memetik manfaat dari kesempatan-kesempatan yang disajikan oleh otonomi daerah, perlu dicari jalan untuk membuat inovasi menjadi bagian lebih integral daripada proses tersebut. Hal ini menyiratkan langkah-langkah untuk memungkinkan fleksibilitas lebih besar dalam cara menerapkan aturan dan prosedur AMDAL, terutama dalam beberapa yurisdiksi yang memiliki kapasitas pengelolaan lingkungan hidup di atas rata-rata. Hal ini juga menyiratkan membangun pemahaman lebih baik tentang praktek baik yang diciptakan sendiri di bidang AMDAL dan menyebarluaskan informasi tersebut di antara para pelaku. Ada keseimbangan yang sangat lemah antara mendorong inovasi tanpa menurunkan integritas sistem secara menyeluruh dan mengakui bahwa pihak birokrasi bersikap anti risiko dan lebih memihak pada pertambahan perubahan secara bertahap. Dilema utama ini yang memberikan pembenaran untuk melaksanakan tiga studi kasus daerah dengan maksud menelisik lebih lanjut penerapan praktek bila mengizinkan beberapa variasi untuk muncul dari satu daerah ke daerah lainnya.

Studi Kasus Wilayah


(a) Aceh dan Nias

Sesudah gempa bumi dan tsunami pada bulan Desember 2004 yang menghancurkan wilayah-wilayah pesisir Aceh dan Nias, KLH memperkenalkan beberapa prosedur baru yang dirancang untuk menyelaraskan AMDAL. Diperlukan tidak sah untuk mendukung kebutuhan mendesak untuk rekonstruksi tetapi juga untuk menginformasikan Revitalisasi AMDAL, studi kasus Aceh menerapkan perubahan-perubahan terhadap prosedur-prosedur nasional dengan dua cara mendasar, yaitu: (i) secara signifikan ia mengurangi kerangka waktu yang dipersyaratkan untuk membangun dan menetapkan kerangka acuan (TOR) AMDAL; dan (ii) ia mempersyaratkan bahwa pihak-pihak pengajur melakukan konsultasi dengan Tim Teknis selama pelaksanaan kajian lingkungan hidup untuk memastikan pengendalian mutu. Konsep ini dirancang supaya cocok dengan keadaan...
kapasitas yang sangat rendah, yang memerlukan intervensi pusat yang kuat. Konsep ini tidak menganjurkan konsep-konsep variasi lokal yang mengarah kepada inovasi, namun lebih banyak menganjurkan diperkuatkan sistem sentralisasi melalui intervensi KLH.

(b) Jawa Barat

Landasan studi kasus Jawa Barat adalah seperangkat definisi inti yang ditegaskan kembali tentang maksud, arti dan tujuan AMDAL. Hasil dari sistem AMDAL yang telah dimodifikasi mengandalkan tingkat kepercayaan lebih tinggi antara penganjur dan pemerintah, dan mengandaiakan bahwa para penganjur akan memberi respon positif kepada insentif proses AMDAL yang lebih singkat asalkan permasalahan lingkungan hidup diintegrasikan dengan baik ke dalam perencanaan dan kelayakan investasi-investasi baru. Sistem tersebut memperkenalkan beberapa konsep baru termasuk "dampak lingkungan hidup yang tersisa" dan "akibat-akibat suatu kegiatan" sebagai cara untuk mendefinisikan maksud AMDAL yang lebih jelas. Hal tersebut juga memperkenalkan sejumlah prosedur baru, termasuk pemasukan resmi ke dalam proses AMDAL; pilihan jalur cepat untuk proyek bagi proyek-proyek yang bertanggungjawab; dan dokumen persetujuan lingkungan hidup yang ringkas (20 halaman) adalah hasil utama AMDAL. Pentingnya suatu sistem manajemen informasi yang lebih maju untuk mendukung AMDAL telah diakui, dengan potensi untuk menyediakan landasan bagi pendekatan-pendekatan Pengkajian Lingkungan Hidup yang Strategis. Konsep Jawa Barat memberikan indikasi tentang apa yang dapat dicapai dengan skenario kapasitas dan pertumbuhan tinggi, yang mungkin hanya relevan dan layak bagi beberapa daerah saja.

(c) Kalimantan Timur


Beberapa Penerapan

Perubahan-perubahan radikal terhadap sistem AMDAL tidak mungkin akan menarik dukungan tingkat daerah secara luas pada saat ini. Prioritas utama bagi revitalisasi AMDAL hendaknya memperjelas dan memperbaiki prosedur-prosedur yang sudah ada, dan menempatkan sistem-sistem insentif untuk peningkatan sumber daya bagi pengelolaan lingkungan hidup. Pada saat yang sama, KLH hendaknya sekarang mulai

bekerja dengan suatu koalisi terdiri dari pihak berwenang di tingkat daerah yang paling bersedia dan kompeten untuk mempromosikan inovasi dan pembelajaran dan untuk melahirkan tradisi lebih kuat terhadap praktek yang baik yang bertumbuh di negara sendiri.

**Kesimpulan**

Proyek Bank Dunia tentang Reformasi dan Desentralisasi AMDAL telah mengajukan sejumlah pertanyaan mendasar tentang sifat perubahan yang diperlukan untuk meningkatkan efisiensi, efektivitas dan dampak AMDAL dalam konteks desentralisasi. Secara lebih spesifik hal tersebut menanyakan apakah pengalihan wewenang wewenang kepada pemerintah daerah memberikan kesempatan untuk menghidupkan kembali AMDAL atau tidak dan membuatnya menjadi lebih efektif. Dalam upaya untuk mempromosikan inovasi dan relevansi lebih besar terhadap keadaan daerah setempat, proyek ini memberikan tantangan akan perlunya AMDAL untuk bersifat mengatur secara berlebihan dalam aturan dan prosedurnya. Mereka juga mencoba mendemonstrasikan bahwa salah satu jalan utama menuju ke peningkatan AMDAL ialah dengan mendorong dan menyebarkannya praktek yang baik yang adalah hasil dari negara sendiri daripada mengimpor model-model asing.


Pada saat yang sama sistem nasional AMDAL hendaknya jangan dibiarkan terfragmentasi. Peranan KLH sebagai pembuat kebijakan dan pengurus sistem AMDAL hendaknya diperkuat, yang mengimplikasikan perubahan regulasi dan administrasi yang ditopang oleh program pembangunan kapasitas yang terus berlanjut. Reformasi ini hendaknya mencakup (a) klarifikasi peranan dan tanggungjawab antara KLH, daerah propinsi, dan pemerintah daerah; (b) penetapan standar kinerja minimal bagi pihak berwenang di tingkat daerah sebagai cara untuk mulai memahami kesenjangan kapasitas yang kritis yang terdapat pada tingkat ini; (c) pengenalan mekanisme pemberlakuan yang praktis pada semua tingkat untuk mencakup sanksi administratif maupun sanksi kriminal; (d) revisi prosedur penyaringan lingkungan hidup yang ada untuk AMDAL, termasuk revisi integrasi rencana pengelolaan lingkungan sementara (UKL) dan rencana pemantauan lingkungan hidup sementara (UPL) ke dalam suatu proses penyaringan dua tahap; dan (e) pembangunan sistem-sistem yang telah diperkuat untuk pemantauan dan pengendalian mutu.
Dalam upaya menghadapi tantangan dari suatu keadaan yang memiliki tingkat kenyamanan yang dalam dan merisaukan yang telah muncul di kalangan pembuat kebijakan dan pelaku terhadap kurangnya dampak AMDAL, ada kebutuhan untuk mempromosikan langkah-langkah untuk menyikapi status quo. Pihak berwenang di tingkat daerah yang bersedia dan kompeten, seperti di Jawa Barat dan DKI Jakarta, dapat menjadi pihak pembaharu utama. Salah satu sumber inovasi utama lebih lanjut adalah sektor swasta, yang senantiasa mencari cara untuk memperkenalkan pendekatan dan teknologi baru. Hal ini akan memerlukan pemikiran kembali mengenai cara pemerintah berinteraksi dengan para investor, seperti didemonstrasikan secara nyata oleh fokus DKI Jakarta untuk menciptakan suatu rasa kemitraan antara sektor publik dan sektor swasta dalam melaksanakan rencana-rencana pengelolaan lingkungan hidup.

Kesempatan-kesempatan untuk Reformasi dan Inovasi

Serangkaian pilihan reformasi kebijakan disajikan dalam Bab 4 laporan ini sebagai dasar untuk mendorong diskusi di dalam KLH dan pihak yang berkepentingan. Pilihan-pilihan kebijakan diambil dari beberapa hasil dari berbagai studi analisis yang diselesaikan dalam rangka kajian ini, temuan-temuan studi kasus-studi kasus daerah, dan dialog tentang kebijakan yang melandai kedua kegiatan tersebut. Beberapa pilihan kebijakan dikelompokkan dalam lima bidang tematis yang lazim bagi kebanyakan kajian tentang desentralisasi, yaitu: (a) klarifikasi fungsi-fungsi, (b) penyelarasan pemerintah, (c) membangun kapasitas daerah, (d) membangun transparansi dan akuntabilitas, dan (e) menggairahkan pembelajaran dan inovasi. Walaupun, sesuai dengan kesepakatan dengan KLH dan counterpart pemerintah daerah, laporan ini tidak menyediakan blue print untuk revitalisasi AMDAL, Hal ini juga membedakan antara tingkat prioritas antara pilihan-pilihan kebijakan yang diausul dalam arti kepentingan relatif dan kemudahan pelaksanaan (antara dapat tercapai dan moderat); sebagai akibatnya, tindakan-tindakan tersebut telah diidentifikasi sebagai berikut:

(iv) Prioritas Utama

i. Definisikan fungsi AMDAL secara lebih jelas;

ii. Lakukan revisi dalam prosedur penyaringan lingkungan hidup;

iii. Perkenalkan fleksibilitas daerah ke dalam perundang-undangan AMDAL;

iv. Tetapkan standar-standar minimum untuk pemerintah daerah;

v. Lakukan revisi dalam prosedur untuk keterlibatan masyarakat

(v) Prioritas Menengah

i. Gantikan komisi penilai AMDAL dengan para panel ahli

ii. Lakukan revisi terhadap garis utama panduan nasional

iii. Definisikan peranan pemerintah propinsi

iv. Lakukan re-definisi tentang peranan kementerian-kementerian sektoral di bidang AMDAL

(vi) Prioritas-prioritas yang lebih rendah
i. Lakukan audit kebijakan AMDAL pada tingkat sub-nasional

ii. Libatkan sektor swasta

iii. Ciptakan jaringan pembagian informasi dan pembelajaran untuk AMDAL

Bahkan setelah mengusulkan prioritas tindakan yang dianjurkan seperti diuraikan di atas, tetap sangat penting untuk mengakui bahwa semua tindakan yang didaftarkan adalah signifikan, dan mewakili reformasi berlanjut yang diperlukan untuk menyesuaikan dan memperkuat sistem AMDAL untuk mencapai efektivitas dan dampak yang lebih besar, kendati pun beberapa pilihan mungkin lebih mendasar daripada yang lain. Yang lebih penting lagi, dialog tentang kebijakan menyarankan bahwa pembangunan rencana menyeluruh untuk reformasi AMDAL hendaknya dibimbing oleh prioritas-prioritas tersebut serta konsiderasi-konsiderasi lain yang terbuka terhadap negosiasi dan perubahan yang dihasilkan oleh kontribusi dari semua pihak yang berkepentingan di berbagai tingkat pemerintahan, di kalangan sektor swasta, akademisi dan masyarakat madani.
AMDAL Reform and Decentralization: Opportunities for Innovation in Indonesia

1. THE AMDAL SYSTEM

Analisis Mengenai Dampak Lingkungan (AMDAL) is Indonesia's environmental impact assessment (EIA) system. It was officially introduced under the Basic Environmental Law No. 4 of 1982 at a time of increasing foreign support and investment, particularly in large-scale and extractive industries, including oil & gas, mining, and forestry. Over the next two decades the system was periodically refined to reflect both institutional changes within Indonesia, and the wider evolution in thinking on EIA that was on-going in other countries. However it remained to all intents a centralized system with all policy, regulatory, administrative, and institutional requirements established by the central government.

1.1 Policy, Institutional and Regulatory Setting

The AMDAL System was introduced into Indonesia largely as a donor-driven environmental safeguard during the heyday of President Suharto's 'New Order'—a time of increasing foreign support and investment but also a time of worldwide environmental awakening following the debate on environment, development, and the "limits to growth."

Over the next two decades the system was periodically refined to reflect both institutional changes within Indonesia and the wider evolution in thinking on EIA that was on-going in other countries. Reflecting this trend, the Ministry of Environment [Kementerian Lingkungan Hidup (KLH)] put increasing focus on public participation in EIA, which occurred from the mid-1990s. With the implementation of regional autonomy laws in Indonesia in January 2001, the institutional, administrative and regulatory basis for EIA was undermined. An initial 'wait and see' policy at KLH, particularly in the lead up to 2004 reforms to Law 22/1999, was gradually replaced by the realization that a new 'contract' with the regions was necessary on EIA (see Box 1).

AMDAL was officially introduced under the Basic Environmental Law No. 4 of 1982, but it took a further four years for implementing regulations to be finalized (PP 29/1986 on environmental impact analysis). As with most highly centralized systems of government, all policy, regulatory, administrative, and institutional requirements were established by the Central Government. AMDAL studies were also largely implemented, reviewed, and approved from the Central Government. Theoretically it was the job of the regions to ensure that resulting environmental management and monitoring plans (RKL/RPL) were applied, but they frequently did not have access to the necessary documents and were therefore unable to support necessary mitigation and monitoring activity.

At this time, the system included a two-level environmental screening process requiring an Initial Environmental Review, a 90-day review and approval procedure for AMDAL

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6 1972 publication commissioned by the Club of Rome.
studies, and a further 30-day review and approval for the environmental management and monitoring plan. AMDAL also included a parallel and mandatory ‘audit’ process for the evaluation of existing activities. The review and approval of AMDAL documents was handled either by national-level sectoral commissions (Komisi Pusat) or provincial commissions (Komisi Daerah), according to project scale and source of funding.

In 1991 the central environmental protection agency (BAPEDAL) was established as the operational arm of KLH, with a mandate to improve the enforcement of AMDAL and pollution control. Over the next 5 years BAPEDAL received substantial support for institutional strengthening and capacity building from several donors, including the World Bank, and established three regional offices. New AMDAL legislation enacted in 1993 simplified screening procedures by removing the requirement for initial environmental review, shortening the timeframe for review and approval, and introducing standardized environmental management and monitoring plan formats (UKLI/UPL) for projects with more limited impacts. The mandatory audit process for existing activities was also removed at this time, although the Minister (of Environment) retained powers to require an audit on a case-by-case basis.

With promulgation of a new Environmental Management Act (No. 23) in 1997, as well as the authorization by the Ministry of Home Affairs of provincial and district environmental authorities (BAPEDAL-Das), further reforms to AMDAL regulation became necessary. Under Regulation PP 27/1999 (on environmental impact assessment) the sectoral AMDAL commissions were dissolved and consolidated into a single central commission while the provincial commissions were strengthened. The distinction between government and private sector projects, which had previously existed, was removed in law. The implementation and supervision of AMDAL that had previously been the responsibility of sectoral ministries was now to be performed by BAPEDAL. More specific and inclusive provisions for public involvement were introduced, and the overall timeframe for review and approval was increased. However, PP 27/1999 was

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Box 1. The ‘Big Bang’ Decentralization

Indonesian decentralization essentially began in 2001, embarking the country on a program of fiscal, administrative, and political decentralization all at the same time. Law 22/1999 gave broad autonomy to the regions in all but a few tasks that are explicitly assigned to the Central Government, including defense, security, justice, foreign affairs, fiscal affairs, and religion.

A completely new intergovernmental fiscal system was put in place to finance new local-level expenditure responsibilities. And in addition to financial resources, much of the apparatus of government was put under the control of the regions. Over 2-million civil servants, or almost two-thirds of the Central Government workforce, were transferred to the regions. More than 4,000 provincial- and local-level offices of the Central Government, and more than 16,000 service facilities—schools, hospitals, health centers—were transferred to regional governments throughout Indonesia.

Finally a new system of governance was put in place with heads of regions no longer appointed by the Central Government but elected by local parliaments and local government heads directly elected by the people.


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7 BAPEDAL Development Technical Assistance Project (BDTAP)
8 No. 51/1993 Regarding Environmental Impact Assessment.
somewhat mistimed, failing to sufficiently reflect the broader socio-political changes of the time (reformasi), which were leading to broadscale political and administrative decentralization.

The reallocation of functions and introduction of a new fiscal system (under the regional autonomy laws) made Indonesia one of the most decentralized countries in the region, bringing with it the promise of improved governance and service delivery. Indonesia’s 400-plus local governments gained greater autonomy with the election of local heads no longer subject to higher approval, and responsibility for the mandatory provision of services in 11 areas, including environmental management. Local governments assumed full responsibility for the implementation of national regulations and standards with the exception of certain sectors (such as defense). In the context of AMDAL, the new arrangements allowed for the establishment of district-level AMDAL Commissions, directly contradicting AMDAL Regulation 27/1999. This led to concerns within KLH over conflicts of interest in the review and approval of AMDAL documents (see Figure 1), fueling a view that local authorities would invite more intensive and environmentally damaging resource extraction in order to boost revenues.

KLH reacted by issuing two decrees (Nos. 40/2000 and 41/2000) on the establishment and functions of local AMDAL commissions. While 41/2000 essentially gives authority for the establishment of local commissions, 40/2000 seeks to limit that authority by reserving the approval of AMDALs for larger projects (oil and gas exploitation, pulp and paper, hazardous waste) for the national and provincial commissions. However, the decrees have no mechanism for ensuring that the necessary guidelines are applied and, in the case of 40/2000, could be considered to contradict regional autonomy laws.

### 1.2 Diagnosis of Issues and Concerns

AMDAL has a long history of analysis and re-analysis of constraints.

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and weaknesses. Most are systemic in nature, generally indistinguishable from those of other middle-income countries. They have to do primarily with the technical and operational challenges of implementation, some of which have been compounded by decentralization, as summarized in Table 1. Others are more unique challenges arising as a direct result of decentralization. This chapter assesses systemic type issues while the broader challenges of decentralization and environmental management are further addressed in Chapter 2.

Table 1. Summary Diagnoses of AMDAL Issues and Concerns

<table>
<thead>
<tr>
<th>Issues</th>
<th>Systemic problems</th>
<th>Further effects of decentralization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position of AMDAL</td>
<td>Tenuous linkages between AMDAL and development approvals/permitting procedures.</td>
<td>Conflict of interest associated with regional heads responsible for approving AMDALs.</td>
</tr>
<tr>
<td>Regulations</td>
<td>National regulations and guidelines too generalized to reflect local conditions and too rigid to promote innovation.</td>
<td>Local level regulations are self-serving.</td>
</tr>
<tr>
<td>Scoping</td>
<td>Fails to focus assessment on key issues, leading to voluminous documentation.</td>
<td>Less capacity to ‘scope’ for key impacts exists at local level.</td>
</tr>
<tr>
<td>AMDAL studies</td>
<td>No precision in impact identification and no assessment for significance carried out.</td>
<td>Even less technical capability exists at the local level.</td>
</tr>
<tr>
<td>Review and approval</td>
<td>Focuses on administrative rather than substantive issues.</td>
<td>Locally established approval commissions lack understanding of the goals, value and substance of AMDAL.</td>
</tr>
<tr>
<td>Environmental Management and monitoring</td>
<td>Lacks specificity, intent and capacity both from the proponent and the government.</td>
<td>Even less intent and capacity at local level. Conflicts of interest undermining willingness to sanction offenders.</td>
</tr>
<tr>
<td>Training</td>
<td>Uniform and generalized with limited room for introduction of new ideas.</td>
<td>AMDAL training expensive and generally less accessible ‘off-Java’.</td>
</tr>
<tr>
<td>AMDAL stakeholders</td>
<td>NGOs have limited interest and confidence in AMDAL.</td>
<td>NGOs have limited awareness of AMDAL.</td>
</tr>
</tbody>
</table>


1.2.1 Weak Positioning

Indonesia’s EIA system is based on the Canadian model and has proved to be difficult to implement effectively, given high levels of bureaucratic efficiency, technical capacity, and financial resources required. As a result, the reforms of the 1990s were largely driven by the need to simplify and streamline procedural elements of AMDAL. However,
these were viewed primarily from a centralist’s perspective focusing on tinkering with national regulations and standards while the real challenges were more operational in nature. Consequently a negative culture continues to surround AMDAL, which has caused it to gradually lose credibility since introduction in the mid-1980s. Despite the political changes that followed the economic crisis years of the late 1990s, AMDAL has stagnated with public involvement, remaining very much a latent force. Occasionally local communities protest new developments resulting in significant siting and design changes, but such protests are rarely made as a direct result of AMDAL. For the most part, AMDAL is an invisible process or one that lacks legitimacy being perceived to be ‘captured’ by the bureaucracy.

1.2.2 Lack of Relevance to Local Conditions

From a local government perspective, national regulations and guidelines have generally failed to provide the specificity that is required for AMDAL to be effectively applied locally. As a result, analysis of environmental problems is largely generic, leading to recommendations that are of low value to developers. Part of the problem lies in the fact that there has been limited capacity and authority to translate national standards and guidelines into local legislation. This is most visible in the way in which AMDAL has failed (with a few notable exceptions) to be integrated with local planning and permitting regulations. Inevitably decentralization has stimulated a more significant debate in this area, resulting in a discernable shift in emphasis from KLH. While ensuring consistent adherence to minimum environmental standards across all regions remains the central objective of AMDAL Revitalisasi, there is increasing recognition of the benefits of allowing ‘competent’ regional authorities to begin to develop their own approaches to addressing long-standing and systemic problems with AMDAL.

1.2.3 Poor Implementing Capacity

The sheer size and diversity of a country like Indonesia presents a whole range of institutional and capacity-related challenges in implementing EIA, particularly from the perspective of a poorly resourced national environmental authority. In general, post-EIA implementation issues have been left to the provinces and districts to attend to and have rarely received much attention. However, since regional autonomy, more attention has been paid to the limited capacity that exists at local level. The debate has focused on the relative merits of strengthening capacity for AMDAL within provincial and/or local government. Clearly both are necessary but it is pragmatic at this time for the KLH to focus first on building capacity at the provincial level, particularly off Java. This is because, irrespective of the level of authority for AMDAL that is delegated to the local government under regional autonomy, most continue to depend heavily on technical support from the province. KLH has also retained (and recently expanded) its network of regional offices that may, in time, be able to play a supporting role to provincial environmental authorities.

1.2.4 Lack of Enforcement

Lack of enforcement has taxed the minds of bureaucrats and academics alike since AMDAL was first introduced, and it remains a top priority under the current reform program. Options considered by KLH have included criminalizing noncompliances, introducing clearer penalties, and introducing environmental licensing. Penalties, it is
argued, should apply not only to project proponents but also to licensing authorities. Although it is recognized that AMDAL itself is not necessarily the point at which enforcement measures can most effectively be applied, in the view of some at KLH, fundamental weaknesses in development permitting justify the need for a more direct approach. By contrast, some local authorities question whether there is sufficient technical capacity and resources to apply regulatory approaches and also have serious misgivings in relation to the efficiency and integrity of the judicial system. Some of the larger local authorities have been applying approaches that balance the use of incentives to reward good practice with the threat of administrative sanctions and bad publicity for persistent violators.

1.2.5 Weak Planning Procedures

Not all criticism of AMDAL is warranted. Generally weak planning procedures in Indonesia mean that AMDAL has routinely become a ‘catch all’ for a wide range of issues that are beyond its competence to resolve. Consequently review and public consultation meetings tend to lack focus, resulting in poor scoping of impacts and the inclusion of much marginally relevant information in AMDAL documents. This has had the further effect of delivering ill-defined mitigation and monitoring plans which are of limited operational value to project proponents. AMDAL is also the only tool from among a broader range of potential environmental instruments that has currency in Indonesia.10

1.2.6 Effects of Decentralisation

The evidence to date suggests that the ‘further effects’ of decentralization on an already weak AMDAL system have been mixed, as described in Chapter 2. Some of the better resourced local governments have been quick to enact their own environmental regulations and procedures, generally in line with national standards. There is emerging experience of good practice from these local authorities specifically in relation to: linking AMDAL with development controls, public participation, and environmental management plan implementation (as indicated in Box 2). By contrast, the less well-resourced (generally off-Java) have continued to rely on national guidelines only and have been found to be more vulnerable to a weakening in environmental governance. Examples include very poor AMDAL studies being approved by regional heads, requirements for public participation largely being ignored, building permits being issued in advance of the completion of AMDAL studies, AMDAL review and approval lacking in technical competency, and the growth of informal retribusi for issuance of environmental approvals.

1.3 The AMDAL Revitalization Program of the Ministry of Environment

During the latter part of 2003, KLH launched another phase of reform to its EIA system with the objective of adjusting the legal framework for AMDAL to regional autonomy, specifically the Environmental Management Act (No. 23/1997) and its implementing regulation on AMDAL (No. 27/1999). From the outset AMDAL Revitalisasi focused on the need to strengthen enforcement, improve public participation, and clarify authority for AMDAL between national and subnational levels. Then, following the December

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2004 earthquake and tsunami that devastated coastal parts of Aceh and North Sumatra, KLH launched a support package comprising an initial environmental assessment of the devastation; measures to streamline AMDAL legislation in order to speed up the reconstruction process; and a task force of technical advisers located in Banda Aceh to support the local environment authority. Thus over the course of 2005 KLH was able to field test a number of its ideas on how to improve the efficiency of AMDAL, providing valuable inputs for the broader reform process.

1.4 The World Bank AMDAL Reform Study

To respond to KLH’s request for support to its AMDAL Revitalisasi, between March and June 2004, the World Bank conducted an AMDAL Scoping Exercise, which helped define a number of key issues to be investigated; these were further refined in consultation with KLH and other regional stakeholders to maximize the alignment with its AMDAL Revitalization program. Starting in July 2004, the World Bank designed and implemented the AMDAL Reform Study, which included two regional case studies carried out in the provinces of West Java and East Kalimantan, complementary analytical pieces, and support for national to local policy dialogue. Three key assumptions underline the approach taken:

- Local authorities are best placed to provide much of the input required to revitalize AMDAL but need assistance in identifying constraints and opportunities, as well as organizing the evidence in a clear and convincing manner.

Box 2. Improving the Quality of Environmental Management Plans in Jakarta and Yogyakarta

Two examples of environmental management plans (EMPs) developed and implemented for investments in North Jakarta and in Yogyakarta Province demonstrate good practices emerging from local environmental authorities in the decentralization era.

The EMP for the Pantai Kapuk housing and recreational development project in North Jakarta identifies specific measures in relation to flood management and conservation of protected forests and natural habitats. The document was subject to several rounds of discussion and substantive correction before it could be considered to be fully operational. This was enabled by the quality of the consultant hired to carry out the studies and the fact that the proponent had an environmental division with which the consultant could interact. Additional factors included public pressure and a resulting sense of accountability among local environmental officials.

The EMP for the P.T. Sari Husada dairy product factory development in Yogyakarta Province defines clear and operational measures for mitigating and monitoring in relation to air quality, wastewater, and hazardous wastes. A plan to reduce particulates and to increase the capacity of existing wastewater treatment technology is specified. This was possible for a number of reasons: the key issues were already known based on past performance from an existing facility that was being expanded. Furthermore, the company is certified (ISO 14001) with its field staff relatively well-trained in environmental management. The EMP was actually prepared by the PT Sari Husada staff rather than a consultant.


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11 See AMDAL Reform and Decentralization: Opportunities for Innovation in Indonesia Concept Note, (World Bank, reviewed in October 2004), for a detailed description of the objectives and implementation structure; and http://www.worldbank.or.id/amdal for all the different outputs related to the AMDAL Reform Study.
• Any advice to the Central Government on AMDAL policy reform should be grounded in the reality of actual projects, given that this provides the best means of delivering the necessary clarity when proposing changes.

• The proposed work should focus on building partnerships with the most capable and motivated local governments and nongovernmental practitioners, as a means of stimulating innovative ideas.

The objective of the regional case studies was to develop and field test new ideas on AMDAL implementation that could inform national policy reforms, and to produce a practical tool that could be used to strengthen subnational AMDAL implementation in other localities. The selected provinces were chosen because they have shown interest in improving the AMDAL system; and have strong pipelines of development projects, sufficient local capacity to manage environmental impacts, and experience with civil society participation in environmental review. The development and implementation of the two regional case studies involved extensive provincial and local government-level consultations, facilitated by consultants hired by the Bank.

The analytical studies were identified in consultation with KLH and other regional stakeholders. Specifically, the Review of AMDAL’s Best Practices and Comparison of AMDAL against International Norms looks for further experience and good practice both from within Indonesia and from other countries. The review focuses on a limited selection of issues, and maintains the flexibility to introduce additional issues that emerged from the preparation phase of the regional pilots. The Assessment of Alternative Environmental Management Tools evaluates Indonesian experience with using alternatives to EIA to measure the environmental impacts of new projects/activities. Four key instruments were assessed for their potential to complement AMDAL and to increase its efficiency including strategic environmental assessment, environmental audit, risk assessment, and rapid environmental assessment.

Through a combination of case studies, surveys, focus groups, and interviews, the study Public Participation in EIA and Access to Information reveals the level and quality of public participation in the AMDAL process. It provides a broader assessment of the conditions and incentives necessary for greater public involvement in AMDAL. Finally, the private sector’s perspective on AMDAL and the incentives necessary for the private sector to drive up the quality of AMDAL process were investigated through roundtables and consultations with representatives of a small number of local companies.

Figure 2, provides the theoretical basis for how the AMDAL Reform Study was implemented, in particular the relationship between the analytical studies and the provincial pilot projects. The provincial pilots helped to identify key reform areas through an intensive local consultative process and were informed by the analytical studies that provided related empirical experience from selected regions. For example, the West Java Regional Case Study identified the need to clarify linkages between AMDAL and development permitting, and for AMDAL to deliver much clearer and operational Environmental Management Plans (EMPs). The study on AMDAL good practice provided examples of the way in which more resourceful local authorities in Indonesia have addressed these two areas in very practical ways. This information has
been actively discussed both within the context of the development of regional pilots and at the level of reforms to Regulation 27/1999.

**Figure 2. How the World Bank AMDAL Reform Project Works**

Analytical Study 1 focuses on a review of AMDAL’s best practices and comparison of AMDAL against international norms. Analytical Study 2 proposes an assessment of environmental management tools alternative and/or complementary to AMDAL. Analytical Study 3 presents the private sector perspective on AMDAL. Analytical Study 4 investigates public participation in EIA and access to information.

*Source: Authors*

The immediate audience for the Reform Study includes the Sub-Directorate for AMDAL within KLH, as well as 21 closely involved provincial and local government-level environmental authorities, as indicated in Table 2. Provincial and local government authorities selected to participate in the Reform Study were drawn from among those with the best record of environmental management, in line with a general principle that capacity building for AMDAL should be driven by what can be shown to work well in Indonesia rather than overly resorting to international experience. However, many of the lessons learned are of broader relevance to development outcomes that the Government of Indonesia and World Bank are trying to achieve. The World Bank Local Services Platform (and/or its evolution) provides a strategic framework for much of this work.
Table 2. Provincial and Local Government Environmental Authorities Involved in the AMDAL Reform Study

<table>
<thead>
<tr>
<th>On Java</th>
<th>Off Java</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Province</strong></td>
<td><strong>Province</strong></td>
</tr>
<tr>
<td>DKI Jakarta</td>
<td>South Sulawesi</td>
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<tr>
<td>West Java</td>
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<tr>
<td>Yogyakarta</td>
<td>East Kalimantan</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>East Java</td>
<td>Bali</td>
</tr>
</tbody>
</table>

*Source: Authors.*

1.5 Organization of the Report

The remainder of this report is organized as follows: Chapter 2 deepens the analysis of opportunities for innovation in AMDAL in relation to the priority challenges of decentralization; Chapter 3 draws on a specific perspective from three regions in Indonesia (Aceh, West Java and East Kalimantan); and Chapter 4 presents conclusions and reform options for an improved and decentralized AMDAL. A select bibliography provides topical books, studies, and articles.

This report is complemented by the following stand alone studies:


- *Study on Public Participation and Access to Information.* Final Report, (For the World Bank prepared by PT Qipra Galang Kualita, June 2005)

This report does not seek to summarize all the information provided in these studies but rather provide insight on emerging themes for reform, with a focus on opportunities arising from ongoing political and administrative decentralization.
2. **Issues in a Decentralized Environment**

In many respects the challenges of reforming AMDAL under regional autonomy are germane to all areas of public administration. The stumbling blocks include continuing lack of clarity over the functions of local government, lack of capacity that exists within local governments to administer new functions, and ensuring that proposed reforms have the effect of contributing to and deepening local-level transparency and accountability. These more generalized issues are exaggerated by deeper concerns relating to AMDAL’s weak position relative to other political and economic interests, and to the prospect of regions increasingly detaching themselves from the Central Government through the erroneous interpretation of existing rules. This chapter presents a discourse on the existing status of thinking on AMDAL reform in each of these key areas, pointing also to examples of good practice that have emerged over the past five years. The main conclusions of the analytical studies on strengthening public participation in AMDAL, good practice in AMDAL implementation, and the role of the private sector have contributed to the analysis presented. See Box 3 for a private sector view of decentralizing AMDAL.

### 2.1 Clarifying Functions

Most commentaries on Indonesian decentralization focus on the need for greater clarity in the assignment of functions between levels of government. The main culprits include weaknesses in decentralization laws that fail to provide a positive definition of local government functions and the slow pace of harmonization of sectoral and decentralization laws. The Central Government is now responsible for making adjustments to sectoral laws and for setting minimum standards of service for the eleven obligatory local government functions. In the environment sector there is clear recognition of the need for adjustment to the Environmental Management Act (23/1997) and its implementing regulations, including Regulation 27/1999 on AMDAL. In fact, KLH was quick to formally recognize the inconsistency between regional autonomy laws and AMDAL, issuing several Ministerial Decrees in 2000 (KepMen 40/2000 and 41/2000), which sought to clarify the functions of local government in relation to the review and approval of AMDAL studies. The KLH AMDAL revitalization program has taken longer to emerge but has the precise objective of reforming Regulation 27/1999 in order to provide greater clarity of function.

The debate has been long and, at times, difficult. The prevailing obstacle has been the view that local government lacks the capacity to manage AMDAL effectively and will inevitably favor the interests of the developer. However, it has been difficult for the Ministry of Environment to forge a consensus on how this issue should be addressed.
Early discussions centered on the possible cancellation of KepMen 41/2000 as a means of retrenchment of authority for AMDAL to the provincial level. These views have gradually been tempered by the realization that prevailing regional autonomy legislation (Law 22/1999 and its revision of 2004) gives the authority to local government in any case. It is also somewhat illogical to point to conflicts of interest in AMDAL at the local government level without recognizing that the same is true of the provincial level where governors can just as easily promote the interests of the developer.

More recently there has been a discernable shift within KLH toward the use of a combination of measures in responding to regional autonomy including strengthening the powers of the Environment Minister to take action against poorly implemented AMDALs; improving the quality and coverage of national guidelines; and providing capacity building for local authorities (see Box 4). Yet, as a consequence of the protracted debate, much less progress has been made on the specifics of reforms to AMDAL legislation, particularly in terms of defining a ‘positive list’ of functions for local government and what the role of the provinces should be. Defining a positive list of environmental management functions could potentially be made under proposed revisions to the Environmental Management Act as they will need to be broader in scope that AMDAL. Further specifications in relation to AMDAL could then be provided within proposed revisions to Regulation 27/1999. However the process of defining these functions will be more critical, necessarily requiring an engagement with a wide range of players including the Ministry of Home Affairs and local governments themselves.

The role of the province under regional autonomy is a fairly minor one. It essentially coordinates across local governments and carries out functions that involve more than one local government, such as managing environmental externalities. In practice though, provinces have to be invited to do so. In relation to AMDAL they remain ‘in the game’ purely where local governments lack capacity. At the same time the provinces are financially constrained given that their share of central government resources has declined significantly in favor of transfers to local government.

There is no doubt that the role of the province in AMDAL should be more extensive than is currently implied in the legislation. This could potentially include not only coordination but quality control functions, as well as dissemination of know-how and best practice. Furthermore, as we have seen from the regional case studies, some provinces have the capacity to undertake innovative policy thinking and to forge consensus on these issues among local governments. The way in which provinces go about working with local authorities in the future is key and will dictate, more than any

<table>
<thead>
<tr>
<th>Box 4. Pre-Existing Role of the Ministry of Environment in Relation to AMDAL</th>
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<tbody>
<tr>
<td>Under the Environmental Management Act, the Ministry of Environment determines and applies national policy on environmental management and sets environmental quality standards and criteria. It is also empowered to transfer responsibility for implementation of environmental management to local government (Articles 12 and 13). Under Regulation 27/1999, the Ministry is empowered to establish a National AMDAL Commission, issue guidelines, issue decisions on the environmental worthiness of projects, and supervise the implementation of AMDAL—powers which are mirrored at the level of the province but no lower.</td>
</tr>
</tbody>
</table>

Source: Authors
other factor, whether the provinces are to become integral to AMDAL or increasingly marginalized.

Limited attention has been paid to date to what AMDAL regulation should say about the changing role of KLH and its regional offices. Although decentralization has been a reality since early 2001, national ministries are still finding it difficult to make the transition from implementation to guidance and supervision. In relation to the KLH AMDAL Directorate, this is evidenced in its overwhelming and continuing focus on implementation of national AMDALs. In addition to KLH's existing role in establishing policy and setting standards, its more explicit function in the future might be to develop information sharing and learning networks in order to disseminate AMDAL good practice and to develop incentives for local government to pursue national goals. This will require a significant change in the 'command and control' culture that defines KLH. Yet AMDAL Revitalisasi could play an important role in helping to demonstrate new ways of working with local government, providing that officials can truly buy in to the concept of policymaking being a joint objective among tiers of government, rather than the prerogative Central Government.

In the area of standards and criteria setting, the principle has been set under various KLH regulations and decrees that local governments must apply national standards and can only vary from those standards by making them more stringent. Examples include screening criteria for types of activities requiring full EIA (KepMen 17/2001) and control standards for soil, water, and air pollution. Here pre-existing arrangements are more in line with regional autonomy laws although greater clarity is needed in relation to 'consequences' where local regulations are passed having the effect of relaxing national minimum standards on environment. Theoretically the Ministry of Home Affairs has responsibility to review local regulations and to declare void those that are not in accordance with higher regulations. However, this is a colossal task and one that is unlikely to focus on environment. In this area, the AMDAL good practices study recommends that KLH seeks support for carrying out an audit of subnational AMDAL legislation in order to identify strengths and weaknesses and to promote consistency. Clear-cut cases of abuse of local government authority should also be referred to the Ministry of Home Affairs for action.

2.2 Streamlining Government

One of the principle benefits of decentralization should be more efficient service delivery that includes environmental services, such as pollution control and the administration of EIA procedures, performed by government. A centralized EIA system in a country the size of Indonesia must by definition lack efficiency because it cannot possibly hope to cope with the variation in social and environmental conditions that exist between regions. As a result, it has become an unnecessarily high-cost item and a prime target for certain elements within the bureaucracy that are seeking to significantly weaken environmental regulation in Indonesia.

The findings of the AMDAL Revitalisasi indicate that regional governments with limited capacity for environmental management (e.g., lacking in technical skills, financial resources, leadership, and public awareness) are unlikely to improve delivery of environmental services given greater authority to make decisions. By contrast, regions
with greater capacity (e.g., those associated with the main economic centers of the country) seem to be ready for a change. These more advanced regions have essentially grown out of the existing AMDAL system and are looking for alternative ways of attracting environmentally friendly investments and/or promoting environmentally sustainable economic growth.

Unfortunately limited capacity accurately describes more than 75 percent of regional authorities at this time. The KLH web-based inventory of local government environmental offices (AmdalNet) lists only 103 out of more than 400 with established AMDAL commissions. Frequently, environmental offices have few graduate-level staff, while staff rotations mean that those that have received formal AMDAL training are moved to other departments. In these areas decentralization has exposed AMDAL to the full effects of the neglect and lack of priority for environmental management that characterizes most local authorities in Indonesia. Table 3 provides information on staffing levels with formal AMDAL training among select provincial and district environment offices, demonstrating the significant variation that exists from one region to another. To a certain extent the variance in the figures reflects differences in levels of economic development. For example, West Java has more trained staff than most other provinces because it processes more AMDALs. But there are also significant anomalies. For example, Kabupaten Sidoarjo in East Java has 43 AMDAL-trained staff (significantly more than other regional authorities listed) while Kabupaten Sleman in Yogyakarta has 14 trained staff as opposed to 7 at Province Yogyakarta. These anomalies underscore the point that the ability to improve capacity lies primarily in the hands of the regions themselves, given that they retain the authority to prioritize (or not) environmental issues through the local budget process. Capacity building for the less advanced 75 percent of Indonesia therefore becomes a matter of finding the right incentives for the regions to do it to themselves.

Under the more centralized system that existing prior to regional autonomy, AMDAL was generally supported by training government staff and qualified academics, at least up until AMDAL review and approval stages.

Table 3. Human Resource Capacity of Select Local Government Environment Offices

<table>
<thead>
<tr>
<th>Province/District</th>
<th>Professional staff</th>
<th>AMDAL trained staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Kalimantan</td>
<td>73</td>
<td>16</td>
</tr>
<tr>
<td>Kota Balikpapan</td>
<td>20</td>
<td>6</td>
</tr>
<tr>
<td>Kab. Kutai Timur</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>West Java</td>
<td>100</td>
<td>17</td>
</tr>
<tr>
<td>Kota Bogor</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Kota Bandung</td>
<td>30</td>
<td>15</td>
</tr>
<tr>
<td>Kab. Bandung</td>
<td>31</td>
<td>16</td>
</tr>
<tr>
<td>East Java</td>
<td>?</td>
<td>?</td>
</tr>
<tr>
<td>Kota Surabaya</td>
<td>?</td>
<td>?</td>
</tr>
<tr>
<td>Kab. Sidoarjo</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>Kab. Pacitan</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Kab. Bangkalan</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Yogyakarta</td>
<td>?</td>
<td>7</td>
</tr>
<tr>
<td>Kota Yogyakarta</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Kab. Sleman</td>
<td>35</td>
<td>14</td>
</tr>
<tr>
<td>South Sulawesi</td>
<td>35</td>
<td>18</td>
</tr>
<tr>
<td>Kab. Bulukumba</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Kab. Takalar</td>
<td>1</td>
<td>0</td>
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<tr>
<td>Kab. Gowa</td>
<td>?</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: Authors.
2.3 Building Regional Capacity

One of the more significant challenges of building regional capacity for environmental management is that the management units are too small—there are now nearly 450 local governments in Indonesia, and this figure may increase over time. At the same time, KLH is understandably more comfortable with working through provincial governments and tends not to have much direct contact with local government. However, the functions of the provinces under regional autonomy remain restricted, and they are unable to act with authority even where clear-cut environmental externalities arise. Local governments frequently challenge the intervention of a higher authority on environmental matters (whether provincial or national), preferring instead to work collectively, often with the support of donors keen to place their assistance as close as possible to the source of the problem. There are many examples of local government-to-local government collaboration on environmental management (see Box 5).

Clearly this should be encouraged to the extent possible, but for many bureaucrats it represents a fairly ad hoc (though perhaps more realistic) way of organizing environmental management. More specifically for the KLH AMDAL Directorate, the delegation of AMDAL review and approval authority to local government level—without checks and balances—is viewed with alarm. But if that authority cannot be revoked and the provincial level remains, for all intents, a ‘guest at the party,’ thus making the question of where and how KLH should focus capacity-building efforts a challenging one indeed. The AMDAL good practices study points to the need for a combination of measures including (a) encouraging the transfer of ‘know how’ both vertically and horizontally; (b) providing related training targeting specific issues such as integration of AMDAL with permitting; (c) strengthening and disseminating a number of key guidelines (scoping, public participation, UKL/UPL); and (d) carrying out an audit of subnational AMDAL legislation to promote consistency.

All of these measures would significantly stretch the existing capabilities of the AMDAL Directorate and would imply a major reorganization of its functions, including skills development and the recruitment of new skills. A range of other actors would also need to be involved including the environmental study centers attached to Indonesia’s network of regional universities, KLH regional offices, and the provincial environmental authorities.

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**Box 5. Balikpapan Bay Strategic Management Plan**

In 2002 the local governments surrounding Balikpapan Bay signed a Strategic Management Plan with the objectives of establishing and adopting a common set of watershed management principles for better management of coastal and marine areas. USAID, through its Coastal Resources Management Project, helped to facilitate a Bay Management Council as well as specific working groups for Balikpapan City and Penajam Paser Utara District in order to complete a range of specific policy actions. These included the development of spatial plans and the adoption of these plans in local law. The participatory approaches used and the involvement of a range of local NGOs led to the term ‘watershed’ becoming a household word in the areas surrounding the Bay.

*Source:* USAID Coastal Resources Management Project II.
2.4 Building Transparency and Accountability

The importance of building transparency and accountability into local government cannot be over-stated. It is arguably the single most important element in ensuring the success of regional autonomy, requiring wholesale changes in the way in which local governments interact with their citizens. The main arenas for reform include financial accountability (budget processes, procurement, accounting and audit functions); the justice system; local election procedures; and regulations governing public access to information. A number of donors have also focused on strengthening the transparency of local planning functions, including development control procedures. The development of new accountability relationships in each of the areas will take time and require an ongoing process of regulatory reform, improvements to the organizational capacity of government, and significant efforts in increasing citizen’s awareness of their rights.

In many respects AMDAL is ahead of the game given that both the 1993 and 1999 regulations are founded on international best practice EIA approaches, which stress the importance of public participation. As a result, AMDAL boasts clear methods and procedures for ensuring that project-affected people are informed in advance of new investments, giving them the opportunity to comment in a structured manner and potentially effecting significant changes to the siting and design of these investments. There are weaknesses with the way in which public participation is being put into practice, but there are equally positive examples in which the interests of project-affected people have been represented in local development decision making.

The AMDAL Good Practices Study attributes these successes to an increasing sense of public accountability among environmental officials in some localities, particularly in and around the main economic centers. This is most visibly seen in the extent of local consultations that environmental officials are often requiring for urban infrastructure projects, as well as the level of follow-up on AMDAL implementation for controversial projects. In one particularly revealing example of the way in which increased accountability is manifest at local level, the environmental authority promoted greater public engagement for a project with the knowledge that it lacked capacity to carry out adequate monitoring and that a more open and transparent approach could help to deflect criticisms at a later time (see Box 6). In the longer term, democratization may provide the conditions for more consistent and thorough application of environmental laws and standards at local level. Many regions are seeing the arrival of NGOs with names like Corruption Watch or Transparency. Also regional newspapers have increased in number and are publishing regular and informative inserts on environment and natural resources, such as the monthly “Lestari” launched by North Sulawesi’s Manado Post and now replicated in other parts of Sulawesi and in Aceh.
The Study on Public Participation and Access to Information in AMDAL is more circumspect concluding that “overall, public involvement in AMDAL has not been effective.” But this statement refers not so much to the process of public participation (which is fairly well-embedded within AMDAL) but rather to the outcomes. In general, public comment does not focus on the AMDAL Study but tends to degenerate into a discussion of more general grievances associated with land acquisition and compensation, community development, and access to public facilities. This is because public participation is operating within a wider system that has yet to develop strong processes of public representation and communication.

The study recommends that in order for public participation to become more effective in AMDAL its focus should be narrowed to a much more discreet set of questions on identification and analysis of project-related environmental impacts. It identifies a number of other critical success factors, most significantly the need for the proponent and environmental authorities to better understand communities affected by new developments as a means of better defining approaches to information dissemination. National guidelines, it is argued, should present options rather than prescriptions, recognizing the need for AMDAL to be more sensitive to cultural diversity. There should also be more focus on improving the quality of socio-economic surveys during an EIA study [Analisis Dampak Lingkungan (ANDAL)]. However access to funding remains a key limiting factor to the extent that the best examples of participation are almost exclusively from projects involving multinational companies.

The question of cost is one that is absolutely critical for the future implementation of public participation procedures for AMDAL. All projects that require an AMDAL must fulfill public involvement procedures as set out in KepKa 08/2000. It may be justifiable to begin to introduce some differentiation between projects in order to focus scarce resources on larger and more complex developments. A further weakness of the existing regulation is that it does not clearly define who are the legitimate representatives of

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Box 6. PT BASF Indonesia and Public Participation in the AMDAL Process.

In 2002 PT BASF Indonesia decided to expand its existing facility located in West Jakarta to allow for the production of dispersion and production polymers, requiring a new AMDAL to be prepared. From the outset, the local environmental authority demonstrated an interest in ensuring that members of the public were well-informed, and enlisted as observers and providers of monitoring information. As a first step, provisions were made (through the subdistrict council) for ensuring that local communities were aware of their rights in relation to participation in the AMDAL process.

During scoping the developer was encouraged to consult with local communities, particularly in the issue of possible odor emanating from the factory, given a previous contentious incident in 1993. A well-attended public meeting was held at the community meeting place allowing local people to convey their concerns. The finalized AMDAL documents contained specific provisions for community involvement in on-going air pollution monitoring, including complaints-handling procedures. These documents were later made available at the offices of the local environmental authority for public access.

project-affected people. Under decentralization it is unlikely that consultation with formal leaders only can continue to be regarded as acceptable, and that improved mechanisms for dealing directly with informal leaders and common citizens will increasingly be necessary.

2.5 Stimulating Innovation and Learning

An emerging message from the private sector is that larger companies (particularly in the extractive industries) are not only looking for increased predictability in the AMDAL process but the flexibility to introduce best practice environmental management technologies. This is an extremely important statement for AMDAL Revitalisasi. As in most countries, much of the capacity for environmental management resides in the private sector as opposed to the bureaucracy or academia. Both medium- and large-scale companies alike, dealing with the practical implications of their operations on a daily basis, are faced with a regular diet of social and environmental issues. Therefore there are strong incentives for these companies to look for ways to improve the efficiency and effectiveness of AMDAL, particularly in relation to post-construction phase environmental management. In so doing, they can become a force for driving up the quality of AMDAL.

However, the reality is that the bureaucracy has trouble regarding business as a genuine partner in AMDAL. A command and control mentality prevails at all levels of government, reinforced by the relatively rigid approach to formal AMDAL training prescribed by KLH. It is well-known that AMDAL lacks innovation and is unwieldy. Better developed EIA systems have the ability to absorb new thinking without the incumbent need for changes in regulation simply because greater discretion is left to 'the experts' in choosing how to interpret guidelines and standards. The argument in Indonesia goes that AMDAL has had to be more prescriptive in order to ensure that it is applied consistently and to make up for weaknesses in technical and management capacity. Today its general objectives and procedures are well-known and institutionalized, but there are still comparably few glimpses of what it can achieve in terms of improving the quality of decisionmaking.

The AMDAL good practices study, which was specifically designed with a view to tracking down some of these 'glimpses', has shown how some of the more capable regional governments can work in more innovative ways. DKI Jakarta stands out in this respect, in the way in which it has focused on negotiating clear rules of the game in terms of issuance of permits for new developments, and by following through with developers into implementation by encouraging a greater willingness to comply with EMP requirements.

The challenge now is to find ways to introduce reforms that can make innovation integral to AMDAL and good practice a more frequent outcome. This implies changing the nature of the dialogue between the Central Government and regions so as to encourage more of a problem-solving approach to applying AMDAL rather than focusing on procedural correctness. The provinces can do a lot to set the tone by proposing and piloting new approaches to resolving old problems—a potentially powerful role that is within the area of competence assigned to the provinces under regional autonomy. But they must also
have the explicit support of KLH in so doing as well as a set of guiding principles within which to operate.

2.6 Conclusions: A New Lease of Life for AMDAL?

There are several important conclusions emerging from the situation analysis provided in Chapters 1 and 2. The first conclusion is that a business-as-usual approach to AMDAL risks being undermined by combination of forces associated with its high-cost and low-value image, and the changes in the rules of the game that have occurred since regional autonomy. Here KLH is broadly responding in the right way with a policy reform program focusing on clarifying functions, strengthening public participation in AMDAL, and (more recently) building capacity at subregional level. The World Bank’s support has focused on broadening and deepening the analysis surrounding these core areas with a view to strengthening the quality and level of dialogue between Central Government and the regions.

The second conclusion is that regional autonomy presents not only challenges but also real opportunities for improving the efficiency and effectiveness of AMDAL. At all levels, expectations have been raised that the business of government will be carried out with greater transparency and accountability in the future. This force for change, which some equate with increasing democratization, presents the prospect that environmental issues will become more politicized and of higher priority. Various analytical pieces supporting AMDAL Revitalisasi indicate that increasing public scrutiny and access to information is already having an impact on the sense of accountability felt by environmental and other officials in some local authorities, leading to better environmental outcomes.

The third conclusion is that AMDAL must find ways to make innovation a more integral part of the process in order for it to take advantage of the opportunities presented by regional autonomy. This implies measures to allow greater flexibility with the way in which AMDAL rules and procedures are applied in order to allow both local governments and project proponents to introduce new ways of addressing old problems. It also implies building a better understanding of home-grown good practice in AMDAL and disseminating this information widely among practitioners. The AMDAL good practices study presents evidence of innovative behaviors being displayed by local authorities, but these tend to emerge in isolation from one another and do not contribute to the broader process of reform and improvement. Essential now is an increasing focus on ‘what is right’ with AMDAL and promoting learning between regions from Central Government.

There is a delicate balance to be struck in encouraging innovation without undermining the overall integrity of the system, while also recognizing that bureaucracies are risk averse, favoring gradual increments of change. This central dilemma provides the main justification for the implementation of regional cases studies in this report. Given greater freedom to develop their own AMDAL systems, how would different provincial and local authorities respond? And what are the broader implications for AMDAL reform in Indonesia? Chapter 3 presents the main findings of three regional pilots conducted by the World Bank in the provinces of West Java and East Kalimantan, and by KLH in Aceh.
3. **LOCALIZING AMDAL: REGIONAL CASE STUDIES**

During 2005, the KLH and the World Bank, in collaboration with local authorities of the provincial governments of Aceh, West Java, and East Kalimantan, carried out regional case studies to deepen the understanding of constraints faced by the regions in implementing existing AMDAL procedures. In so doing, national- and local-level counterparts agreed that local authorities themselves are best placed to provide much of the input required to revitalize AMDAL. Also, any advice to the Central Government on policy reform should be grounded in the reality of actual projects, providing the best means of understanding the process and delivering the necessary clarity when proposing changes. Equally, there was strong consensus on the fact that the proposed work should start by supporting the more capable and experienced local governments. What follows is a summary of the ideas generated from the AMDAL regional case studies. Emerging innovations and proposed modifications may help KLH to better structure and provide a practical edge to proposed policy reforms to the AMDAL System. (The rationale for this work, as well as its main objectives, are described in Section 1.4).

3.1 **The Aceh Case Study**

In September 2005, the Ministry of Environment passed Decree No. 308/2005 on Environmental Impact Assessment in Aceh and Nias with the objectives of streamlining national AMDAL procedures. This initiative followed widespread recognition of the difficulties with implementing national procedures, particularly in view of the urgency for reconstruction and the limited local capacity for environmental management. Like many other sectors of government, the provincial environmental authority and district authorities were hard hit by the December 2004 earthquake and tsunami. Many staff were lost, and office records and equipment were destroyed. Box 7 gives a brief statistical view of Aceh Province.

(Box 7. Aceh Province at a Glance)

*Nanggroe Aceh Darussalam* (NAD) is located on the northern tip of the Indonesian Island of Sumatra. It has a total area of 57,366 km² and an estimated population of just over 4 million (2 percent of the Indonesian population). Nias is an island located off the West Coast of Sumatra that was also badly affected by the December 2004 earthquake and tsunami. With a population of about 650,000, Nias has a total area of 4,771 km², mostly low-lying.

This has been an unstable region for the past three decades due to a separatist movement lead by the Free Aceh Movement. However, the tsunami crisis has reinvigorated the peace process leading to the August 2005 signing of a Memorandum of Understanding between the Government of Indonesia and the Free Aceh Movement. Although slow to start, the post-tsunami reconstruction process picked up pace significantly during early 2006.

*Note:* Dark green area denotes Aceh Province.

*Source:* Authors
3.1.1 The Institutional Framework

The Aceh concept for a revised AMDAL was timely, allowing KLH to test out reform ideas that it had been considering for the AMDAL system more broadly. It changes national procedures in three fundamental ways:

(1) It significantly reduces the timeframe required for development and approval of AMDAL terms of reference (TOR). Under the national AMDAL system, TORs are prepared by the proponent based on national guidelines. This is a process that can take several months to complete including submission of TORs to the AMDAL Commission and a maximum 75-day review period. Under the Aceh concept, a KLH-supported team (Tim Teknis) located in the Provincial Environmental Authority is responsible for scoping impacts and drafting TORs based on initial information provided by the proponent. A notional 14 days is allocated for the completion of this process.

(2) The proponent is specifically required to consult with the Tim Teknis during implementation of the environmental studies to ensure that the technical quality meets the required standards in advance of formal submission of a draft EIA report. Under normal circumstances, review and approval is commonly delayed by poor quality first drafts being submitted and then re-submitted to the Commission for comment and approval.

(3) The AMDAL Commission, which is responsible for the review and approval of all key EIA documents, is established at the provincial level only, unlike other parts of Indonesia where districts and cities may also establish commissions. This represents a retrenchment of authority from the district back to provincial level, justified on the basis of the lack of capacity for environmental review that exists within the affected parts of Aceh and Nias.

Somewhat controversially, Decree 308/2005 only covers disaster-affected areas within Aceh and Nias. Consequently the province is effectively operating under two different regulations: the national regulation for non-disaster-affected areas and the new Decree for affected areas. Clearly this adds to the general confusion over responsibilities and accountability for AMDAL. In addition, no clear guidance is provided for determining whether or not a new project is in a disaster-affected area. The Decree contains a sunset clause that would bring Aceh and Nias back into line with national regulations by April 2009.

3.1.2 The Process

The new procedures for Aceh and Nias are essentially the same as the national procedures, with the exception of the three variations noted above. The prime objective of these variations is to speed up national procedures rather than to attempt to carry out EIA in a more streamlined manner. Accordingly all new projects are screened for EIA requirement, TORs are developed, reviewed, and approved; field studies and consultations are completed; final review and approval are completed; and sign-off by the Governor is required.
During the discussions that led up to the drafting of Decree 308/2005, a range of more radical options had been put forward by the donor community, including ‘class screening’ and the application of standard EMP-type approaches for less controversial EIAs. While these options could have had the desired effect in terms of streamlining, they would also have required both KLH and provincial authorities to operate in an entirely different way—one that might be too reliant on donor support. There were concerns also that the introduction of more radical new approaches, and the retraining of staff accordingly, would make eventual transition back to national procedures more difficult.

3.1.3 Lessons

More than a year into reconstruction, KLH still faces major challenges in implementing EIA procedures in Aceh. The sheer volume of new projects to be screened is the core of the problem, but there remain major capacity gaps in relation to review and approval also. The effect is that EIA is struggling to keep up with the pace, recognizing also the political imperative of not being seen to be acting as a drag on the reconstruction process. While it is too early for any formal evaluation of the new procedures, there are elements that should be considered within the broader context of AMDAL reform.

The focus on strengthening the Tim Teknis and increasing interaction with the proponent during preparation of AMDAL studies is an important element—and one which is very much in line with the conclusions both of the World Bank’s regional pilots and AMDAL good practices study. However, one of the acknowledged challenges here is that in the less well-resourced regions lack of funding and qualified individuals remains the key limiting factor. Decree 308/2005 (chapter 1, article 3/1) also explicitly refers to the role of the governor in revising screening procedures to suit local conditions based on “scientific consideration.” While the governor is not empowered to approve such revisions, Article 3 is an important departure from previous legislation in that it opens up the possibility that the regions could introduce greater variation.

3.1.4. Implications

The Aceh concept fits very low capacity (almost failing bureaucracy) situations, requiring strong central intervention in developing and implementing a more suitable regional AMDAL system. It is unlikely that this model could be applied more broadly in Indonesia given the level of dependence on a centrally lead Tim Teknis. However, where sufficient regional capacity exists to support a robust functioning Tim Teknis (without direct support from KLH), improvements in the efficiency of the process should be achievable. By contrast, improvements in effectiveness and impact cannot be assumed in the absence of other measures to provide incentives that reward good practice and penalize the ‘cut-and-paste’ mentality that currently defines the AMDAL system. Measures to introduce incentives to improve effectiveness are introduced in Chapter 4 drawing both from the West Java study and international experience.

3.2 The West Java Case Study

The Provincial Government of West Java has developed an AMDAL model for an alternative AMDAL system that differs in a number of elements from the national AMDAL system. The desire to develop an alternative system comes from years of experience in administering AMDAL in a fast-growing region, and facing the challenge
of applying the national system to the conditions in the field. The foundation of the West Java model is a set of reaffirmed core definitions on the purpose, meaning and objective of AMDAL. The result is a more efficient procedure (*Tatalaksana*) with a more realistic and effective output than the current AMDAL system, also acknowledging the need for better interconnection of AMDAL with alternative environmental management instruments. Box 8 gives a brief statistical view of West Java Province.

### 3.2.1 Proposed Institutional Framework

Authority for AMDAL administration and review remains with local government. The provincial government is formally involved only in activities that cross local government boundaries and in special activities. However upon request by a local government, the provincial environmental authority can assist in the review of proposed activities that are within the authority of local AMDAL commissions. Furthermore a broader role for provincial environmental authorities is recognized in promoting consistency among local governments in terms of regulations, procedures and standards, even though this is not an explicit function under regional autonomy.

<table>
<thead>
<tr>
<th>Box 8. West Java Province at a Glance</th>
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<tbody>
<tr>
<td>With a population of 35,470,611 (2000 census), West Java is the most populous province in Indonesia. It has an area of 34,736 km²; aside from the province of Jakarta, it is the most densely populated province in the country, with an average 1,033 people per km².</td>
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<tr>
<td>West Java borders Jakarta and Banten province to the west, and Central Java to the east. Unlike most other provinces in Indonesia which have their capitals in coastal area, the provincial capital Bandung is located in a mountainous area. In addition to Indonesian, Sundanese, and Javanese are spoken, particularly in rural areas.</td>
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<tr>
<td>Raw natural resources include several offshore oilfields (in the Java Sea) and lumber. Most of the province is very fertile, with a mix of small farms and larger plantations. There are several hydropower dams, including Jatiluhur, Saguling, and Cirata.</td>
</tr>
</tbody>
</table>

**Note:** Dark green area denotes West Java Province.

**Source:** Authors.

Figure 3 diagrams the proposal of West Java AMDAL procedures.

Local environmental authorities are responsible for administering AMDAL and endorsement of the final result (by the head of the authority). An endorsement recommends whether the proponent can proceed with further permitting or not. If the recommendation is negative, the head of the local government has the power to veto this recommendation and to allow the development activity to proceed. However, clear justification for use of a veto must be given in a letter that is publicly available. Before the AMDAL process can officially start, the proponent must first show the environmental authority that its proposed activity neither contradicts existing spatial plans nor local policies on the use and management of natural resources.
3.2.2 The Process
The development of the West Java AMDAL Model aims to create a more efficient procedure yet generate a more effective output than is currently the case. The procedure consists of two paths, green and yellow. The green path allows proponents to directly develop the Environmental Clearance Document (DKL) while the yellow path requires proponents to conduct scoping and, only where residual significant impacts are found, to conduct the ANDAL (in-depth environmental assessment). A ‘fast-track’ procedure is provided if the proposed activity possesses no residual significant impact and the broader planning process is considered environmentally sound. Environmental Management System (EMS) principles are applied during the operational phase, as an alternative to more standard environmental management plans and to promote continual improvement.

Figure 3. Proposed AMDAL Procedure from the West Java Case Study


to impact mitigation. The importance of a more developed information management system supporting AMDAL is recognized, with the potential to provide a foundation for SEA approaches.

3.2.3 The Product
The DKL is the final product of the West Java AMDAL concept. The DKL summarizes information on (a) significant impacts and consequences expected to arise due to the proposed activity; (b) principles of impact mitigation that must be included in the Environmental Impact Control Management System (SPDL); (c) approvals and permits to be obtained by the proponent; and (d) schedule for implementation of the proposed
activity. The DKL is endorsed by the Head of the environment authority. The letter of endorsement contains the environmental authority's recommendation on whether (or not) the proponent can continue with its planning process.

3.2.4 Lessons

The West Java concept relies on a higher level of trust between the government and the proponent. It assumes that proponents would respond to the incentive of a shorter (fast-track) AMDAL process providing that environmental considerations have been included in site selection and project feasibility.\(^{14}\) It also requires openness and fairness of the government in accepting limitations of the proponent and assuming some responsibility in impact mitigation if the proposed activity is allowed to proceed. The West Java concept relies on officials in the environment authority that are knowledgeable and committed to properly administering AMDAL. Strong leadership in the AMDAL unit thus becomes a necessity—one that fully understands the purpose and significance of AMDAL. The West Java case study demonstrates that there are genuine opportunities to improve AMDAL and that there is capacity in the country to evaluate and take a fresh look both at old problems and new. It represents provinces and local governments where there is (a) above-average human resource capacity, (b) higher economic development and experience of AMDAL, and (c) greater public awareness and interest in environmental issues. A range of actions are now required to further refine the model, including establishment of a list of positive development activities subject to AMDAL decisionmaking mechanism, EMS-based monitoring systems, and software development for the AMDAL information system. Box 9 describes stakeholder participation in the AMDAL models for West Java and East Kalimantan provinces.

3.2.5 Implications

The West Java concept provides an indication of what can be achieved in high capacity, high growth scenarios, perhaps viable in a handful of regions only. However, the longer-term implications of allowing a small number of more capable regions to apply more advanced procedures can promote a stronger tradition of home-grown good practice with the potential to spread to other areas. The main drawback is the concern that flexibility allowed to certain regions could lead to broadscale fragmentation of the AMDAL system, with each region going its own way. At the same time, the findings of both the scoping study and good practices study suggest that this is a relatively low risk given strong recognition (at subnational level) of policy leadership that continues to be afforded to KLH. Furthermore, effective mitigation to prevent fragmentation can be applied by clearly setting out the preconditions necessary for a region to qualify to adopt a West Java style approach.

In addition, while some of the reforms implied in the West Java model are relatively advanced (in particular the proposed 'fast-track' AMDAL), others could have value in most if not all regions, specifically:

\(^{14}\) This assumption has been tested by the West Java case study via EIA consultants and private sector representatives, who indicated that such an incentive could be effective for most responsible investors. Other measures would need to be put in place to handle less responsible investors.
• Re-integration of AMDAL and UKL/UPL procedures in order to create a two-tier EIA system of preliminary and full review, equivalent to practices in many comparable countries;

• Replacement of the relatively unwieldy AMDAL commissions with smaller expert panels of individuals with a strong background in environmental assessment;

• Endorsement of the results of the EIA process by the head of the regional environmental agency, rather than approval by the head of the region (governor or mayor) as a means of increasing accountability and speeding up the process; and

• Introduction of elements of the AMDAL process that ensuring better linkages with alternative environmental management instruments, such as SEA and EMS-based approaches.

3.3 The East Kalimantan Case Study

East Kalimantan was selected to represent a 'less-strong province' with a greater variation in capacity from one local government to another, more realistically reflecting the broad spectrum of capabilities found across Indonesia in general. East Kalimantan has developed a concept that focuses only on the post-AMDA L approval element of monitoring RKURPL implementation. Although the initial assessment identified a wider range of possible issues for reform, the stakeholders felt that monitoring was the most immediate issue and one that can be tackled directly by the province. Other improvements were regarded as items that require efforts beyond the capacity of the provincial government to implement at this time. Box 10 gives a brief statistical view of East Kalimantan Province

### Box 9. Counterparts in Developing the Regional Case Studies

Two groups of stakeholders participated in the development of the West Java and the East Kalimantan Models, namely a Working Group and a Stakeholder Forum. The Working Group included a small number of AMDAL practitioners and provincial BPLHD officials. It served as the think-tank and lead counterpart to discuss and review ideas for developing the alternative AMDAL model. The Stakeholder Forums included a wider audience of key local government representatives and AMDAL practitioners. This larger group proved to be valuable in collecting concerns and problems facing the local level management of AMDAL. Yet, only rarely were participants in the Stakeholder Forum able to think 'out of the box' or imagine any AMDAL implementation arrangements different from the existing ones.

Source: Authors.

3.3.1 Institutional Framework

Currently, there are insufficient guidelines for monitoring of RKURPL implementation, especially with regard to mechanisms for cooperation/coordination among different agencies in the regions, and the roles and responsibilities of each agency. Different agencies conduct their own monitoring and inspection visits, making it time-consuming for project proponents to respond to.

With regional autonomy, clarity is even more essential since some oversight functions previously held by the Central Government have devolved to local government agencies. To avoid overlap and ensure adequate monitoring and oversight, better definition of the
inter-agency coordination and roles is necessary. In principle, monitoring of RKL/RPL implementation is shared among three levels of government: (a) local government has authority over environmental management in its region; (b) the province has authority over environmental management that is cross-regional (covering more than one local government) and on issues where local governments lack capacity; and (c) central Government functions as overseer and provides guidance for implementation of environmental management in the regions.

However, the issue of authority and jurisdiction is a sensitive one in East Kalimantan due to the size and nature of certain types of projects. In this province, there are large-scale investments with a mixture of approval requirements, such as (a) projects whose permitting (and AMDAL) are the authority of National Government (e.g., of strategic importance such as oil/gas); (b) projects whose permitting (and AMDAL) are the authority of the provincial government; and (c) projects whose permitting (and AMDAL) are the authority of the local government (e.g., general mining). Consequently, the case study approached the issue in an incremental way, focusing first on the more immediate question of coordination among agencies without directly addressing the complex issue of authority under regional autonomy.

3.3.2 Process and Product

The East Kalimantan model proposes that the “lead agent” for environmental management in a province or local government should be the environment authority, rather than the head of that province or local government. The concept favors the form of ‘boards’ (badan or BAPEDALDA) for environment rather than the integration of environmental functions within sectoral agencies (Dinas). The recognized advantages are (a) clearer coordination role among local government agencies; (b) multi-sectoral scope of work regarding environmental management; (c) more neutral position (i.e., has no sectoral agenda).

Box 10. East Kalimantan Province at a Glance

East Kalimantan is the second largest province in Indonesia with a population of 2.44 million. It is one of four Indonesian provinces in Kalimantan, the Indonesian part of the island of Borneo.

Samarinda is the provincial capital, and the most populous region of the province, with 521,471 people. Other populous areas include the city of Balikpapan and the rural regency of Kutai.

The economy of East Kalimantan is heavily dependent on natural resources such as oil, natural gas, coal and gold mining, and forest resources. Other developing economic sectors include agriculture and tourism. Lack of adequate transportation and infrastructure are seen as the major impediment to a sustained economic growth and development in the province.

Note: Dark green area denotes East Kalimantan Province.

Source: Authors.
Environmental authorities at the provincial and local government levels are ultimately responsible for ensuring that RKURPLs are implemented but share responsibilities with other agencies. Specifically, it acknowledges three key players: (a) The Sectoral Agency, as issuer of permits, with direct responsibility for the operations of companies in its sector; (b) The Environmental Authority, as the main institution with responsibility for environmental management, capacity development, and provision of guidance to sectoral agencies; and (c) the owner/operator of the activity (company), as the main actor with responsibility for implementing environmental mitigation and monitoring plans (see Figure 4).

Environmental authorities are responsible for developing a clear coordination mechanism for environmental management within their jurisdictions, and providing necessary guidance to the other key players. Environmental authorities are also responsible for preparing annual plans and budgets for environmental monitoring, to include allocations to be made by other involved government agencies.

Figure 4. Proposed Procedures for Monitoring and Oversight from the East Kalimantan Case Study

<table>
<thead>
<tr>
<th>Provincial SECTORAL AGENCY</th>
<th>report</th>
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<tbody>
<tr>
<td>monitor &amp; inspection</td>
<td></td>
</tr>
<tr>
<td>COMPANY</td>
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### 3.3.3 Lessons

The East Kalimantan concept is clearly narrower in scope than the West Java concept. However, its focus on post-AMDAL approval sheds light on what is deemed most immediate and, most likely, tangible in the majority of regions. It demonstrates that much more clarity is needed in relation to working through issues of authority, role, and responsibility with regard to environmental monitoring and supervision (both vertical and horizontal) than has been afforded to the AMDAL process so far.

The East Kalimantan concept is meaningful for national-level AMDAL revitalization because it stresses that whatever AMDAL system is in place, monitoring and supervision
of environmental mitigation efforts must be detailed, sufficiently funded, and agreed upon by local stakeholders. It also emphasizes the role of the environmental authorities at each level of government to coordinate sectoral agencies and provide capacity building and mentoring to environmental authorities placed at lower levels of government. The East Kalimantan concept also suggests that for any AMDAL process to be meaningful, environmental authorities have to have sufficient clout with regard to sectoral agencies, particularly if they are to be effective in coordinating plans, budgeting and monitoring RKL/RPL implementation. Furthermore, it requires that sectoral agencies respect the environment agency’s coordinating or leadership role with respect to environmental monitoring and supervision. Such a situation needs to be created by the head of the region, by giving a clear mandate to the environmental authorities.

The Province of East Kalimantan resembles the majority of regions outside of Java, where there has not been a high number of AMDALs processed over the years, and where human resources with an understanding of environmental management are limited. East Kalimantan feels the urgent need for capacity building and seeks expert support from outside the region.

East Kalimantan does not confirm the basic premise that regions feel the ineffectiveness of the AMDAL system is partly due to the national system itself. It is more interested in striving to enhance its ability to implement AMDAL properly. The model produced to date is only the beginning of a process to establish a workable mechanism for monitoring of RKL/RPL implementation. Other items that need to be developed in the future include guidelines and tools for field inspection, for review of RKL/RPL implementation reports, and local government regulations that clearly define roles and responsibilities and cooperation among government agencies.

**3.3.4 East Kalimantan**

The East Kalimantan concept is less innovative but perhaps the most representative of Indonesia as a whole. It confirms one of the principal conclusions of the AMDAL good practices study that much better use can be made of AMDAL without necessarily requiring wholesale changes to the system. It also confirms a key conclusion of the AMDAL scoping study—that the regions are unlikely to want to challenge KLH authority or leadership in policy matters relating to AMDAL. In fact many regions, faced with the realities of decentralization, are increasingly looking to KLH for assistance. In these regions, it is reasonable to assume that AMDAL revitalization efforts should support incremental change in a few priority areas, with a focus on clarifying roles and responsibilities, improving the quality and availability of technical guidance, and increasing the visibility and accountability of the process.

KLH is beginning to respond to this agenda through its AMDAL revitalization program, specifically in the area of clarifying roles and responsibilities and in the establishment of minimum standards of operation for the regions, backed by strengthened enforcement measures. However, more assistance is needed and in a form that is continuous rather than periodic. To date AMDAL reform has been carried out in a series of phases resulting in 'peaks and troughs' in policy and technical support at 5-6 year intervals. During the trough periods, rapid staff turnover in the environment sector means that each successive wave of reforms fail to build effectively on the previous ones. Therefore, a further
implication of the East Kalimantan case study is that KLH needs to find ways to shift into a more continuous mode of evaluating and updating the policy and technical guidance that it provides to the regions. The role of the sectoral agencies is critical in this process given that much of the support which is being requested is technical in nature and varies considerably according to project type.

Chapter 4 highlights the need for KLH’s AMDAL Directorate both to shift its role more toward policy and capacity-building functions, and to re-engage with the sectors in order to develop a ‘new generation’ of more practical and locally applicable technical guidelines and approaches. The validations workshops held in February 2006 to review the results of the regional pilots confirmed the need for AMDAL to re-engage with sectoral agencies, particularly at regional level where they can play a strong role in supplementing generally weak environmental monitoring capacity.
4. OPPORTUNITIES FOR INNOVATION AND REFORM

The AMDAL Reform Project asked a number of fundamental questions about the nature of reforms necessary to improve efficiency and effectiveness within a decentralized context. Most significantly, it asked whether the delegation of authority for environmental management from the Central Government to the regions provides the opportunity to revive AMDAL or would lead to eventual fragmentation and dilution of environmental standards.

4.1 Summary of Conclusions

During the early stages of the Study, KLH remained in opposition to the concept of any variations being allowed to emerge from one region to another in AMDAL procedures and practice. Even if such variations were well thought through and clearly explained there remains (it was argued) the whole issue that opportunistic local governments would choose to interpret such a move in whichever way suited them best, while the Central Government remained powerless to rein in the trouble-makers.

The fact that there is no known precedent for EIA operating under such a fundamental and far-reaching form of decentralization, also suggested caution. Of a total of 12 international comparators examined (including Egypt, Ghana, Poland, South Africa, and Vietnam) none has delegated authority below the provincial level. By contrast, in Indonesia today, the delegation of responsibility and authority for environmental management to local government is absolute (with the exception of a few restricted sectors) while most local environmental authorities have at best a rudimentary understanding of the purpose of EIA, let alone how it can be practically applied to improve decisionmaking about new investments. In these areas, decentralization has exposed AMDAL to the full effects of the neglect and lack of priority for environmental management that characterizes the majority of local authorities in Indonesia.

However, with time there has been increasing realization that variation is already happening and will continue to do so despite the best efforts of those who would seek to hold back this process. Decentralization is about dealing with different needs, capacities and political processes between regions, and its primary purpose should be to delegate decisionmaking authority to the lowest possible competent level, which in many cases is the Kecamatan or village level. Therefore it makes little sense to attempt to deny variations in AMDAL to emerge but rather to develop the tools to influence the direction of change by promoting and rewarding good practice.\(^{15}\) In the end, it is not the elaboration of regulations and procedures that will hold AMDAL together and increase its value to society, but it is society itself as it tests out different ways in which to get more of what it needs through government. With this context in mind, the main conclusions of the AMDAL Reform Project are as follows:

- **A one-size fits all approach to AMDAL can no longer be applied.** Because of decentralization, a new policy direction is now required that is more sensitive to

\(^{15}\) Regional autonomy laws, specifically Law 32/2004 and related implementing legislation (PP 25/2000 and its revisions) allow for variation to emerge between regions providing that regional legislation does not contradict a higher law. However, at a political level, there is continuing resistance to concept of regional variation in most sectors.
the differing needs and priorities of the regions than has been the case to date, recognizing also that (if they are to be effective) proposed reforms must contain incentives for local and provincial governments to ‘buy into’. Although, at this time, it is unlikely that KLH could sanction radical changes to AMDAL, it may be possible to begin to introduce the possibility of variation in a number of well-defined procedural areas, providing also that a mechanism for brokering the process with the regions is clearly established in law, and preconditions for allowing variation to emerge are clearly expressed and understood. The national AMDAL system should not be permitted to fragment. There should be a balanced system of incentives and penalties set out to encourage the regions to work toward nationally established standards of performance, as well as strengthened systems for monitoring and quality control.

- **Increased flexibility and innovation require revisions to existing AMDAL laws and regulations.** The existing regulatory basis for AMDAL is inadequate both because it predates regional autonomy and because it provides an overly prescriptive approach. All regions are treated the same, irrespective of differences in capacity, political priority or level of public awareness that exist from one region to another. Consequently few have any incentive to improve performance. Yet, innovation must be encouraged to emerge in various ways in order to keep AMDAL alive and able to function effectively. Lack of innovation and access to new thinking has led to a disturbing level of comfort with AMDAL’s inadequacies to emerge over time. Fundamentally, there is an almost universal lack of willingness or ability to challenge poor performance and to identify alternative approaches. A key source of innovation is likely to be the private sector, which is constantly looking for ways in which to introduce new approaches and technologies, requiring a re-thinking of the way in government interacts with investors. A key implication here is for the development of less prescriptive regulations in the future, focusing more on setting clear standards and specifying desired outcomes, rather than stating how those outcomes should be achieved. More efforts are required in showcasing good practice as a means of counteracting the negative culture that surrounds AMDAL.

- **KLH should move towards more policy development and capacity building functions.** One of the reasons lies in the fact that KLH’s AMDAL Directorate currently invests most of its time in managing the national AMDAL Commission, which processes up to 100 national AMDALs per year. This is a large task for the staff of the Directorate leaving little time left to cover more fundamental policy functions such as the raising of standards in AMDAL implementation overall. Existing procedures and responsibilities for national AMDALs should be reviewed as a basis for identifying efficiencies to free up time more time for policy functions.

- **Local level capacity gap is a key limiting factor to improving AMDAL within the context of decentralization.** While this is undeniable, it is also a ‘given’ factor—an omnipresent reality that just as accurately describes the justice sector as AMDAL—rather than one that necessarily defines the future potential of AMDAL. In addition, lack of clarity over the functions of local government in
relation to AMDAL and the widespread failure to better link AMDAL to other local government processes, such as spatial planning and permitting. As previously stated, significantly greater responsibility for the administration of AMDAL was de facto transferred to local government in 2001 as a result of regional autonomy. However very little additional guidance has been provided to local environmental authorities since 2001 to help to interpret the implications of regional autonomy. Part of the problem lies in the fact that local authorities lack standards of performance to guide their work – a task that is clearly mandated to Ministry of Home Affairs and KLH under regional autonomy laws. Work in this area will be critical to addressing the critical capacity gap at local government level by helping to identify, in an objective way, where the weaknesses are and challenging local authorities to address these weaknesses. In addition, the role of AMDAL must be more clearly redefined to include alternative instruments that spread the burden, increase administrative efficiencies and deflect some of the unjustified criticism that AMDAL is high cost and low value.

4.2 Opportunities for Innovation and Reform

Clearly the process of finding the ideal AMDAL system for Indonesia will be a long-term endeavor. It is likely that as new innovations are introduced, another set of problems and challenges will emerge. It is likely also that there is no ‘ideal’ system for Indonesia, since the country’s institutions and human resources, as well as its development path, continue to evolve. However, significant progress will be attained if there is agreement on the role of the regions, how AMDAL performance can be periodically evaluated, and how the key AMDAL stakeholders can engage in a process of continuous improvement.

A range of policy options for AMDAL reform are presented as a basis for stimulating discussion within KLH and other key stakeholders (see Table 4). The options are drawn from the results of the various analytical studies completed under this project (referenced in Column 3), the policy dialogue and the regional case studies. Column 4 provides an indication of how similar reform issues have been or are being addressed in other middle-income countries. The options can also be relatively easily broken down in terms of thematic governance areas common to many studies on decentralization including: clarifying functions; streamlining government, building regional capacity, building transparency and accountability, and stimulating learning and innovation.

As a policy study designed to inform rather than to prescribe; yet, it is evident from Table 4 that some of the reform options presented are more fundamental (in the sense that they imply revisions to existing legislation) than others, specifically: Option 1a on the function of AMDAL; Options 1b/1c on the role of local and provincial government; Option 2b on flexibility in AMDAL; and Option 3a on minimum standards and local government level.

Similarly some options are more complex than others leading to outcomes that cannot be achieved from within the environment sector alone, including Option 1e on the authority and role of other central ministries and Option 2e on the integration of AMDAL with other administrative systems. By contrast, others are clearly more straightforward to implement, specifically Option 3b on revisions to key technical guidelines and Option 3c on auditing existing subnational AMDAL legislation.
Figure 6 provides an approach to prioritizing reform options in terms of relative ‘importance’ versus ‘ease of implementation.’ While this figure in no sense represents a consensus view among AMDAL stakeholders in Indonesia, it fairly clearly demonstrates the importance of prioritization and offers one informed view on where the key reform priorities lie. The listed actions offer a focus for discussions on more immediate steps to be taken in the implementation of AMDAL Revitalization. At the same time, it is important to recognize that all listed actions are important representing a continuum of activities required to better adapt and strengthen the AMDAL system.

<table>
<thead>
<tr>
<th>Ease of implementation</th>
<th>First order</th>
<th>Second order</th>
<th>Third order</th>
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<tbody>
<tr>
<td>Achievable</td>
<td>Define the function of AMDAL more clearly</td>
<td>Replace EIA review commission with expert panel</td>
<td>Audit subnational EIA legislation</td>
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<td></td>
<td>Revise environmental screening procedures</td>
<td>Revise key national guidelines</td>
<td>Engage with private sector</td>
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<td></td>
<td>Introduce regional flexibility in AMDAL legislation</td>
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<tr>
<td>Moderate</td>
<td>Establish minimum standards for local government</td>
<td>Define role of provincial government</td>
<td>Form information sharing and learning networks for EIA</td>
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<td></td>
<td>Revise procedures for public involvement</td>
<td>Redefine role of sectoral ministries in AMDAL</td>
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</table>

The development of an plan for AMDAL reform will be guided by these and other considerations and set clear targets for the medium and long term. The action plan should be seen as a part of an ongoing policy process and therefore open to negotiation and change resulting from contributions from all key stakeholders at different levels of government, within the private sector, academia, and civil society.
### Table 5 Reform Options for AMDAL Revitalisation

<table>
<thead>
<tr>
<th>Reform Issues</th>
<th>Reform Options</th>
<th>Reference</th>
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<tbody>
<tr>
<td><strong>Clarifying Functions</strong></td>
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<tr>
<td>Function of AMDAL</td>
<td>1a. Develop clearer definition of AMDAL and other related environmental management instruments (preliminary EIA, environmental audit, SEA) in law providing purpose, objective and limitations.</td>
<td>AMDAL Regional Case Studies, Ch 4-2</td>
</tr>
<tr>
<td>Role of local environmental authorities</td>
<td>1b. Clearly define responsibilities (in positive terms) based on regional autonomy laws clarifying each procedural step in AMDAL from receipt of new project proposals, to screening, review, ensuring public participation, approval and implementation of environmental management and monitoring actions.</td>
<td>AMDAL Reform Project, Final Report</td>
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<tr>
<td>Role of provincial environmental authorities</td>
<td>1c. Clarify responsibilities in law potentially including capacity building for local environmental authorities, knowledge management, dissemination of good practice. Provinces could play a key role in monitoring the status of local authorities in relation to minimum standards of operation for AMDAL.</td>
<td>AMDAL Regional Case Studies, Ch 4-5</td>
</tr>
<tr>
<td>Role of the Ministry of Environment</td>
<td>1d. Role of the Minister of Environment in revised EIA regulation to include a gradual shift in focus from administering and reviewing AMDAL documents to policy development, capacity building and promoting innovation.</td>
<td>AMDAL Regional Case Studies, Ch 4-5</td>
</tr>
<tr>
<td>Authority and role of other central Ministries</td>
<td>1e. Sectoral ministries should be re-engaged in AMDAL both in terms of the development and/or review of much needed sectoral guidelines for EIA and in the EIA review process. The functions of sectoral ministries should be clearly laid out in the revised AMDAL regulation.</td>
<td>KLH – World Bank policy dialogue</td>
</tr>
<tr>
<td><strong>Streamlining Government</strong></td>
<td>2a. EIA procedures in Indonesia currently only allow for two environmental management instruments (ANDAL and RKL/RPL). The regulation should be revised to include more instruments including UKU/UPL (preliminary EIA), environmental audit and SEA. The choices to be made in terms of the appropriate level of environmental review to apply should be integrated into revised screening procedures to be set out both in the Environmental Management Act and revised AMDAL regulation.</td>
<td>KLH – World Bank policy dialogue</td>
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1. Drawn primarily from a preliminary assessment of the state of AMDAL (scoping study) carried out by the World Bank in June 2004.
### Table 5 Reform Options for AMDAL Revitalisasi

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<tr>
<th><strong>REFORM ISSUES</strong></th>
<th><strong>REFORM OPTIONS</strong></th>
<th><strong>REFERENCE</strong></th>
<th><strong>BENCHMARKING</strong></th>
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<tbody>
<tr>
<td>Allow for greater flexibility in AMDAL</td>
<td>2b. As a result of decentralization, incentives are now needed for local and provincial governments to “buy into” proposed KLH reforms to AMDAL. Although the key features of the national EIA system should continue to apply to all regions, the new EIA regulation should allow for Regions to propose modifications in several areas potentially including screening, linking AMDAL to permitting, type of public participation, and maximum timeframe for review of EIAs. Provinces and districts to submit proposals to the Minister of Environment on regional adaptation to the AMDAL system.</td>
<td>KLH to establish minimum standards of operation for local governments covering institutional, human resource and budgetary requirements, linked to incentive systems for good performance. This requires that they should be set out in detail and made public. In Madagascar, a permit issued for an activity that requires environmental assessment comes with the agreed environmental management and monitoring attached.</td>
<td>Although decentralization inherently implies a shift in responsibility to where there is less/least capacity, there is widespread recognition that more centralized EIA review and approval systems have also proved to be ineffective.</td>
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<tr>
<td>Improve efficiency of AMDAL review</td>
<td>2c. Introduce the concept of a “fast-track” option providing incentives to proponents to ensure better integration of environmental issues during project planning and feasibility. The Fast track system should be applied on a pilot basis only at first, in higher capacity regions such as West Java.</td>
<td></td>
<td>Most advanced jurisdictions recognize the need to build flexibility into EIA systems as a means of avoiding long and unnecessary delays as well as dealing with the problem of consistency for consistency’s sake. Fast track systems are a feature of EIA procedures in many comparable countries including Poland, South Africa, Ghana, and Vietnam.</td>
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<tr>
<td>Integration of AMDAL with other administrative systems</td>
<td>2d. Allow for establishment of a small expert panel as the primary body with responsibility for EIA review, to include environmental officials and specialists from key technical departments only. The existing cross-sectoral AMDAL Commission has been found to be unwieldy and ineffective in dealing with matters of technical substance.</td>
<td></td>
<td>Review and approval practices vary greatly from country to country. Technical review panels are sometimes used (as is the case currently in Ghana) providing recommendations to the head of the relevant environmental authority. The number and professional profile of panel members should vary according to nature of project. The review process should work in unison with a public hearing process and should show how the public’s views have influenced its own deliberations.</td>
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<td></td>
<td>2e. KLH to provide policy support for measures to better integrate environmental analysis into provincial- and district-level spatial planning and permitting procedures. Home grown best practices to be identified and disseminated.</td>
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<td>Many developing countries struggle to establish effective spatial planning. The specifics of administrative procedures linking EIA to planning need to be made clear. This requires that they should be set out in detail and made public. In Madagascar, a permit issued for an activity that requires environmental assessment comes with the agreed environmental management and monitoring plan attached.</td>
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**BUILDING REGIONAL CAPACITY**

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<th><strong>BENCHMARKING</strong></th>
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<tbody>
<tr>
<td>Minimum standards at local government level</td>
<td></td>
<td>The evidence in most leading countries is that human resources capacity increases only gradually as experience builds. Examples of good practice can</td>
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</table>
### Table 5 Reform Options for AMDAL Revitalisation

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<th>Reform Issues</th>
<th>Reform Options</th>
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<th>Benchmarking</th>
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<tr>
<td>EIA guidelines</td>
<td>could be achieved through linking audits of local authority capacity for AMDAL to public information systems. For example, an AMDAL specific performance indicator could be integrated into the ‘Bangun Praja’ project for environmental governance in Indonesian cities. Provincial and regional KLH offices could play an important role in monitoring local authorities in this area. This could also provide a means to encourage greater NGO involvement (including those with an interest in good governance at a local level) and interest in AMDAL by giving them an independent audit function.</td>
<td></td>
<td>act as catalysts raising the expectations of practitioners and policy makers alike.</td>
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<tr>
<td>EIA guidelines</td>
<td>3b. Revisions to key guidelines (86/2002 on UKL/UPL, 09/2000 on environmental scoping, 17/2001 on screening and 08/200 on public participation) to add greater clarity and provide more ‘options’ rather than prescriptive approaches. Guidance should apply not only to ANDAL studies but environmental management instruments also such as preliminary EIA (UKL/UPL), SEA and environmental audit.</td>
<td>Good Practices Study, Ch 5.3</td>
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<tr>
<td>Provincial and local level EIA regulations</td>
<td>3c. Audit of subnational EIA legislation in selected regions, in collaboration with Ministry of Home Affairs, and launch a project to facilitate related learning and discussion in one or two key areas (such as linking EIA to permitting and enforcement). This could include an analytical study covering a representative sample of more progressive local authorities followed by three regional workshops providing practical advice and experience on drafting environmental regulations (PERDA).</td>
<td>Good Practices Study, Ch 5.3</td>
<td>No known equivalent experience from other developing countries operating under decentralized EIA.</td>
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<tr>
<td>Enforcement of EIA</td>
<td>3d. Both fines and administrative sanctions for AMDAL should be stipulated in the Environmental Law (23/1997). Environmental management and monitoring plans (RKL/RPL) should be attached to the permit to operate or build issued to the developer, so as to make the EMP legally binding. In issuing a permit, the permitting authority should be required to publicly state if the project in question is environmentally acceptable. If not environmentally acceptable, the reasons for issuing the permit should be explained.</td>
<td>AMDAL Regional Case Studies; Validation Workshops, Feb 2006, and continuing dialogue between KLH and Bank</td>
<td>In Madagascar for major new developments a separate environmental permit must be issued by the National Office for Environment. A final approved EMP is attached to the permit. In Ghana environmental permits are also used. The environmental authority monitors compliance with the EMP and can assess monetary penalties for violations – such as proceeding without a viable EMP.</td>
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<td></td>
<td>3e. Strengthening of existing procedures for EMP (RKL/RPL) by requiring a detailed post-AMDAL environmental impact management system (SPDL) to be produced within the first year of operation, linked to performance based incentives.</td>
<td>AMDAL Regional Case Studies, Ch 4-4</td>
<td>In most developing and middle-income countries, the balance of effort applied to EIA is skewed toward project preparation rather than implementation. Many countries have no legal requirements binding the developer to actions derived from EIA studies. In Ghana proponents are</td>
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<td><strong>Building Transparency &amp; Accountability</strong></td>
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<td><strong>Formalize EIA initiation</strong></td>
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<td>4a. Proponent submits a formal and publicly available document summarizing key features of the investment and salient social and environmental features. Local environmental authorities compile and disclose lists of new projects every 6 months through suitable local media.</td>
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<td><strong>Procedures for public involvement in EIA</strong></td>
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<td>4b. Revisions to EIA Regulation 27/1999 and to KepKa 08/2000 to: better define the objectives and expected outputs of public involvement in EIA, define “affected communities”, allow greater flexibility in deciding on techniques to be applied, establish criteria to judge the quality of public involvement. More specifically, requirement for public consultation should be shifted from the draft EIA report stage to the decision point on environmental feasibility of a project by requiring all decisions and their reasonings to be clearly stated and publicly available. The proposed shift would increase the efficiency of AMDAL review while making decision makers more directly accountable for explaining their actions in approving environmentally controversial investments. Other key public consultation points in the process including scoping and during EIA studies should remain as before.</td>
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<td><strong>Public Participation Study, Ch 5.1 and 5.2</strong></td>
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<th><strong>Stimulating Learning &amp; Innovation</strong></th>
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<td><strong>Engaging with the private sector</strong></td>
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<td>5a. Host a series of consultation workshops on EIA policy reform with business leaders, with a focus on specific AMDAL intensive sectors, such as mineral extraction and certain categories of manufacturing, potentially leading to establishment of joint Government-Private sector Forum on EIA reform. The Forum would be tasked with identifying incentives for stimulating innovation in environmental management at local government level, and the transfer of knowledge between local governments.</td>
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<tr>
<td><strong>Information sharing and learning networks for EIA</strong></td>
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<tr>
<td>5b. Discussions with donors to establish a ‘know-how’ fund to stimulate emergence and sharing of EIA good practice. The fund could be themed to promote specific areas where innovation is being encouraged, such as: (1) developing and sustaining effective partnerships with the private sector; or (2) advocating the function and benefits of EIA across government institutions.</td>
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<td><strong>Good Practices Study, Ch 5.3</strong></td>
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<th><strong>Benchmarking</strong></th>
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<td>The right ‘starting point’ for EIA will vary from one jurisdiction to another. What is important for developing countries is that there should be some level of direct interaction between project feasibility studies and EIA. Due to lack of resources most developing countries restrict practices to ‘consultation’ rather than ‘participation’, and to a limited number of points in the process. The overall objectives of public involvement are frequently poorly defined, as are project affected people. Most comparable countries to Indonesia specify the need for formal consultation at the draft EIA report stage, similar to the requirements of the World Bank (OP 4.01). However, 20 years of AMDAL implementation indicates that public participation in AMDAL document review has not been effective and has done little to make decision makers more accountable.</td>
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<td>There are very few, if any, examples of formalized ways in which the private sector can effectively engage in public policy debates on EIA in developing countries. As a result influence tends to be exerted in less visible ways, with the narrow interests of certain powerful companies prevailing over the broader interests of the majority.</td>
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<tr>
<td>The World Bank has been supporting the Southern African Institute for Environmental Assessment (SAIEA) in establishing ‘knowledge nodes’ for EIA which, once established, can serve as catalysts for progressive improvement of national EIA systems.</td>
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2 Defined as a more interactive form of involvement with increased potential to affect decisionmaking.
SELECTED BIBLIOGRAPHY


