

UKRAINE

PROGRAM-FOR-RESULTS

**Accelerating Private Investment in Agriculture Program
(P166941)**

**Environmental and Social Systems Assessment
(ESSA)**

World Bank

April 30, 2019

ACRONYMS AND ABBREVIATIONS

BIPs	Boarder Inspection Points
CAE	Collective Agricultural Enterprise
CSO	Civil Society Organization
DLIs	Disbursement Linked Indicators
ECHR	European Court of Human Rights
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESSA	Environmental and Social Systems Assessment
EU	European Union
EUR	Euro
FAO	Food and Agriculture Organization
FGDs	Focus Group Discussions
FLAS	Free Legal Aid System
GPS	Global Positioning System
GoU	Government of Ukraine
GRM	Grievance Redress Mechanism
GSAP	Government Strategic Action Plan
ha	Hectare
MAPF	Ministry of Agrarian Policy and Food
MENR	Ministry of Environment and Natural Resources
MOF	Ministry of Finance
MOJ	Ministry of Justice
MP	Member of Parliament
MRD	Ministry of Regional Development, Construction, Housing and Communal Services
NBU	National Bank of Ukraine
NGO	Non-governmental Organization
PAP	Program Action Plan
PDO	Program Development Objective
PforR	Program-for-Results
SESA	Strategic Environmental and Social Assessment
SMEs	Small and Medium Enterprises
SSUFSCP	State Service of Ukraine for Food Safety and Consumer Protection
UAH	Ukrainian Hryvnas

Table of Contents

EXECUTIVE SUMMARY ii

Program Description iii

 Assessment of Borrowers Systems vii

 Stakeholder Consultation..... vii

 Recommendations and Proposed Actions..... vii

1. INTRODUCTION 1

 Program Description 1

 ESSA Methodology..... 3

2. ENVIRONMENTAL AND SOCIAL EFFECTS OF THE PROPOSED PROGRAM..... 5

 Boundary Settings and Risk Management in Program Design 5

 Excluded Activities 5

 Potential Environmental and Social Benefits and Risks..... 5

 Social and Environmental Benefits 6

 Social and Environmental Risks..... 7

3. REGULATORY FRAMEWORK FOR MANAGING THE PROGRAM’S ENVIRONMENT AND SOCIAL IMPACTS 8

 Environmental Aspects 9

 Social Aspects..... 11

4. CAPACITY ASSESSMENT FOR MANAGING THE PROGRAMS ENVIRONMENT AND SOCIAL EFFECTS15

5. COMPARATIVE ANALYSIS OF BORROWER SYSTEM AND BANK CORE PRINCIPLES 19

 Summary of Existing System Assessment Against Core Principles 20

6. STAKEHOLDER CONSULTATION..... 24

7. RECOMMENDATIONS AND PROPOSED ACTIONS..... 26

 ESSA Recommendations Mainstreamed in the Program Design..... 26

ANNEX 1: RESULTS FRAMEWORK..... 29

ANNEX 2: ENVIRONMENT AND SOCIAL ASSESSMENT AND ACTION PLAN SUMMARY 34

ANNEX 3: LIST OF PARTICIPANTS IN STAKEHOLDER ENGAGEMENT CONSULTATIONS 37

ANNEX 4: SUMMARY OF KEY INTERVIEWS/AGENCY DISCUSSIONS DURING THE SCOPING EXERCISE... 38

EXECUTIVE SUMMARY

Background and Purpose of the ESSA

1. The Government of Ukraine has requested World Bank support for the Government Strategic Action Plan (GSAP) for Leveraging Private Investment in Agriculture and Agribusiness Sectors for 2019-2023 through a Program-for-Results (PforR) loan - Accelerating Private Investment in Agriculture (the Program). The PforR Financing instrument links the disbursement of funds directly to the delivery of defined results and builds on increased reliance on borrower environmental and social and oversight systems as well as transparency and efficiency assessment of the system. The Program Development Objective (PDO) is to remove selected constraints to increased participation of private sector, in particular, SMEs in agricultural input and output markets of Ukraine. The PforR promotes the financially sustainable performance of the agriculture sector by supporting results in two key areas: Results Area 1 - Increasing Competitiveness of the Input Markets, and Results Area 2 – Linking Small and Medium Enterprises¹ (SMEs) and Farmers to Export Markets. These results areas are complemented by three (3) Disbursement Linked Indicators (DLIs) and 6 sub-DLIs (4 sub-DLIs on DLI 2 and 2 sub-DLIs on DLI 3) that have been selected from the broader GSAP and agreed to be supported under the PforR, which is proposed to be financed with USD 200 million.

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

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

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

¹ Small-and Medium Enterprises (SMEs) are defined for the purpose of the Program's Disbursement Linked Indicator 1 (DLI 1) in accordance with the FAO classification (2017), as agricultural enterprises that operate on less than 1,000 Ha of land with annual revenues of less than 40 million Ukrainian Hryvnas (UAH). The SME definition used for DLI 3 is in accordance with the Article 55 of the Commercial Code of Ukraine and includes (a) small-size companies with an average number of staff not exceeding 50 people and an annual revenue not more than EUR 10 million (based on NBU exchange rate); and (b) medium-sized companies with staff of up to 250 people and annual revenue of up to EUR 50 million (based on NBU exchange rate).

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

- **Natural Habitats and Cultural Resources:** Avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources resulting from the Program.
- **Public and Worker Safety:** Protect public and worker safety against the potential risks associated with: (i) construction and/or operations of facilities or other operational practices under the Program; (ii) exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and (iii) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.
- **Land Acquisition:** Manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist the affected people in improving, or at the minimum restoring, their livelihoods and living standards.
- **Vulnerable Groups:** Give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups.
- **Social Conflict:** Avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

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

Program Description

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

6. The GSAP includes the following components: (a) Guaranteeing stability, predictability and transparency of agricultural policy and state support systems; (b) Stimulating the diversification of the agricultural production and promoting integrated development of rural areas; (c) Strengthening the national food safety system capacity; (d) Improving the efficient use of the available infrastructure for storage and transportation of agri-food products by creating a stable climate for investments in infrastructure and logistics; (e) Improving tenure security, value, and transparency of the use of state agricultural land; (f) Improving water resource management and user-led irrigation service delivery; (g) Creating preconditions for improved access to agricultural inputs for all types of agricultural producers;

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

and (h) Improving access to finance and risk management instruments for all the stakeholders using the best EU and international practices. Within this broader GSAP, the PforR focuses on promoting key reforms to prioritize and focus the government's attention on unlocking the private sector investment potential in the country's agriculture and agribusiness sectors. Following the Maximizing Finance for Development (MFD) approach, these key public investment, institutional, regulatory and public capacity constraints were identified as a priority during the extensive stakeholder consultations in the agriculture and agribusiness sectors and the existing analytical work. Within the framework of the GSAP, the proposed Program aims to improve key aspects of agricultural input and output markets to improve opportunities for agricultural SMEs. Specifically, the Program will focus on the nexus of agricultural sector support policies, land and food safety, which are key preconditions to successful development of the agriculture sector. The private sector consultations also made it evident that SME farms and agribusinesses suffer disproportionately from constraints and market failures related to access to state support, access to land, access to information on export requirements, as well as access to finance and high-quality fertilizer.

7. The Program supports the Government's efforts to create an enabling environment for private investment in the agriculture and agribusiness SMEs. The specific set of activities to be supported by the Program are selected from the broader Program because of their relevance for SMEs. The Program therefore focuses on two complementary Results Areas in the agricultural input and output markets. Table 1 summarizes the key areas of the GSAP and describes the set of activities to be achieved under the Program, including:

- a. ***Increasing competitiveness of input markets.*** The Program will help improve price formulation and increase access to key agricultural inputs: policies, land and water. The key results to be achieved would include: (i) expanding the outreach of the State subsidy program to a larger number of beneficiaries, in particular agricultural SMEs, thereby improving the strategic underpinnings and efficiency of the subsidy program, and ultimately leveraging increased private investment; (ii) improving transparency in the State agricultural land lease market through inventory and registration of all remaining State lands and improving the efficiency and returns of the mechanisms of leasing this land to private parties; and (iii) improving protection of rights in land and other property owners by establishing an advance notification system of the upcoming changes to the status of the cadastral records, complemented by enhancing the Free Legal Aid System (FLAS) which provides legal assistance on land and other property rights-related issues and is of particular importance to the poorer groups of property owners; and
- b. ***Linking SMEs and farmers to export markets.*** The Program will assist Ukrainian agribusinesses, in particular SMEs, operating in the space of high-value food products of animal origin and live animals to improve access export markets. The Program will support addressing information asymmetries on food safety and other export market requirements in Ukraine's key high-value markets (EU, China, Gulf Cooperation Council countries (GCC), US, and Canada), and facilitating cross-border trade by upgrading the capacity of inspections and testing on the border, which will complement the introduction of risk-based import-export procedures, on which the State Service of Ukraine for Food Safety and Consumer Protection (SSUFSCP) is currently working.

8. **The Government is also tackling key legislative constraints in two other Program areas:** (a) adoption of the amendments to the Law on Pesticides and Agrichemicals (Article 4) that would recognize the EU list for fertilizers and exempt them from mandatory state registration, which would facilitate easier

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

access for farmers to high quality and efficient fertilizer; and (b) adoption of revisions to the Law on Crop Receipts to encourage development of a secondary market, which would allow for securitization and sale of pools of crop receipt assets, thus injecting additional liquidity into the financial sector.

Environmental and Social Effects of the Proposed Program

9. As described below, the environmental risks are moderate and social risks are substantial due to the upstream nature of the two Results Areas and related DLIs, which focus on legal and regulatory reform. The downstream environmental and social risks that are envisaged are addressed by the ESSA Action Plan (see Chapter 7 and Annex 2), which will be incorporated into the Program Action Plan during the PforR negotiations stage.

10. **Environment Risks.** The proposed PforR is largely aimed at improving systems and legal frameworks to improve the enabling environment for private investments in agriculture and agribusiness. The Environment risk is moderate due to the upstream nature of the DLIs, which focus on legal and regulatory reforms and involve only minor civil works. It is, therefore, possible to identify and mitigate negative environmental consequences through review and capacity building as detailed in the PforR Action Plan. In preparing the ESSA, the team identified environmental risks as follows:

- **DLI 1 - Improving Efficiency of State Support in Agriculture Sector**, the main risk is overall capacity and lack of a proper system to engage the public by the Ministry – the suggestion is to install a proper public engagement strategy to ensure transparency in the Ministry’s service provision under the Program. This risk will be mitigated through training and capacity building of State GeoCadaster, other implementing Agencies, local councils, and a stakeholder engagement and public outreach campaign.
- **DLI 2 – Improving Functioning of Agricultural Land Markets, dealing with the possible registration of environmentally sensitive land for productive use identification of environmentally sensitive land in areas where registration and auctions are conducted.** Also, the state land could be used under lease or sublease category for agriculture. This risk will be managed through a series of actions including a robust grievance redress mechanism by the GeoCadaster, activating legal aid assistance centers at local authority level to provide free consultations and support for land lot registration, establishment of a land registration database which is transparent and accessible to the public and public awareness and outreach where the public could participate in land auctions and registration. The public information sharing and awareness campaign aims to make it easier for people to participate in land auctions and registrations as well as opportunity to protect poor current users to seek assistance through free legal aid, legal empowerment activities, Grievance Redress Mechanism (GRM) and or through existing legal procedures (court).
- **DLI 3 – Improving Agribusiness Small and Medium Sized Enterprise (SME) Access to Export Markets**, dealing with the construction of ten Border Inspection Points (BIPs), the only physical infrastructure financed by the PforR Financing – this risk will be mitigated by requiring proper environmental licensing and site specific ESIA/ESMPs to identify and mitigate risks.

11. **Social Risks.** While overall the Program will have positive impacts for different types of land users, especially, defined and clear land plots through registration of state lands will promote private investors to engage in business activities, the social risk is substantial due to the uncertainty and possible unfavorable outcomes. It does not involve private land acquisition and /or physical displacement. It is estimated that, out of 8.5 million ha of State agricultural land, only 3.7 million ha have been systematically

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

registered. Most of the state lands are located outside of communal/settlement areas and are currently used through various types of lease agreements. Although, there is no land acquisition or physical/forced displacement of persons or properties under the Program, potential restriction of access to those currently using of state lands for agriculture and livelihood activities under leased/rental basis is not ruled out. In case there are disputes or conflict in land use which cause displacement or restriction of access, such land parcels will not be subjected to auctions until such issues are resolved. The potential social risks include (a) implementation of a land registration program that gives equal access to users of state lands who may not have registered their land or are unaware the updated cadaster system; (b) potential conflict and/or disputes between different land users who have historical/customary rights as well as disputes at the community level for access to productive lands; and (c) potential resistance from some users of large agricultural lands who may lose such benefits and potential political opposition from some local power groups. The proposed baseline aims to identify the status of subsidy distribution. Relevant stakeholders will be consulted on process of streamlining subsidies to curb potential resistance.

12. In summary, the potential risks associated with unfavorable outcome for small producers under the actions proposed under DLI 2 are mitigated through series of measures as follows:

- Building on ongoing work, methodology for simplified inventory and registration of state-owned land as well as local land use planning that is in consistent with Bank environment and social requirements will be developed as part of DLI 2. The latter will include identifying the extent to which existing environmental laws and regulations (see Chapter 3) have been violated so that corrective action can be taken as needed with due attention to social implications, if any².
- Before activities to inventory state land are undertaken, public awareness/sensitization as well as training of officials in local administration and courts including on the methodology will be undertaken and the population will be made aware of the availability of free legal aid, and independent recourse with the business ombudsman, in addition to the enhanced GRM by Geocadaster, to facilitate transparent and effective dispute management.
- A public information system to identify land to be registered and transferred to local government and its processing status will be established to ensure a transparent process.
- Satellite imagery will be used to establish an independent pre-project baseline that would identify any structures established on state land to prevent spurious investment (e.g. construction of structures) with the aim of preventing transfer of such land to local Governments for subsequent auctioning. This will be considered as the cut-off date and no complaints/grievances related to structures built on state land after this date will be entertained. Information regarding the cut-off date and GRM will be publicized through media and other means so people will have an adequate platform to contest.
- State land that has pending disputes on it or that, based on World Bank policies, would require compensation for structures built or other non-moveable assets or livelihood assistance to individuals whose livelihood would be negatively affected, will not be auctioned unless such disputes have been resolved or compensation has been paid and/or livelihood assistance is provided in line with Bank requirements.

² Ukraine has a public cadaster map <https://map.land.gov.ua/kadastrova-karta> which anyone could access. Lands that are not included in the cadaster are either state or communal or may belong those, who registered their rights before 2013 (date of new system of registration lunched), but information is not introduced in the system yet.

Assessment of Borrowers Systems

13. The Government of Ukraine has enacted a range of laws, regulations, and procedures relevant to the environmental and social effects of the proposed Program. In preparing the ESSA, an assessment of that legal and regulatory framework as well as the capacity of potential implementing and associated agencies to comply with the framework was carried out. The assessment of the environmental and social management systems finds that the existing legal and regulatory framework addresses the social and environmental risks identified for the planned PforR; however, capacity for enforcing those regulations among respective agencies is mixed and will require strengthening as part of the PforR Action Plan. In addition to mitigating the risks identified, the Program Action Plan will address shortcomings by strengthening the capacity of the implementing agencies and their linkages with the Ministry of Environment and Natural Resources (MENR) and the State Environmental Inspection body (a MENR agency). Hence, the Program Action Plan (PAP) includes environmental and social management capacity strengthening of the relevant institutions not only technical knowledge but also environmental and social risk management, financial capacity to operate the system as designed.

Stakeholder Consultation

14. Stakeholder consultations were an integral part of the ESSA process and were carried in line with principles and objectives of similar Bank operations. Stakeholder consultations carried out at two levels; a) agency level, and b) community level. The first part of the consultations/focus group discussions with key implementing agencies were completed during the period between October to November 2018. The consultations with agencies responsible for implementing DLIs, more specifically the staff who are responsible for administering and managing social and environment regulations, grievance management systems and field staff implementing the laws and regulation were presented at the discussions. These focus groups discussions were carried out through structured checklists and questionnaires.

15. Second part of the consultation process with implementing agencies, community and public stakeholders including NGOs and Civil Society Organizations (CSOs) for the ESSA for the proposed Accelerating Private Investment in Agriculture Program was held on February 6, 2019. Chapter 6 of this ESSA discusses the consultation with the CSOs in more detail.

16. The Bank team made a presentation on the content of the PforR, particularly, on the DLIs and proposed activities to address existing barriers for private sector participation in developing and modernization Ukrainian agriculture sector. The Bank team also described PforR Financing instrument, since this is the first time it will be used in Ukraine, and ESSA process, including World Bank Core Principles. The participants of the consultation noted that the PforR aims to achieve a set of results that would improve the environment for private investment in the agriculture and agribusiness SMEs, particularly increasing competitiveness of input markets and linking SMEs and farmers to export markets.

Recommendations and Proposed Actions

17. The specific actions with the timeline and responsible agency are offered on the ESSA Action Plan in the Annex 2. The team proposes the following recommendations to implement an environmentally and socially sound Program: prepare Environmental and Social Guidelines for the Implementing Institutions; establish a coordinating unit within the MOF ensure compliance with the Six Core Principals; formulate guidelines on public consultation procedures; establish a communication and outreach program; ensure a robust grievance redress mechanism; and conduct capacity building for environmental and social risk management by participating agencies. The capacity building activities should ensure proper monitoring

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

and an appropriate regulatory framework for managing the small-scale construction of BIP (DLI 3), prepare safeguards instruments such as ESIA/ESMPs to identify and mitigate environmental, social and occupational health and safety risks. Overall, the recommendation is to institute systems of consultation and debate. Discussions with government agencies and stakeholders have revealed that a participatory outreach strategy to communicate the details of the proposed interventions to the stakeholders concerned is being developed and implemented in a timely manner.

1. INTRODUCTION

Program Description

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

2. The GSAP includes the following components: (a) Guaranteeing stability, predictability and transparency of agricultural policy and state support systems; (b) Stimulating the diversification of the agricultural production and promoting integrated development of rural areas; (c) Strengthening the national food safety system capacity; (d) Improving the efficient use of the available infrastructure for storage and transportation of agri-food products by creating a stable climate for investments in infrastructure and logistics; (e) Improving tenure security, value, and transparency of the use of state agricultural land; (f) Improving water resource management and user-led irrigation service delivery; (g) Creating preconditions for improved access to agricultural inputs for all types of agricultural producers; and (h) Improving access to finance and risk management instruments for all the stakeholders using the best EU and international practices.

3. Within this broader GSAP, the Program-for-Results (PforR) promotes key reforms to prioritize and focus the government's attention towards unlocking the private sector investment potential in the country's agriculture and agribusiness sectors. The Program Development Objective (PDO) for the P4R is to remove selected constraints to increased participation of private sector, in particular, SMEs in agricultural input and output markets of Ukraine. Following the Maximizing Finance for Development (MFD) approach, these key public investment, institutional, regulatory and public capacity constraints were identified as a priority during the extensive stakeholder consultations in the agriculture and agribusiness sectors and the existing analytical work. Consultations were held with a broad range of stakeholders, including with representatives of the Committee of Agrarian Policy and Land Relation; the Ministries of Agrarian Policy and Food, Finance, Infrastructure, Economic Development and Trade, and Environment; the National Investment Council; the State Service on Food Safety and Consumer Protection. Additionally, a number of trade associations and organizations including: All-Ukrainian Agrarian Union, Ukrainian Grain Association, Association of Ukrainian Orchard Producers, Ukrainian Club of Agri-businessmen, European Business Association, American Chamber of Commerce in Ukraine; and financial institutions such as: OTP Bank and Credit Agricole were consulted. The Program design was also informed by the findings of recent Bank analytical work, including the "*Ukraine: Sources of Growth*" study and the *Public Sector Expenditure Review in Agriculture* (both 2018), and a review of reports of other international organizations.

4. Table 1 below describes the relationship between the GSAP and the PforR Programs and their activities, outputs and outcomes in more detail and outlines the PforR boundaries.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

Table 1 - The Government Strategy and Action Plan on Leveraging Private investment in Agricultural and Agribusiness Sectors for 2019-2023 (GSAP) and the PforR boundaries.

Government Program Components Activities	Government Program Activities (GSAP)
Component 1: <i>Guaranteeing stability, predictability and transparency of the agricultural policy and state support system</i>	<ul style="list-style-type: none"> - Implementing mid-term budget planning for the agricultural sector; - Aligning medium-term expenditure framework with the strategic sector goals based on the transparent and evidence-based principles of agricultural policy design; - Improving monitoring of the state support allocation; - Enhancing analytical capacity at the MAFP to provide reliable agriculture sector information, analysis and assessments of proposed policy changes; - Improving evaluation of the agriculture state support efficiency.
Component 2: <i>Strengthening food safety system capacity in the country</i>	<ul style="list-style-type: none"> - Strengthening analytical capacity of the SSUFSCP in ensuring compliance with the SPS requirements of export markets; - Border control strengthening by establishing food safety border control points based on EU requirements and best practices; - Improving the animal identification system and creating of transparent user-friendly state system of animal registration; - Implementation of the pilot interactive map with information about use of plant protection products; - Establishing regulation for food traceability as per international best practice and in view of implementing the Food Safety Law; - Establishing the regulatory framework to enable compartmentalization³.
Component 3: <i>Encouraging and improving the use of infrastructure for storage and transportation of agri-food products</i>	<ul style="list-style-type: none"> - Improving efficiency and competitiveness of the inland waterway logistics; - Improving seaport logistics performance.
Component 4: <i>Improving tenure security, value and transparency of use of state agricultural land</i>	<ul style="list-style-type: none"> - Complete inventory and registration of State land; - Registration of received boundaries of administrative units in the State Land Cadaster; - Ensuring transparent transfer of ownership rights over public land to local communities and/or private individuals; - Ensuring full registration of ownership and use rights and interoperability between registers to protect land owners' and users' rights; - Increase owners' and users' awareness of their land rights and their protection.
Component 5: <i>Improving water resource management and user-led irrigation service delivery</i>	<ul style="list-style-type: none"> - Adopting the new legislation on Water User Organization (WUO) establishment; - Reforming water tariffs for irrigation & drainage service delivery; - Reforming the legal and regulatory framework for issuing groundwater-abstraction permits to agricultural water users and establishing of a web-based permit administration system; - Establishing a modern Water Information Management Systems (WIMS) which handles information on (i) water availability from multiple resources, (ii) status of irrigation and drainage systems and service delivery, and (iii) information on productive water use in agriculture, accessible via an open portal.
Component 6: <i>Creating preconditions for improved access to agricultural inputs for all types of agricultural producers</i>	<ul style="list-style-type: none"> - Enacting amendments to legislation to improve farmers' access to fertilizer by recognizing EU catalogues/lists for fertilizers; - Strengthening the enabling environment for agricultural input markets and service provision; - Enhancing technical modernization of agricultural production.
Component 7: <i>Improving access to finance and risk management instruments for all the stakeholders using the best EU and international practices.</i>	<ul style="list-style-type: none"> - Improving credit support mechanisms for farmers and cooperatives; - Development of state support for insurance of agrarian risks; - Improving the enabling environment and practices in agriculture lending including collateralization and value chain financing; - Expanding the use of crop receipts to include the creation of a secondary market.
PforR Boundaries	<p>Results Area 1 – Increasing Competitiveness of Input Markets: DLI 1; DLI 2. Results Area 2 – Linking SMEs and farmers to export markets: DLI 3.</p>

³ Compartmentalization is a concept where the animal population considered for trade maintains a functional separation through management or geographic boundaries that allow a clear epidemiological differentiation from animal populations of higher risk.

ESSA Methodology

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

6. The scope of the ESSA covers the activities and systems necessary to achieve the PDO, and the defined Results Area Framework of the Accelerating Private Investment in Agriculture Program for Results as represented by the Program's DLIs. A scoping analysis of potential participating ministries and agencies⁴ was completed to determine the applicability of each of the six (6) PforR Environmental and Social Core Principles to the three DLIs and Results Framework (Results Framework attached as Annex 1). Chapter 5 – Comparative Analysis of Borrow System and Bank Core Principles details the results of the coping analysis.

7. This scoping exercise was subsequently used to structure the remaining analysis of the ESSA which includes the following elements:

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

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

9. The methodology included three distinct elements: (i) the first consisted of interviews with concerned agencies to understand the contours and implementation processes of key interventions proposed, as well as to understand the motivation behind them; (ii) the second consisted of a review of documents, literature and data available at key government agencies on the regulatory frameworks related to environment and social risk management including grievance management systems; and (iii) the third consisted of a national level stakeholder consultation workshop which consists of a series of focus group discussions (FGDs), with special interest groups, like NGO representatives, local councils, and SMEs, to assess possible impacts on different categories of stakeholders. The national level stakeholder

⁴ Ministries and agencies who participated in the scoping analysis include (please note that not all of the Ministries and Agencies who participated in the analysis are participants in the Program): Ministry of Finance, Ministry of Agrarian Policy and Land, Ministry of Economic Development and Trade, Ministry of Infrastructure, Ministry of Environment and Natural Resources, Ministry of Justice, Ministry of Regional Development, Food Safety Agency, State GeoCadaster, The Sea Port Authority, State Agency for Water Resources, and GeoNadra.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

consultations took place on 6th February 2019 and the outcomes of the consultations are incorporated in the analysis – the discussions are detailed below in Chapter 6 – Stakeholder Consultation and a list of participants is attached as Annex 3.

2. ENVIRONMENTAL AND SOCIAL EFFECTS OF THE PROPOSED PROGRAM

Boundary Settings and Risk Management in Program Design

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

Excluded Activities

11. The PforR does not support any major physical investment-related activities (large civil works and activities requiring land acquisition and/or physical displacement). Rather it aims to improve business environment and service delivery for private investment in the agriculture sector through strengthening regulatory frameworks, governance, and accountability. In addition, any land which is currently used or occupied by people (with or without formal or legal claims) will be excluded from the auction process unless such disputes have been resolved or compensation has been paid and/or livelihood assistance is provided in line with Bank requirements.

Potential Environmental and Social Benefits and Risks

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

13. The potential environmental and social risks of the PforR are assessed to vary from moderate to substantial. The PforR does not finance any major investment-related activities (large scale civil works). The potential social and environmental risks and impacts are expected to be related to: change in land use; and small-scale construction of ten border inspection points (BIPs). These potential risks can be managed and mitigated through establishment of current baselines, proper planning, monitoring of the implementation, and capacity building for the Program’s implementing and associated agencies. Table 2 below, summarizes identified environmental and social risks associated with the PforR implementation.

Table 2 – Environmental and Social Risks and Benefits

DLIs	Environmental and Social Benefits	Environmental and Social Risks
DLI 1: Improving Targeting and Efficiency of State Support in the Agriculture Sector.	Improved registration, monitoring, conflict resolution around land parcels and land dedication (agricultural use, nature protection, etc.). Improved capacity to oversight environmental aspects.	Potential social risks due to demarcation and registration of state land which are already under different type of use e.g. lease and sublease and informal use of state land.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

DLIs	Environmental and Social Benefits	Environmental and Social Risks
<p>DLI 2: Improving Functioning of Agricultural Land Markets: <i>Sub-DLI 2.1: Increasing Registration of state land;</i> <i>Sub-DLI 2.2: Improving transparency and competitiveness of state land lease system;</i> <i>Sub-DLI 2.3: Improving protection of rights in land and mortgage market;</i> <i>Sub-DLI 2.4: Strengthening of the legal aid system.</i></p>	<p>Improved registration of land parcels and their designation will benefit protection of buffer zones and protected areas. Reduced conflict around the parcels as there are many cases (land given in permanent use that has not been registered and formally transferred out of the domain of the state) where registration will enhance tenure security. Reduced corruption/misuse of the subsidy programs. Improved land management since transparent auctions of the lease or ownership rights would provide long-term guarantee to the land. Reference number for land price. A methodology/procedure on land pricing).</p>	<p>Opposition to put the registry in place as it may cut off subsidies to some categories. Land that designated for nature protection could be used for some productive use. State land does not include communal or private lands. State land defined as agriculture lands are currently use under lease/sub-lease agreements. Since the Program aims at registering only the state land which cannot be owned privately (moratorium) no small farmers/current users will be affected or displaced as a result of agriculture land registration. Only potential conflict is lease and sublease agriculture operators who might have obtained lands on price that is estimated low price originally. (In areas which some who have extended the agriculture in river basins, forest reservations, the land registration aims at providing clear boundaries and reinforce nature reserve /protected area boundaries. The land used informally extending reservation areas will be regularized. There are no permanent crops cultivated land and only seasonal crops and those who have cultivated in such lands at the time of registration take place, they will be given fair amount of time to harvest their crops before the boundary demarcation). Free legal aid centers at local level aimed at providing information and services for current land users to register lands systematically.</p>
<p>DLI 3: Improving Agribusiness SME Access to Export Markets: <i>Sub-DLI 3.1: Promoting SME access to export markets;</i> <i>Sub-DLI 3.2: Facilitating cross-border trade.</i></p>	<p>Improved food safety by applying EU standards/methodology for import-export controls, applying traceability.</p>	<p>BIP construction: request EIA reports for their sites (EIA well established procedure, check SSUFSCP); Occupational Health and safety.</p>

Social and Environmental Benefits

14. The 2013 establishment of a new state cadaster system as well as the registration of clearly designated land parcels provides benefits through improved transparency in the agriculture land lease system. The PforR's three DLIs could potentially lead to protection of rights as well as improvements in environment, sanitary, natural resource, and related legislation. Sanitary protection zones along water

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

courses, wetlands, and protected areas as well as their buffer zones could be developed and properly managed. It would also benefit soil quality and land management practices since transparent auctions of the lease or ownership rights would provide long-term guarantee to the land leaseholder and potentially attract further investments in the agricultural sector. In the long-term, greater transparency should lead to greater trust between land owners and leaseholders, local and international businesses, and the local and national government.

15. The DLI 3 activities will result in improved food safety that will be reached by applying the legislation on quality and safety of food products and implementation of measures, that includes installation of border inspection point for import/export food and other agricultural commodities.

Social and Environmental Risks

16. The environmental risks are moderate and social risks are substantial due to the upstream nature of the two Results Areas and related DLIs, which focus on legal and regulatory reform. The downstream environmental and social risks that are envisaged are addressed by the ESSA Action Plan (see Chapter 7 and Annex 2), which will be incorporated into the Program Action Plan during the PforR negotiations stage.

17. In preparing the ESSA, the team identified social and environmental risks associated with Results Area 1 on increasing competitiveness of input markets and Results Area 2 on linking SMEs and farmers to export markets and their related DLIs.

18. The registration of land plots may result in land that is designated for nature protection being used for some productive purposes. Absence of clear and comprehensive community land boundaries may result in tension and disputes between neighboring areas as well as competition among local population for the land parcels. The current legal aid system, when strengthened through the PforR at the level of local authorities, will provide services including geophysical information for local land owners on land registration.

19. The construction of ten BIPs is the only physical infrastructure financed by the PforR Financing. If the construction of BIPs will be done properly with site specific ESIA/ESMPs in accordance with Ukrainian EIA and Occupational Health and Safety regulations, the risk of the results of the activity will be negligible. A detailed description of actions to mitigate identified social and environmental risks can be found in Chapter 7 and Annex 2.

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

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

- Law on Environmental Protection⁵, #1264-XII, adopted on June 25, 1991;
- Law on Nature Reserve Fund⁶, #2456-XII, adopted on June 16, 1992;
- Law of Ukraine on Pesticides and Agrichemicals⁷, #86/95-BP, adopted on March 2, 1995;
- Water Code⁸, #213/95-BP, adopted on June 6, 1995;
- Law of Ukraine On Plant Protection, #180-XIV, adopted on October 14, 1998;
- Land Code⁹, #2768-III, adopted on October 25, 2001;
- Law on Land (Sub-soil) Protection¹⁰, #962-IV, adopted on June 19, 2003;
- Law on Environmental Audit¹¹, #1862-IV, adopted on June 24, 2004;
- Law on Urban Planning Activities¹², #3038-VI, adopted on February 17, 2011;
- Law on Access to Public Information, #2939-VI, adopted on January 13, 2011;
- Law on Voluntary Association of Territorial Communities, #157-VIII, adopted on February 5, 2015;
- Law on Environmental Impact Assessment¹³, #2059-VIII, adopted on May 23, 2017;
- Law on Strategic Environmental Impact Assessment, #2354-VIII, adopted on March 20, 2018, and
- Secondary legislation adopted to cover practical implementations of the legislation mentioned above, defines public information request, grievance mechanisms and others, for example:
 - The Decree of the Cabinet of Ministers of Ukraine No. 1026, December 13, 2017 defines the Procedure for the transfer, disclosure of documents required for the assessment of the environmental impact from financing of the project and registration of the project EIA in the Unified Register on Environmental Impact Assessment;
 - The Order of the Ministry of Ecology and Natural Resources of Ukraine #42, adopted on February 3, 2012, On Approval of the Procedure for Consideration of Requests for Public Information Received by the Ministry of Ecology and Environmental Protection of Ukraine, defines procedures;
 - The Order of the Cabinet of Ministers of Ukraine on Procedure and Criteria for Provision of Subvention from the State budget to Local Budgets of Associations of Territorial Communities for Infrastructure Development; and
 - The Order of the Ministry of Ecology and Natural Resources of Ukraine #234, adopted on June 23, 2017, On Approval of Permit Form for Special Water Use and Forms of Normative Calculation of Water Use and Drainage.

21. Despite this comprehensive list of environmental legal and regulatory acts, most of provisions remain declaratory in nature, the implementation/enforcement of legislation undergoes limited analysis

⁵ <http://zakon.rada.gov.ua/laws/show/1264-12>

⁶ <http://zakon.rada.gov.ua/laws/show/2456-12>

⁷ <http://zakon.rada.gov.ua/laws/show/86/95-%D0%B2%D1%80/ed20120321>

⁸ <http://zakon.rada.gov.ua/laws/show/213/95-%D0%B2%D1%80>

⁹ <http://zakon.rada.gov.ua/laws/show/2768-14>

¹⁰ <http://zakon.rada.gov.ua/laws/show/962-15>

¹¹ <http://zakon.rada.gov.ua/laws/show/1862-15>

¹² <http://zakon.rada.gov.ua/laws/show/3038-17>

¹³ <http://zakon.rada.gov.ua/laws/show/2059-19>

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

of its impact. Enforcement is not fully coordinated or streamlined, resulting in either duplication of efforts or gaps because of assumed redundancies. The signature of the EU-Ukraine Association Agreement is expected to spur enhancing environmental legislation, improving enforcement of environmental legislation and regulations, and stronger coordination among regulatory and enforcement bodies thus bringing the system in line with the EU directives and requirements. The Program will attempt to move this process along through supporting efforts to streamline laws and regulations and build regulatory and enforcement capacities.

Environmental Aspects

22. The Law of Ukraine on Environmental Protection, adopted in 1991, regulates institutional relations on environmental protection; water resources usage and management; renewable resources usage; environmental safety; prevention of negative impacts of productive activities on natural environment; preservation of nature and genetic fund of living organisms; preservation of unique landscapes including historical heritage. It sets a mandatory requirement for carrying out environmental impact assessments (EIAs). Since 2017, the Law on EIA requires project proponents to conduct the EIA and have it licensed by MENR, which keeps a registry of EIA reports. In 2018, the Law on Strategic Impact Assessment, which MENR performs, was adopted.

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

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

25. Furthering regulation on pest management, the 1998 Law on Plant Protection introduces the concept of Integrated Pest Management (IPM). The law states that IPM is one of the pest management principles nationwide and implementation of IPM is a part of MAPF's responsibilities.

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

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

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

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

29. The Law on Environmental Audit (2000) determines the basic legal and organizational principles of implementation of environmental audit. The Law defines environmental audit as an independent documentary process of assessment of object of environmental audit including collection and objective assessment of proofs for establishment of compliance of certain types of activity, measures, conditions, systems of ecological management, and information. Provisions of this law extend to companies, organizations, their branches and representations or associations of all forms of ownership, separate productions, other economic objects in general, or by separate types of their activities.

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

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

32. The most significant changes were:

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

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

- Simultaneously with authority, there are broad grounds for conducting an unscheduled inspection of the construction site, for example, simply on the basis of an application submitted by any individual. Such unscheduled inspections are beginning to take place on a limited basis.

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

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

35. Recently adopted Law of Ukraine 'On Environmental Impact Assessment' came into force on December 18, 2017. The Law sets legal and organizational policies for an environmental impact assessment with a view to avoid and prevent environmental damage, ensure environmental safety, environmental protection, rational use and restoration of natural resources, in the process of decision-making on economic activities likely to cause a significant impact on the environment, taking into account state, public and private interests.

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

Social Aspects

37. The Land Code of Ukraine was approved on March 03, 1992 and declared that there are three kinds of property to land: state, collective and private. Persons or firms interested in building any buildings or assets need to purchase and registered the land from the Government and local authorities. Collective means the property that at the same time belongs to a collective agricultural enterprise (CAE). Collective property might be equally shared among members of the CAE, if they apply.

38. On August 8, 1995 President of Ukraine issued the decree of the president "On the order of sharing of the land that are provided to collective property of agrarian enterprises". According to the decree of the president proses of sharing the collective lands started. Each of the members of former CAE received certificate. The document does not contain borders but confirms that the person has rights to ask for land plots with definite characteristics and registration as land ownership rights.

39. Ukraine did not have a system of registration rights on real estate during the period of the Soviet Union. Registration of real estate and land rights were introduced in Ukrainian legislation, efficient system of registration and cadaster was lunched starting January 01, 2013. Real estate and land right registration

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

was paper based, not centralized, and subordinated to the local power (each rayon had its own software). Registration of land was separated from the registration of buildings, constructions and flats, there was no synchronization of data, a number of other registers existed (like register of contracts, register of hypothecs, register of arrested property etc.), and no coordinated or unified system at national level exist.

40. Under the new system of registration that was launched on January 1, 2013, there are two laws that govern the system:

- Law of Ukraine State “On state registration of property rights and its encumbrances” of June 01, 2004: (in Ukrainian: “Про державну реєстрацію речових прав на нерухоме майно та їх обтяжень”). Rights on real estate (flats, buildings, constructions as well as on land plots) are registered according to the law.
- Law of Ukraine “On state land cadaster” of July 7, 2011 (in Ukrainian: «Про державний земельний кадастр»). According to the law, the system of registration of lands is created as well as other technical and other information related. If a land plot is registered, it becomes an object of property rights. The new system of registration and of land and property rights addresses some of the mistakes in the Soviet period but there are many steps that need to be taken in order to make it more systematic and effective.

41. Ukraine also has a constitution that was approved in 1996 that is related to economic activity in agriculture based on farmer’s business.

42. There are two contradicting ideas that are directly related to land law (13 and 14 article): Land is declared as the property of the people of Ukraine (that may be understood as it is only state property allowed while only state may represent people of Ukraine). At the same time, the next article says that private property is allowed. As described above, the property of the people means “public” land which cannot be sold without the Government permission. The ‘public’ lands can be in forms of agriculture, industrial, forest, or other forms. Private lands, on the other hand, means lands where individuals who have clear written evidence in ‘Red books’ maintained by local authorities with proof of land ownership of particular owner.

43. Ukraine has the Civil Code of Uribe that was approved in 2003, which states that property rights were settled based on freedom of property, contracts, dignity and respect to rights of citizen. This code is based on socialist principles emanating from the Soviet period but is still considered relevant. Nevertheless, Ukrainian land and agrarian business law still contain archaisms and ideas that are either populist or not in forcible. There are two key aspects in this regard: 1) Populist or not in forcible ideas of land law -Free privatization: everyone may receive land for free (maximum 2 ha of rural land, the rest is for buildings, garage, etc.). These lands belong to the people (public) of Ukraine and any lawful citizen who intends to construct a house, self-income including small agriculture (homestead), or industrial purpose has the right to apply for a piece of land from the government. The state agency in the respective location then assesses the application and will decide to offer a piece of land depending on the purpose of the use of such land.

44. Since January 1, 2013, State land cadaster system attempted maintain one unified register, known as The Nation-Wide Register of Property Rights to Immovable Property, covers both the land and real estate other than the land. The authority that administers the nation-wide registration of rights to immovable property is the State Registration Service of Ukraine assisted by the local departments of the Ministry of Justice of Ukraine. The owners of the property have to register their property rights in the new register before the property can be sold.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

45. Another important element of land and property rights is the determination of jurisdiction of land plot. Land legislation differentiates types of property depending on the subject: state, communal and private property. Land plots outside the boundaries of a local council (communal) are considered as state owned land (as general rule), but through decentralization process, many land plots of state property is passed to the local council which complicated the land use rights at local level.

46. Ukraine has two kinds of public property on land: communal and state ownership. Communal lands are governed by local councils, but state – by local power which is subordinated to the central power (local state administration and local branch of State Geocadaster). At the same time, Ukraine has the process of decentralization which is currently in progress, which means that land is passing from central power to local authorities (local councils) The proposed registration of land under DLI 2 aims at only the land outside the communal land boundaries.

47. Furthermore, the Land Code of Ukraine provides for a moratorium on the purchase of the following categories of agricultural land:

- state and municipal agricultural land;
- private agricultural land designated for commercial agricultural production; and
- land parcels which were allocated to the owners of land shares for carrying out private agricultural households, until commencement of an act on circulation of agricultural land.

48. A Moratorium for agriculture land was launched (2001). The formulation of the moratorium was modified several times and extended revised each year. The in current edition the moratorium states that it will be shifted from January 01, 2020 but no actions have been initiated by the Government yet.

49. The prohibition of circulation of land includes land shares and land rural plots that were received from former CAEs, as well as state and rural land, but is not applicable to change operation (barter), inheritance, the purchase of land for public needs, and those plots that are received according free privatization rules. Such plots can be rented out, but the sale of plots is prohibited.

50. Debate on whether to continue the moratorium and it is constitutionally correct is still ongoing. For example, in March 2018, the ECHR (European Court of Human Rights) heard the case “Zelenchuk and Tsitsura vs Ukraine” and Ukraine lost. The ECHR decided that the moratorium violates the rights of owners for peaceful possession of the property (Article 1 Protocol 1 of Convention on Human Rights) but gave time for Ukraine to approve proper legislation.

51. It is also important to mention that, generally under Ukrainian law, non-Ukrainian citizens and legal entities may own non-agricultural land and other real estate in Ukraine but the Land Code of Ukraine prohibits acquisition of agricultural land by non-Ukrainian entities. Non-agricultural land located within the boundaries of a populated locality (city, town, village, etc.) can be purchased by non-Ukrainian citizens. If they own on-land structures outside the boundaries of a populated locality, they may also buy non-agricultural land on which such structures are erected.

52. Legal aid services for land registration were introduced to assist land users in rural areas to formally register their lands. The Law of Ukraine “On Free Legal Aid” binds local self-government bodies to provide legal aid to the residents. The access of people living in remote areas to social and legal aid is significantly limited. Unlike city residents, rural people have access to much fewer providers where they can get legal information or advice. It often leads to the violation of their rights and prevents them from

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

enjoying and protecting their rights. Free legal aid is a safeguard for access to justice and building legal capacity of vulnerable groups.

53. In summary, Ukraine's legal framework and regulations related to land are not straightforward. In general, there are two kinds of public property – state and communal. The rules are general for all of the land plots, including private. According to article 79-1 of Land Code of Ukraine, (Creation of land plot as an object of civil rights), registration is the process of survey, including drawing boundaries (setting measures). As per the article, Land plots may arise in such cases:

- If a land plot is created by extraction of a land plots from state or communal property;
- If a land plot is divided into two or more land plots or two or more land plots are merged;
- In case boundaries of land plots of state or communal property were changed due to changes in land planning documentation;
- If inventory was done in cases preceded by law; and
- If land planning documentation is produced on land shares.

4. CAPACITY ASSESSMENT FOR MANAGING THE PROGRAMS ENVIRONMENT AND SOCIAL EFFECTS

54. The Ministry of Finance will be the ministry with overall responsibility for the delivery of the PforR. The responsibility of the implementing institutions (Ministries and Agencies participating in the Program) for the various DLIs is as follows:

- DLI 1: Improving Targeting and Efficiency of State Support in the Agriculture Sector will be implemented by the Ministry of Agrarian Policy and Food (MAPF).
- DLI 2: Improving Functioning of Agricultural Land Markets: State Service of Ukraine for Geodesy, Cartography, and Cadaster (State GeoCadaster) will be responsible for sub-DLIs 2.1 and 2.3., Ministry of Regional Development (MRD) will be responsible for sub-DLI 2.2., and the Ministry of Justice (MOJ) will be responsible for sub-DLI 2.4.
- DLI 3: Improving Agribusiness SME Access to Export Markets (in collaboration with the SSUFSCP).

55. The implementing institutions will carry out all functions related to the technical implementation of their respective DLIs or sub-DLIs, as well as Procurement, Financial Management, and any Safeguards functions related to the implementation of the DLI/sub-DLIs.

56. MAPF does not have any structural department and/or staff dedicated to environmental issues, nor does it have any interim procedures for assessment of environmental risks and impacts of policy developments. Historically and according to the existing legislative base all the environmental issues related to these DLIs (allocation of protective status to land, water quality assessment and monitoring, requirements for wastewater discharge systems etc.) are dealt with by MENR and State Environmental Inspection (body under MENR supervision). With regard to aspects of social protections, subsidies, anti-corruption measures, the MENR will work with Ministry of Social Policy which is one of the central Ministries responsible for social development aspects and issues. Both MENR and Ministry of Social Policy have dedicated websites to engage with citizens on issues they are facing in providing services by agencies under these Ministries.

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

58. For DLI 2, MRD manages the budgetary funds, for example, the State Fund on Regional Development, and distributes budget funding to newly formed amalgamated territorial communities for implementing their development plans each year. It appears that the MRD does not have qualified staff to check community programs on potential environmental and social risks. The existing Procedure for distributing funds from state budget to the amalgamated communities (No 200, approved by the order of Cabinet of Ministers of Ukraine on March 16, 2016) contains guidance on expense categories that can be included in territorial development plans, however, does not provide any guidance on screening for potential environmental and social risks from those programs.

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

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

60. Main tasks of State GeoCadastral according to Ukrainian legislation are¹⁴:
- Implementation of the state policy relating to land distribution; forming a proper national system of land ownership/registration; and creation of ecologically sustainable landscapes and agro-systems.
 - Informational support of legal, economical, ecological and city planning mechanism of land relations regulation on national, regional, local and household levels by the development of proposals on establishment a special regime and special conditions of land use.
 - Providing activities on predicting, planning, and organization of rational land use and land protection on national, regional, local and household levels.
 - Organization of local agricultural enterprises territories with creation of spatial conditions that ensures ecological and economical optimization of agricultural lands use and protection, implementation of advanced forms of land use management organization, improvement of correlation and placing of lands, crop rotation, haymaking and pasture system.
 - Main task relating to land protection that is carried out by regional bodies of land resources is to provide the preservation and reproduction of land resources, ecological value of natural and gained land characteristics.
 - Competence of bodies of land resources relating land protection:
 - Development of basis and support in achievement of rational land use;
 - Protection of agricultural lands, forests and shrubs from their baseless exclusion for other needs;
 - Protection of lands from erosion, mudflows, flooding, waterlogging, salinization, draining, compaction, industrial waste/chemical/radioactive pollution, and from other adverse natural and man-made processes;
 - Preservation of natural wetlands and swamplands;
 - Prevention from aesthetic condition and ecological role deterioration of anthropogenic landscapes; and
 - Conservation of degraded and unproductive agricultural lands.
61. This responsibility has been delegated to the department in late 2016 and became operational in March 2017. Staff of the department is listed at 22 people for central office and 1018 people for regional office. As of mid-2017 the department for significantly understaffed (about 50 percent). This is a reorganization of the department and some new staff have been recruited.
62. The first compliance inspection was dedicated to natural reserves lands, as well as unoccupied lands and state-owned lands. Inspection has found numerous cases of incompliance causing agricultural losses and many cases of illegal land possession.
63. The Land Management and Land Protection Department is authorized to:
- Substantiate and ensure the achievement of rational land use.
 - Protect agricultural land, forest lands and shrubs from ungrounded allocation for other needs.
 - Protect lands from erosion, landslides, flooding, waterlogging, secondary salinization, re-drying, sealing, pollution by production waste, chemical and radioactive substances and from other unfavorable natural and man-made processes.

¹⁴Regulation of the Cabinet of ministries # 15 of January 15, 20015 (Ukr.: Положення про Державну службу України з питань геодезії, картографії та кадастру, затверджена постановою Кабінету Міністрів України від 14 січня 2015 р. № 15) -- <http://zakon.rada.gov.ua/laws/show/15-2015-p>

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

- Conserve natural wetlands and swamplands.
- Prevent deterioration of the aesthetic state and the ecological role of anthropogenic landscapes.
- Conserve degraded and unproductive agricultural land.

64. However, State GeoCadastral is not authorized nor is it equipped with proper expertise to issue category of 'protected lands' (in a sense of 'natural reserve') – this is done through environmental expertise and submission from the Department of Environmental Network and Nature-Protection Fund of the MENR. Potential social risk is related to disputed land parcels due to unclear boundaries between land plot and improper demarcation of state and communal land. Even though State GeoCadastral is responsible for land registration in the cadastral system, they enter the data based on the measurements and geocoordinates provided by local authorities and verified by numerous land registration agents and those coordinates may differ in reality. Main implication is that real footprint of sensitive lands may differ from the originally demarcated area assigned to them on paper. For example, some 'environmentally-not-so-special' lands would be preserved as 'nature reserves' while the neighboring areas would have reassigned as agricultural lands. This will be addressed by providing advance technology and training for the Geocadastral and local authorities to in local level planning for land registration/demarcation under the Program.

65. From social perspective, the Ministry of Justice (MOJ) system is in compliance with State GeoCadastral system, though the MOJ system needs to be further developed in order to ensure that each transaction on the land market is available immediately at the registries.

66. The SSUFSCP has many environmental responsibilities in the field of pesticides use management, invasive fauna control, livestock disease prevention and other similar issues. Still, in the matters pertinent to the subject of the DLI 3 (which entails construction/reconstruction of buildings). The SSUFSCP does not have any oversight for environmental risks and impacts as they are governed by environmental legislation and authorized state body – MAPF.

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

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

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

70. Departments and agencies relevant to the implementation of DLIs and their human resources in the central office:

- Department for protection of land, soil and water resources – 11 people;
- Department for environmental network and nature reserve fund – 20 people;
- Department for waste management and environmental safety – 9 people;
- Department for environmental impact assessment and environmental permits and certificates – 23 people; and

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

- Department for budget policy and financial planning – 17 people.

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

72. The State GeoCadastral is the central executive body responsible for land registration and oversight. It is coordinated by the Cabinet of Ministers of Ukraine via the Vice-Prime Minister of Ukraine – Minister of Regional Development, Construction, and Housing. The State GeoCadastral's mandate includes topography, geodesic survey, cartography, land relations, land use systems, state land cadaster, state oversight (control), use and protection of land of all categories, fertility of land, and land ownership¹⁵.

73. Following are the directions of activity of the State GeoCadastral: i) cadaster and registration; ii) geodesy and cartography; iii) administrative services; iv) land use system and land protection; v) expertise; vi) assessment of land; vii) certification; viii) land market; and ix) disposal of state land.

74. The State GeoCadastral has its own complaint handling mechanism called 'Doc Prof' system which allows the public and land users to forward all requests/grievances/complaint/appeals to the agency. The referral system under the designated department usually takes about 10 minutes to register any of such grievances submitted, online, by Department on Citizens Appeals. It takes two weeks (15 days) in general to process and respond to a grievance but the deadline is up to 30 days (according to Ukrainian Law). Around 80% of the grievances are referred to the Local Cadaster Departments for review, further action, and verification. The regional Cadaster departments (Poltava, Kharkiv, Lviv, Kyiv, etc.) are responsible to provide responses to the complainants with copies to the State Cadaster Agency for their records. The status of appeals is closely monitored weekly with report being sent to the State Cadaster Agency on Fridays. There is designated focal point in the agency responsible for monitoring the appeals and their resolutions. According to information available, between 2013 and 2018 a total of 398,212 appeals (which include both requests as well as complaints related to land boundaries) were received by Regional and local branches and 5069 were directed to the central State Cadaster Agency. As per the discussions with officials, all such public appeals have been addressed and no records to check how many have been referred to Courts or other legal means.

75. Total staff providing services to the public is 274 at Central agency in Kiev and 9750 in countrywide services locations in oblast level State GeoCadastral offices. However, there are no established systems for social and environmental risk management under the Geocadastral except the mechanism to receive public requests, appeals and grievances.

¹⁵ Regulation of the Cabinet of ministries # 15 of January 15, 2015 (Ukr.: Положення про Державну службу України з питань геодезії, картографії та кадастру, затверджена постановою Кабінету Міністрів України від 14 січня 2015 р. № 15) -- <http://zakon.rada.gov.ua/laws/show/15-2015-p>

5. COMPARATIVE ANALYSIS OF BORROWER SYSTEM AND BANK CORE PRINCIPLES

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

77. The six core principles that guide the ESSA analysis are presented in the Bank Policy and Bank Directive Program-for-Results Financing and include:

- **Core Principle 1: General Principle of Environmental and Social Management.** This core principle aims to: (a) avoid, minimize, or mitigate against adverse impacts; promote environmental and social sustainability in Program design; and promote informed decision-making relating to the Program's environmental and social effects.
- **Core Principle 2: Natural Habitats and Physical Cultural Resources.** This core principle aims to avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources resulting from the Program.
- **Core Principle 3: Public and Worker Safety.** This core principles aims to protect public and worker safety against the potential risks associated with: (a) construction and/or operation of facilities or other operational practices developed or promoted under the Program; (b) exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and (c) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.
- **Core Principle 4: Land Acquisition.** This core principle aims to manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assist affected people in improving, or at a minimum restoring, their livelihoods and living standards.
- **Core Principle 5: Indigenous Peoples and Vulnerable Groups.** This core principle aims to give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups. The core principle also emphasizes the need of giving attention to groups vulnerable to hardship or disadvantage, including as relevant the poor, the disabled, women and children, the elderly, or marginalized ethnic groups. If necessary, special measures are taken to promote equitable access to Program benefits.
- **Core Principle 6: Social Conflict.** This core principle aims to avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial disputes.

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

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

80. The ESSA describes the potential environmental and social effects associated with the PforR supported activities. The ESSA also assesses institutional roles and responsibilities related to implementing the DLIs and describes current capacity and performance to carry out those roles and

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

responsibilities in line with each of the six Core Principles outlined above. The ESSA also considers public participation, social inclusion, and grievance redress mechanisms in place and as applied to the PforR.

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

Summary of Existing System Assessment Against Core Principles

82. The assessment of existing environmental and social management system with regards to the agribusiness sector was carried out in line with each of the six Principles where applicable. The summary of assessment presented below identifies the strengths, weaknesses and opportunities of the existing system and proposes activities for the Program for Action. It is clear that, while Ukraine has a decent set of laws and regulations applicable to the Six Core Principles, there remains a basic capacity gap in most implementing and associated agencies, including MAPF, MENR, MRD, MOJ, SSUFSCP, and State GeoCadaster. This lack of capacity poses a risk to the implementation of the PforR without the inclusion of a time-based plan for significant capacity building for the implementing and associated agencies around the core principles.

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

84. The assessment of the laws and regulations on environmental protection, environmental impact assessment, land and water protection and usage indicates that the national legal and institutional frameworks for managing environmental issues in the agricultural and agribusiness sector are adequate, at least on paper. The EIA Law approved in May 2017 (#2059-VIII) and the EIA procedure approved by the Cabinet of Ministers Decree clarified EIA requirements, public consultation and disclosure, and enabled operation of a designated website and depository for the EIA. However, the functions of various ministries, agencies, as well as other national and regional authorities are not clearly defined due to ongoing decentralization and proposed changes in legislation. The ESSA has also reviewed the existing environmental and social risk management capacities of the PforR implementing and associated agencies and finds that, in practical terms, the systems and institutional frameworks are generally not adequate to address all environmental and social risks; therefore, a capacity building on technical and safeguards issues is recommended.

85. The implementation of the existing legal and regulatory provisions often faces challenges, specifically, due to lack of enforcement and monitoring capacity, as well as regular changes or cancellation in multiple regulations.

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

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

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

89. **Core Principle 4: Land Acquisition.** The Program does not involve land acquisition and resettlement (LAR). Hence, there will be no direct adverse impacts related to land acquisition or access to natural resources. As indicated before, the Program aims at registering agriculture lands (which cannot be sold under the exiting moratorium) and the potential for displacement of persons remains highly unlikely. But restriction of access to those who may have been (illegally) using lands close to natural reserves, forest resources, and river basin zones as a result of new land registry is not ruled out. As a former Soviet State, Ukraine retains several land use regimes that are an impediment to efficient use of land for agriculture. Therefore, the implementation of a transparent and accountable system of land registration may enhance rights and duties of land users on plots to be developed. It is worth mentioning that even though the state register itself is functioning well, the main issues is with filing of land information/in the register. In this regard, the ESSA recommends training for land registry officers, ecological inspection officers and NGOs on subjects of proper identification and mapping of environmentally sensitive areas, as well as public disclosure of said findings. This is particularly important due to the planned use of orthophotography to produce topographic maps in 17 oblasts. It is also possible that some users and legal entities who may have user rights before 2013 might not have claimed or registered their lands in the State [Land?] Cadaster and State register of rights for immovable property¹⁶.

¹⁶ In the Soviet Union there were no private property rights to land plots to natural or legal entities, but starting from 1992, people have the rights to claim lands. New system of rights lands their registration lunched in January 01, 2013. Hence, not all the information on rights obtained before the date are in the register and cadaster. Ukraine has two databases: State land cadaster and State register of property rights. The function of the State land cadaster is registration of land plots itself with all technical information.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

90. The reviews and initial assessments of potential issues and risks in public land registration identify following as key challenges to implement systematic land registration process in the country (a) Excess land use: When comparing orthophotographic results and topographic information, there might be cases when the owner illegally/informally uses a larger area than the boundaries stated in the formal documents (this is possible in areas where people have agriculture lands closer to the protected areas and forest covers); (b) Absentee titleholders: There may be individuals who hold titles and have not registered their ownership rights because they have immigrated or are currently abroad; (c) Unidentified land plots: Not all land plots outside the locality, for which titles are issued, can be identified by the local authority. It means that a person holds a title, but the local authority can not specify its geographic location; (d) Lack of legal clarity: At the legislative level, there are no clear rules for resolving the above, as well as other risks. Also, established procedures for correcting errors are vague; (e) Lack of institutional clarity: The local authority does not hold full information about the owners of land plots, thus it is difficult to identify owners (title holders). Although these risks may pose considerable challenges to implement DLI 2, the State GeoCadastral agency has improved its capacity over the past few years and currently possesses necessary human and technical resources to handle these issues. The State GeoCadastral, has a well-established system of registration of lands register the lands when they file a case. The institutional assessment indicates, that the centralized database on land plots and GPS based mapping and updating of land lots countrywide is taking place systematically. The State GeoCadastral also has a responsive land surveying and grievance handling system in place. However, the ESSA proposes few additional mitigation measures/actions to address the above issues under the Program.

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

92. **Core Principle 6: Social Conflict.** There are no potential social conflicts or disputes that arise due to the Program's implementation. It should be noted that due to the events in Crimea in March 2014, and the armed conflict in Eastern Ukraine since 2014, the Program only covers areas in the North, South and West of the Country.

93. Regarding the conflicted areas in Crimea and Eastern Ukraine, the assessment revealed that there are some legal documents registered in the State Register of Land based on information from an

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

assessment carried out January 1, 2013 by the territorial authorities of the State Cadaster Agency of Ukraine. As of February 2014, in the archives of territorial authorities of the State Cadaster Agency, land plots located in the respective territories are available in paper form (ground books, books of records on state registration of state acts of ownership on a land plot and the right to permanent use of land, land lease agreements, as well as documentation on land management, information from which should include ground books in electronic form). According to part three of Article 25 of the Law of Ukraine "On State Land Cadaster", the Land Book is to be kept in paper and electronic (digital) form. The lack of information from the local land documentation regarding up-to-date information on land plots located in the aforementioned conflict areas makes it impossible to enter digital information into the State Land Cadaster on land plots for the respective territories.

94. In all other territories of Ukraine, registration of land plots is carried out in accordance with the procedure established by the Law. Overall, the complexity related land registration may not pose a serious threat or challenges to the Program implementation.

6. STAKEHOLDER CONSULTATION¹⁷

95. Stakeholder consultations were an integral part of the ESSA process and were carried out keeping in view similar principles and objectives of other Bank operations. Stakeholder consultations were carried out at two levels: a) agency level and b) community level. The first part of the consultations/focus group discussions with key implementing agencies were completed as a part of the missions during the period between October and November 2018. The consultations with agencies responsible for implementing DLIs, more specifically the staff who are responsible for administering and managing social and environment regulations, grievance management systems and field staff implementing the laws and regulation were present at the discussions. These focus groups discussion was carried out through structured checklists/questionnaires. The second part of the multi-stakeholder consultations workshop was held with the participants listed in Annex 3 on February 6, 2019 in Kiev. The participants included representatives from implementing agencies, associations of farmers, and NGOs that are active in the agriculture sector, which were invited via distribution list for the agriculture sector compiled by the World Bank team. Most of the participants in the stakeholder workshop requested that the Program (as well as overarching State Program) should be more clearly defined with the scope of each Program, roadmaps for achieving each DLI, timelines and responsibility matrix. Additionally, some definitions require further clarification (for example, what qualifies as SME).

96. NGOs raised concerns regarding transparency and accountability of the Program, suggesting the need for third-party monitoring as well as the need for independent expert opinions on baseline research. Many of the issues raised were in relation to small landowners' rights, promoting sustainable farming, financing capacity building (education) for beginners, providing preferences for family-owner small businesses and doing nation-wide information coverage to ensure that all the stakeholders are aware of Program-led changes and benefits for these groups of stakeholders. The proposed public outreach and stakeholder engagement plan will include carefully identified communication tools and instruments to involve the public including small land users, water user associations to create awareness and methodologies to engage and participate in the PforR. Most of the comments provided during the consultation workshop on February 6, 2019 and sent in written following the consultations were incorporate into the ESSA Action Plan (Annex 2). The Program Action Plan, which will be a part of the loan agreement, should include actions linked to the ESSA Action Plan. These Actions are subject to further refinement during the negotiation process or during implementation, as required. Following is the summary of key points and recommendations from the key stakeholders:

- **Overall (Program level).** The heavy bureaucracy involved and lack of transparency from the Government side constraining a participatory approach of the development prog interventions. Therefore, the Program requires a strategy to involve final beneficiaries (stakeholders) in the process to make the final product more streamlined. Suggestion is to increase public control over deliverables to prevent corruption and exclusion of vulnerable groups from Program benefits, to involve relevant associations and NGOs.
- **DLI 1 - Improving Targeting and Efficiency of State Support in the Agriculture Sector.** The MAPF is lacking proper system to engage the public and therefore the Program should have proper public engagement strategy and transparency in the Ministry's service provision under the Program. Continuous involvement of stakeholders. It is also important how this Program aims at balance natural recourse consumption between SMEs and bigger consumers/producers at the

¹⁷ To the extent feasible, the comments provided during the stakeholder consultations have been reflected in the Program design.

same territory. Similarly, family-owned farming business should be prioritized over big scale agribusiness owners. Suggestion is to involve interested agencies, NGOs, and SMEs.

- ***DLI 2 - Improving Functioning of Agricultural Land Markets.***
 - It is important to clarify land categories. Ukraine has two kinds of public property on land that is not private: communal and state ownership. Communal lands are governed by local councils, but state - by local power which is subordinated to the central power (local state administration and local branch of State GeoCadaster). At the same time, Country has a process of decentralization which is in progress, that means that land is passing from central power to local authorities (local councils).
 - It is necessary to establish baseline data on land registration status. There is a perception that the discrepancy between state statistics and actual data is about 60 percent. Proposal is to consider engaging benchmark communities to evaluate Program results and continuous monitoring of the land registration process.
 - How to stimulate productive usage of designated agricultural lands if the owner opposes it due to some complication/restriction on these lands (like peat deposits etc.)? Proposal is to stipulate that peat deposits should be restored to natural conditions, maybe through buying wrongly designated lands. Suggestion is in order to secure that no lands with such restrictions (see above) are assigned as agricultural, there should be preliminary baseline study and continuous monitoring of newly designated lands.
 - Moratorium on environmental inspection work will hinder environmental monitoring for all activities, as well as the reform of state environmental services. What are the mechanisms to prevent such a moratorium from hindering the Program's performance?
 - How would interests of small land lease be covered? Especially, if the land plot is a part of bigger land association and each individual land owner has very little control over usage of their land.
 - How would interests of small land lease be covered? Especially, if the land plot is a part of bigger land association and each individual land owner has very little control over usage of their land.
 - The Program should make sure nature reserves and buffer zones are not used for productive purposes. Who will check that these lands are not used? Suggestion to allocate resources to map nature reserves and environmentally, socially-sensitive lands (go and check physically, check the data in the GeoCadaster). An independent assessment of land register and allocation would be useful.
 - In the land registration process, designate lands that are important for irrigation/drainage around nature reserves.
- ***DLI 3 - Improving Agribusiness SME Access to Export Markets.*** Good definition of SME requires knowing what the sizes of SMEs are and what their income level is. Proposal to define SME after EU approach which were not previously accepted by the MAPF. The application of this approach requires collection of baseline data about agricultural producers.
 - More support should be provided to formalize SME farming (to add definitions of status, sizes etc.) to give them access to Program benefits. Simply put, some of micro producers do not know they qualify for state support and benefits due to lack of information and lack of clearly defined game rules.

7. RECOMMENDATIONS AND PROPOSED ACTIONS

ESSA Recommendations Mainstreamed in the Program Design

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

- *Environmental and Social Guidelines:* Once the PforR Operation is effective, the Implementing Institutions will develop Environmental and Social Guidelines to be agreed on with the World Bank and finalized within two years of PforR effectiveness. These Guidelines will be designed, in part, to assist the Implementing Institutions in supporting the development of Strategic Environmental and Social Impact Assessment (SESIA) of future programs and activities is required by the Ukrainian Law on Strategic Impact Assessment (#2354-VIII, March 20,2018). The Guidelines will be used to identify specific areas for strengthening actions described below and inform design of actions throughout the GSAP.
- *Establish a team responsible for coordinating and monitoring PforR implementation:* The PforR is being implemented by several different institutions including the Ministry of Finance, Ministry of Agrarian Policy and Food, Ministry of Regional Development, State GeoCadaster, SSUFSCP, and Ministry of Justice, with some involvement from regional and local level authorities. Each implementing institution will ensure the environmental and/or social safeguards responsibilities relevant to their DLRs/sub-DLRs.
- *Formulate guidelines on public consultations procedures:* Public consultation is important for the for the lifetime of the PforR and should be regularly carried out under each of the DLIs. Such guidelines allow for: (i) on-going meaningful engagement of interested parties in the land allocation/registration process, particularly with regards to designated protected areas; and (ii) broader public access to information on land allocation, including environmental NGOs to secure access to the full scope of land plot-related information and if it might have any undocumented nature-reservation value.
- *Communications and Outreach:* There is a strong possibility of mitigating the social risks associated with the Program by instituting systems of engagement with stakeholders at an early stage, and keeping these consultations open throughout Program implementation. As such, this measure to enhance engagement and outreach is integral to the success of the Program and would go a long way to mitigating identified as well as unforeseen risks. This is highly important from social accountability perspective where the state land registration is not well understood by people in general and rural land users. The public awareness and outreach strategy must include key messages to be conveyed to stakeholders, explaining the salient features of the Program. This may entail using a variety of tools, including social and print media, TV and radio shows and even cell phone-based communication to disseminate the key messages. Systematic registration of state lands by the State GeoCadaster may include mandatory public displays and face-to-face meetings/consultations to ensure citizens are engaged and aware of the procedures, activities, and benefits registering unclaimed land lots. Information about the grievance handling system described below will also be distributed to communities across the country. At the meeting with

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

State GeoCadaster officials, it was agreed that they would conduct public consultations prior to Program implementation, and distribute brochures/pamphlets in local languages, posting on notice boards and online when necessary. The ESSA emphasizes that by carrying out a comprehensive public outreach program, not only will the implementing agencies help lay a foundation for open public participation and citizen engagement, but also one promoting a corruption free private investment in agriculture.

- ***Robust Grievance Redress Mechanism:*** Transparency and accountability should be core elements of the Program to reduce potential corruption and mismanagement of Program benefit distribution. Hence, the ESSA proposes to strengthen existing GRMs at each participating agency in order to monitor feedback received from beneficiaries and provide a formal avenue to lodge complains and grievances by the public. This is critically important for the DLI 2 where a robust GRM could enhance the outcome of systematic registration of State lands. The GRM is supported by an information campaign and training for responsible staff. State GeoCadaster can respond to all requests, and the information gathered will also be used to improve services provided and to mitigate against negative social impacts on individuals. The main objective of the GRM should be to strengthen accountability to beneficiaries and provide channels for project stakeholders to provide feedback on Program deliverables/ activities. While acknowledging the existence of dedicated websites by each participating agency to engage with the public, we propose to establish/strengthen such system through following actions:
 - A dedicated email address;
 - A dedicated phone line;
 - Feedback boxes located at each local cadaster office;
 - Letters sent to a dedicated address; and
 - Verbal or written complaints to agency staff (directly or through public meetings).
- ***Capacity building for environmental and social risk management by participating agencies:*** The institutional assessment of the ESSA found that the participating agencies of the Program are lacking capacity to manage and implement social and environmental risks that may occur during the implementation of the PforR. Even though each agency has its own systems for environmental screening and website for public reporting (i.e. on corruption or other issues in receiving services from agencies), there are no staff dedicated for social and environmental risk management and/or skills and knowledge on Bank polices regarding environment and social aspects. Hence, it is vital that the PforR include a 'Training Plan' based on training need assessment on environment and social skills and knowledge and implement training sessions in a systematic manner. This means that the first year of operation of the PforR should include budget and consultancy assignment for environment and social risk management and capacity building program for the staff of participating agencies. The capacity building activity should be informed by the Environmental and Social Guidelines and consider all National requirements and the commitments that should be achieved according to the PforR and strengthen relevant agencies capacities and raise their awareness related to the following requirements:
 - Water extraction and water discharge permitting, including monitoring and reporting on pollutants.
 - Water protection measures should be prominently featured in all relevant documents.
- Sufficient resources should be allocated to capacity building on the subject of protection of water quality, possible negative impacts of unsustainable practices and appropriate mitigation measures.
 - Provide appropriate capacity building and personnel training for state bodies regarding environmental management and principle of sustainable development.

**P166941 - Accelerating Private Investment in Agriculture Program
Environment and Social Systems Assessment (ESSA)**

- Standard ESMP for construction/rehabilitation of BIP should be developed and employed for all ten BIP contracts.

ANNEX 1: RESULTS FRAMEWORK
COUNTRY: Ukraine
Accelerating Private Investment in Agriculture Program

Program Development Objective(s)

The Program Development Objective is to remove select constraints to increased participation of private sector, in particular small and medium-sized enterprises (SMEs), in the agricultural input and output markets of Ukraine.

Program Development Objective Indicators by Objectives/Outcomes

Indicator Name	DLI	Baseline	Intermediate Targets		End Target
			1	2	
At least 60 percent of the state support funds allocated to agricultural SMEs					
Share of the state support funds allocated to agricultural SMEs (Percentage)	DLI 1	0.00	40.00		60.00
At least 95% of free legal aid cases responded in writing within 10 days of the receipt of inquiry					
Share of the free legal aid cases responded in writing within 10 days of the receipt of inquiry (Percentage)	DLI 2.4	12.00	80.00	90.00	95.00
At least 60% of food businesses newly registered as exporters of food of animal origins are SMEs					
Percentage of food businesses newly registered as exporters of food of animal origin that are SMEs (Percentage)	DLI 3, 3.1	0.00	30.00		60.00
At least 50 percent of ultimate beneficiaries reached with Program activities are women.					
Percentage of women beneficiaries reached with Program activities. (Percentage)		0.00			50.00
CE: At least 85% of Program beneficiaries have benefitted from improved service provisions					
Percentage of Program beneficiaries who have benefitted from improved service provision (Percentage)		0.00			85.00

Intermediate Results Indicator by Results Areas

Indicator Name	DLI	Baseline	Intermediate Targets		End Target
			1	2	
RA 1: Increasing Competitiveness of Input Markets					
MTEF applied in planning and budgeting at the MAPF. (Yes/No)		No			Yes
At least 12 million ha of State land registered (Hectare(Ha))	DLI 2.1	0.00			12,000,000.00
Income of at least US\$ 150 million collected from State land leases and sales (Amount(USD))	DLI 2.2	7,703,700.00			150,000,000.00
Number of women benefitting from legal empowerment activities (Number)		0.00	25,000.00	35,000.00	45,000.00
Adoption of a regulation for mandatory price recording for land and real estate assets (Yes/No)		No			Yes
RA 2: Linking Agribusiness SMEs to Export Markets					
Establishment of Border-Inspection Points (BIPs). (Number)	DLI 3.2	0.00			10.00
Operationalization of an interactive map on the use of plant protection products that improve the traceability of food of animal origin (Yes/No)		No			Yes

Monitoring & Evaluation Plan: PDO Indicators					
Indicator Name	Definition/Description	Frequency	Datasource	Methodology for Data Collection	Responsibility for Data Collection
Share of the state support funds allocated to agricultural SMEs	<p>Monitoring of the implementation of the DLI will take place on semi-annual basis. The following milestones (DLRs) have been agreed for the implementation of the DLIs, with the following indicative timelines:</p> <p>1) The State support registry has been established, is operational, and easily accessible to potential users - December 31, 2020; 2) The Medium-term Expenditure Framework (MTEF) has been adopted by the MAPF, including the Key Performance Indicators (KPIs) - December 31, 2021; 3) The percentage of the State support allocated (aggregate of all programs) to agricultural SMEs is at least 40 percent by the end of the Program - December 31, 2023; 4) The percentage of the State support allocated (aggregate of all programs) to agricultural SMEs is at least 60 percent by the end of the Program - December 31, 2024.</p>	Semi-annual	MAPF progress reports	Semi-annual reports; with three implementation support missions for the first three years of the Program implementation.	MAPF
Share of the free legal aid cases responded in writing within 10 days of the receipt of inquiry	<p>The indicator measures the rate of switching to provision of written responses within 10 days of the receipt of the inquiry for free legal aid cases. The following results will be monitored towards the achievement of the final result, within the following indicative timelines:</p> <p>1. The share of cases for which either free primary legal aid or a decision about provision of secondary free legal aid, is provided in written form within 10 days of receipt of inquiry is at least 80% percent across the 10 oblasts during calendar year 2020. 2. The share of cases for which either free primary legal aid or a decision about provision of secondary free legal aid, is provided in written form within 10 days of receipt of inquiry is at least 80% percent across the 20 oblasts during calendar year 2020. 3. The share of cases for which either free primary legal aid or a decision about provision of secondary free legal aid, is provided in written form within 10 days of receipt of inquiry is at least 90 percent for the entire country during calendar year 2022. 4. The share of cases for which either free primary legal aid or a decision about provision of secondary free legal aid, is provided in written form within 10 days of receipt of inquiry is at least 95 percent for the entire country during calendar year 2023.</p>	Semi-annual reports; three implementation support missions a year for the first three years of the Program implementation period.	CCFLA/FLAS and MOJ	CCFLA/FLAS and MOJ reports	CCFLA and MOJ

Monitoring & Evaluation Plan: PDO Indicators					
Indicator Name	Definition/Description	Frequency	Datasource	Methodology for Data Collection	Responsibility for Data Collection
Percentage of food businesses newly registered as exporters of food of animal origin that are SMEs	The indicator monitors the achievement of results to ensure that at least 60 percent of food businesses newly (since the beginning of the Program implementation) registered as exporters of food of animal origin are SMEs: companies with staff of up to 250 people, and annual revenues of up to EUR 50 million. The following results will be monitored towards the achievement of the final result, within the following indicative timelines: 1) Adoption of the relevant amendments to the Law “On Basic Principles to Food Safety and Quality” and secondary legislation on the traceability of products of animal origin - December 31, 2021; 2) Operationalization of the interactive information system on food safety and export market requirements - December 31, 2022; 3) Installation of 10 BIPs - December 31, 2024.	Semi-annual reports, with three implementation support missions a year from the first three years of the Program implementation.	SSUFSCP	SSUFSCP semi-annual reports.	SSUFSCP
Percentage of women beneficiaries reached with Program activities.	The indicator will measure gender-disaggregated outreach to ultimate Program beneficiaries with program activities, including: - beneficiaries of the State support program; - beneficiaries of notifications on cadastral transactions; - beneficiaries filing requests for free legal aid with the FLAS Network; - beneficiaries of the legal empowerment activities; - newly registered exporters of food of animal origin.	Semi-annual monitoring reports.	MAPF, MRD, MOJ and SSUFSCP monitoring reports.	Data disaggregation by gender will be built into the M&E systems of the MAPF, MRD and SSUFSCP to allow for capturing of the gender-disaggregated beneficiary numbers.	MAPF, MRD, MOJ and SSUFSCP in their respective areas under the Program.
Percentage of Program beneficiaries who have benefitted from improved service provision	The indicator will measure satisfaction of beneficiaries benefitting from all Program activities: state support programs, protection of property rights, legal advice and aid, etc.	Semi-annual reports	All Implementing Institutions	Beneficiary satisfaction surveys.	All Implementing Institutions

Monitoring & Evaluation Plan: Intermediate Results Indicators					
Indicator Name	Definition/Description	Frequency	Datasource	Methodology for Data Collection	Responsibility for Data Collection
MTEF applied in planning and budgeting at the MAPF.	The indicator includes development and approval of the MTEF at the MAPF, including development of the KPIs; relevant training of staff; and improved M&E system.	Semi-annual reports, supported by three implementation support missions a year for the first three years of the Program implementation.	MAPF	MAPF semi-annual reports.	MAPF
At least 12 million ha of State land registered	Registration of all remaining state land, but no less than 12,000,000 ha in the Land Cadaster and Registry of Rights using simplified, participatory and transparent procedures.	Semi-annual monitoring reports; support by three implementation missions a year for the first three years of the Program implementation.	Geocadaster	Geocadaster semi-annual monitoring reports.	Geocadaster
Income of at least US\$ 150 million collected from State land leases and sales	Income of US\$150 million equivalent from State land leases and land sales collected by the State Fiscal Service on behalf of the local governments.	Semi-annual monitoring reports; three implementation support missions a year for the first three years of the Program implementation.	MRD in collaboration with Geocadaster.	MRD semi-annual monitoring reports.	MRD, in collaboration with Geocadaster.
Number of women benefitting from legal empowerment activities	Number of individuals reached with various legal empowerment activities by the FLAS.	Semi-annual	MOF and FLAS	FLAS information system used for client tracking.	MOJ and FLAS
Adoption of a regulation for mandatory price recording for land and real estate assets	Adoption of a regulation for mandatory price recording for land and real estate assets	Semi-annual reports.		MOJ reports	MOJ
Establishment of Border-Inspection Points (BIPs).	Establishment and ensuring full functionality of 10 BIPs in locations selected by the GOU.	Semi-annual monitoring reports; three implementation missions a year for the first three years of the Program implementation.	SSUFSCP	SSUFSCP semi-annual monitoring reports and quarterly follow-up reports.	SSUFSCP

ANNEX 2: ENVIRONMENT AND SOCIAL ASSESSMENT AND ACTION PLAN SUMMARY

The Action Plan to strengthen the Government’s environmental and social management system for addressing potential environmental and social risks associated with the PforR implementation. The Action Plan Actions included in Program Action Plan for the PforR operation will be referenced in the loan agreement and is subject to further refinement during the negotiation process.

Action description	Due Date	Responsible Party	Completion Measurement
<i>Increasing competitiveness of the input markets</i>			
<p>Governance: Develop Environmental and Social Guidelines for the Implementing Institutions of the Program</p> <p>Establish a focal point unit or appoint a focal point person responsible for (1) communication and outreach, and (2) environmental and social risks mitigation, monitoring, and reporting.</p>	<p>Within twenty-four months of effectiveness of the PforR operation</p> <p>By effectiveness of PforR operation</p>	<p>All Implementing Institutions</p> <p>All Implementing Institutions</p>	<p>Final Guidelines agreed between the Borrower and the World Bank.</p> <p>A Focal Point (a person or a unit) name, contact detail and description of responsibilities (Terms of References for monitoring, addressing and social risk and facilitating capacity building during the Implementation of the Program).</p>
<p>Stakeholder, CSOs and Citizens Engagement: Formulate guidelines for stakeholder engagement process and mainstreaming environmental, social, health, and safety issues into the implementation of the Program.</p>	<p>Two months after signing the Loan Agreement</p>	<p>All Implementing Institutions</p>	<p>Completed Guidelines on public consultations procedure; Guidelines disseminated, and training provided on their application.</p> <p>Lists of names and contacts of stakeholder and CSOs, SMEs, associations to be informed, consulted on regular basis.</p>

Action description	Due Date	Responsible Party	Completion Measurement
<p>Communications and Outreach – continuous process Make information about the Program implementation, particularly information about environmental and social issues more transparent and accessible.</p> <p>Conduct monitoring of progress on environmental and social issues, especially regarding the compliance of the Program with the environmental and social laws, regulations and standards.</p>	<p>Three months after signing the Loan Agreement</p> <p>Semi-annually</p>	<p>All Implementing Institutions</p> <p>All Implementing Institutions</p>	<p>A Comprehensive Public Outreach Program, including media to be developed and published (websites, simplified leaflets, booklets on procedures including mainstreaming environmental and social issues where applicable).</p> <p>Regularly updated list of beneficiaries and records of continued engagement with the Program of MAPF. Prepared media (websites, pamphlets, etc.) in the state language outlining the application procedures to benefit from the Program.</p>
<p>Robust Grievance Redress Mechanism, GRM: Clarify and strengthen (build on current system) the procedures for grievance handling in effective and transparent way.</p>	<p>Two months after signing the Loan Agreement</p>	<p>All Implementing Institutions</p>	<p>GRM including (1) a dedicated phone line (telephone number); (2) a feedback boxes located at each local cadaster office; (3) a dedicated address; and (4) verbal or written complaints to agency staff (directly or through public meetings).</p>
<p>Provide Capacity building for environmental and social risk management by participating agencies, SME and smallholders.</p>	<p>Three months after signing the Loan Agreement.</p>	<p>All Implementing Institutions</p>	<p>Report on capacity building: stakeholders trained, training materials.</p>
Linking SMEs and Farmers to Export Markets			
<p>Training of the SSUFSCP focal point on EIA national procedures and requirements. EIAs should be prepared using the Ukrainian legislation for BIPs projects where required.</p>	<p>As per Ukrainian EIA regulation if required.</p>	<p>SSUFSCP</p>	<p>Training SSUFSCP focal point on EIA national procedures and requirements completed. EIAs completed for BIPs projects where required.</p>

Action description	Due Date	Responsible Party	Completion Measurement
<i>Land Registration</i>			
Changes in the amount of land registered based on application of the above methodology have been identified and results made available to the Bank in the form of shapefiles.	Semi-annually	GeoCadaster	Results on the changes in the amount of land registered based on the application of agreed methodology made available to the Bank on a regular basis.

ANNEX 3: LIST OF PARTICIPANTS IN STAKEHOLDER ENGAGEMENT CONSULTATIONS

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

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

ANNEX 4: SUMMARY OF KEY INTERVIEWS/AGENCY DISCUSSIONS DURING THE SCOPING EXERCISE

1. Land/property/ assets management in agriculture -State Geocadester	
1.1 What is the extent or percentage of arable land is privatized?	84.3% of 32.5 million hectares of arable land (as of June 2017) are privately owned. In accordance with the Strategy for improving the management mechanism in using and protection of agricultural land in state ownership and the disposal thereof approved by the Regulation of the Cabinet of Ministers of Ukraine dated 7 June 2017 No. 413.
1.2 What is the share of state and communal land rented by private business (of small and medium size, especially farmers)?	4.7 million hectares of agricultural land in state ownership are leased (as of June 2017). Only 10.4 million hectares of agricultural land are in state ownership. In accordance with the Strategy for improving the management mechanism in using and protection of agricultural land in state ownership and the disposal thereof approved by the Regulation of the Cabinet of Ministers of Ukraine dated 7 June 2017 No. 413.
1.3. What measures exist to ensure equal access/opportunities for all types of farmers/producers to get benefits from the rent of state land?	In accordance with part one of Article 134 of the Land Code of Ukraine, land plots in state or communal property or rights thereto (lease, superficies, emphyteusis), including real estate assets in state or communal property located thereon, may be sold by individual lots on a competitive basis (land auctions). In accordance with the Procedure for the implementation of the pilot project on electronic land auctions, approved by the Regulation of the Cabinet of Ministers of Ukraine of 21 June 2017 No. 688, electronic land auctions were introduced.
1.4 Are there any measures or proposals in place to promote/encourage small and medium enterprises, especially small farmers to participate in commercial agriculture on the privatized lands?	According to the Ordinance of the Cabinet of Ministers of Ukraine dated 13 September 2017, No. 664-r, the Concept for the Development of Farms and Agricultural Cooperatives for 2018-2020 was approved. The objective of the Concept is to create the necessary institutional, legal and financial prerequisites for the development of farms and agricultural cooperatives and improve material and financial situation of the rural population. Implementation of the Concept will allow shifting the focus of the state's agrarian policy in support of farms and agricultural cooperatives to create a middle class in the countryside.
1.5 According to your knowledge, who will be affected negatively /excluded in making use of privatized lands for commercial agriculture/business?	There are no records, or such situation observed.
2. Availability and functioning of social risk management procedures/system in the Ministry of Agriculture	

<p>2.1 Are there any state level code of conducts/ regulations/ procedures in place or proposed to ensure socially responsive development investment (including enacting laws for privatization of lands/assets)</p>	<p>The procedures for using the funds provided in the state budget for state support to agricultural producers, including small and medium agribusiness, shall be approved in accordance with the established procedure by regulations of the Cabinet of Ministers of Ukraine.</p>
<p>2.2 Does the MAPF have a social risk assessment procedure/ vetting process (like Environmental Examination/Screening) for new projects/programs to review the relevance, applicability and to ensure 'no harm' for the people, their properties and interests?</p>	<p>The Law of Ukraine 'On Environmental Impact Assessment' shall set legal and organizational policies for an environmental impact assessment with a view to avoid and prevent environmental damage, ensuring environmental safety, environmental protection, rational use and restoration of natural resources, in the process of decision-making on economic activity likely to cause a significant impact on the environment, taking into account state, public and private interests. Competent central authority responsible for environmental impact assessment is a central executive authority ensuring the formation and implementation of state policy in the field of environmental protection (Ministry of Environmental Protection).</p>
<p>2.3 Does the MAPF have a Grievance Redress Mechanism (GRM) in any form (including social media) and website that public can engage/ submit any proposals/problems to the MAPF? How effective this process- Does MO have dedicated public relations staff/desk to engaged with citizens/customers?</p>	<p>Appeals from citizens of Ukraine are received on the hotline of the MAPF. Information about functions of the Ministry of Agrarian Policy; farmer support programs and rural development; general provisions of the state support programs for agro-industry in 2018 is available on the hotline. Phone number of the hotline is 0-800-215-010. Contact information for citizens' appeals is available on the Ministry's websites: Postal address: 24 Khreshchatyk Str., Kyiv 01001; e-mail: zvg@minagro.gov.ua; phone: (044) 279-84-74. Filing an appeal is made through the public reception at the address: 24 Khreshchatyk Str., Kyiv, room 101. Responsible divisions: Public Information and Citizens' Appeal Dept., Information Policy and Public Relations Dept.</p>
<p>2.4 How does MAPF obtain public feedback/response to the projects/programs/initiatives implemented by the MAPF?</p>	<p>Electronic public consultations (regulatory policy). Information is available on the Ministry's website.</p>
<p>3. Efficient use and Management of Public funds and resources</p>	

<p>3.1 Is the MAPF using any specific methodologies to estimate the efficiency of its state subsidy program?</p>	<p>In accordance with the Budget Code of Ukraine, the MAPF prepares for each budget program: budget requests, passports of budget programs and reports on the implementation of budget programs. All these documents contain performance indicators for budget programs. The procedure for drawing up these documents is determined by the relevant regulatory legal acts.</p>
<p>3.2 What measures are being used to prevent corruption in the subsidy program?</p>	<p>The procedures for using funds of the state budget provide for the minimized contacts of agricultural producers - recipients of budget subsidies with officials. Most support programs are implemented through commercial banks that have signed the relevant Memoranda of Cooperation with the MAPF. In addition, the MAPF has prepared a draft Law, according to which the State Agrarian Register (Subsidy Recipients) and the State Paying Agency are created.</p>
<p>3.3 Does the subsidy program stimulate development of small and medium agri-businesses?</p>	<p>Under the credit easing program (2801030), in determining the recipient of the subsidy, entities having a net income of up to UAH 20 million have a priority.</p>
<p>Assessment of Environment Impacts/Risks</p>	
<p>1. Does the MAPF have any Environment or Pollution Management Regulations or requirements separate from National Ukrainian legislation? If so, please provide copies.</p>	<p>According to the Regulation of the Cabinet of Ministers of Ukraine dated 25 October 2017 No. 1106 'On the implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand', the MAPF, together with the interested Central Executive Authorities (CEAs), has to ensure approximation of Ukrainian legislation with the EU legislation on prevention of pollution of groundwater and surface waters with nitrates from agricultural sources, and also to ensure the formation and implementation of policy on climate change.</p>
<p>2. Does the MAPF have its own Environment Management Department or Unit? If so, please provide organigram and contact information.</p>	<p>There is no unit, whose functions directly concern environmental management issues.</p>

List the use of funds according to budget programs supporting development of agro industrial complexes, envisaged by the Ministry of Agrarian Policy by the State Budget of Ukraine for 2018				
	Application code	Name	Expenditures are provided by the state budget for 2018 (UAH '000)	How to use funds
1.	2801030	Financial support of measures in the agro-industrial complex by cheapening of loans	266,000.00	CMU Resolution No. 300 of April 29, 2015 "On Approval of the Procedure for Using the Funds Envisaged in the State Budget for Financial Support of Measures in the Agro-Industrial Complex by Reducing Lending"
2.	2801180	Financial support of measures in the agro-industrial complex	5,000.00	Resolution of the Cabinet of Ministers of Ukraine dated February 13, 2012 № 104 "On Approval of the Procedure for Using the Funds Provided in the State Budget for Financial Support of Measures in the Agro-Industrial Complex"; Order of the Ministry of Agrarian Policy and the Ministry of Finance of Ukraine dated December 17, 2004 No. 468/787 "On Approval of the Procedure for Settlement with Suppliers and Custodians of Seeds of Agricultural Plants of the State Reserve Seed Fund and Users"
3.	2801230	Financial support for the development of farms	1,000,000.00	CMU Resolution No. 106 of 07.02.2018 "On Approval of the Procedure for Using the Funds Envisaged in the State Budget to Provide Financial Support to the Development of Farm Holdings"
4.	2801350	State support for the development, installation and supervision of young gardens, vineyards and berries	300,000.00	CMU Resolution No. 587 of 15.07.2005 "On Approval of the Procedure for the Collection and Use of Funds for the Development of Viticulture, Horticulture and Humiculture"
5.	2801460	Granting loans to farms	43,100.00	CMU Resolution No. 1102 of 25.08.2004 "On Approval of the Procedure for Using the Funds Provided in the State Budget to Support Farmers"
6.	2801490	Financial support of measures in the agro-industrial complex on terms of financial leasing	3,818.40	CMU Resolution No. 648 of 28.07.2010 "On Approval of the Procedure for Using the Funds Envisaged in the State Budget for the Financial Support of Measures in the Agro-Industrial Complex on the Financial Leasing"
7.	2801540	State support to the livestock sector	3,800,000.00	CMU Resolution No. 107 of 07.02.2018 "On Approval of the Procedure for Using the Funds Allocated from the State Budget to Support the Animal Husbandry"
8	2801580	Financial support of agricultural producers	945,000.00	CMU Resolution No. 77 of 08.02.2017 "On Approval of the Procedure for Using the Funds Envisaged in the State Budget for Financial Support of Agricultural Producers in 2017"; CMU Resolution No. 130 of 01.03.2017 "On Approval of the Procedure for Using the Funds Envisaged in the State Budget for Partial Compensation for the Cost of Agricultural Machinery and Domestic Production Equipment"

Status land Registration process in the Conflict affected Eastern Ukraine

State registration of land plots and their legal documents in the state register of land, provision of information from it was carried out by January 1, 2013 by the territorial authorities of the State Cadaster Agency of Ukraine at the location of the land plot.

In accordance with part two of Article 202 of the Land Code of Ukraine (as of December 20, 2012), the state register of land consisted of two parts: the books of registration of state acts for the right of ownership of land and the right to permanent use of land, land lease agreements with indication of cadastral numbers of land sites; Land register containing information about the land plot.

The relevant documents of the state register of land are stored in the archives of the territorial organs of the State Geocadaster.

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

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

Thus, the lack of information from the State Land Registry and the local land documentation regarding land plots located in the temporarily occupied territory of the Autonomous Republic of Crimea, Donetsk and Luhansk oblasts makes it impossible to enter information into the State Land Cadaster on land plots in the respective territory, the opening of land registers, in the order determined by law.

In all other territories of Ukraine, registration of land plots is carried out in accordance with the procedure established by the Law. The complexity of the Program implementation is not expected.