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**THIS ACTION IS FUNDED BY THE EUROPEAN UNION**

**ANNEX 2**

of the Commission Implementing Decision on the financing of the annual action plan in favour of the Republic of Kenya for 2021

**Action Document for Digital Land Governance Programme (DLGP)**

**ANNUAL PLAN**

This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation, and action plan in the sense of Article 23(2) of NDICI-Global Europe Regulation.

**1. SYNOPSIS**

**1.1. Action Summary Table**

<b>1. Title</b> <b>CRIS/OPSYS</b> <b>business reference</b> <b>Basic Act</b>	Digital Land Governance Programme (DLGP) CRIS number: NDICI/2021/043-144 Financed under the Neighbourhood, Development and International Cooperation Instrument (NDICI-Global Europe)
<b>2. Team Europe Initiative</b>	Yes Part of the Team Europe Initiative on Human-Centred Digitalisation and Part of Team Europe Initiative Green Deal
<b>3. Zone benefiting from the action</b>	The action shall be carried out in Kenya
<b>4. Programming document</b>	Kenya Multi-Annual Indicative Plan 2021-2027
<b>5. Link with relevant MIP(s) objectives/expected results</b>	1. Green Transition: Environmental Sustainability and Resilience 1.1. Natural capital and resilience 1.1.1. Agricultural and pastoral ecosystems where sustainable management practices have been introduced with EU support (km <sup>2</sup> ) - (EURF 2) 1.1.2. Areas of terrestrial and freshwater ecosystems under a) protection b) sustainable management with EU support (ha) (EURF 9)
<b>PRIORITY AREAS AND SECTOR INFORMATION</b>	
<b>6. Priority Area(s), sectors</b>	Sector 1.1 - Natural capital and resilience: natural capital and biodiversity conservation, nature-based economic sectors and marine ecosystems' conservation; sustainable use and management of natural resources and land governance; disaster preparedness, mitigation and response, resilience building and drought management. DAC-code: General environment protection (410)
<b>7. Sustainable Development Goals (SDGs)</b>	Main : SDG 1 – No poverty Other significant SDGs (up to 9) and where appropriate, targets: No poverty, SDG 2 - Zero hunger, SDG 5 - Gender equality, SDG 16 – Peace, justice and strong institution. It will also contribute to SDG 6 - Clean water and sanitation, SDG 8 -Decent work & Economic growth, SDG 9 – Industry, innovation and infrastructure, SDG 10 – Reducing inequality, SDG 11 – Sustainable Cities and communities, SDG 14 - life below water, SDG 15 - Life on land, 17 - Partnerships.

<b>8 a) DAC code(s)</b>	410 General environment protection			
<b>8 b) Main Delivery Channel @</b>	Food and Agriculture Organization (FAO)-43041			
<b>9. Targets</b>	<input type="checkbox"/> Migration <input type="checkbox"/> Climate <input checked="" type="checkbox"/> Social inclusion and Human Development <input checked="" type="checkbox"/> Gender <input checked="" type="checkbox"/> Biodiversity <input type="checkbox"/> Education <input checked="" type="checkbox"/> Human Rights, Democracy and Governance			
<b>10. Markers (from DAC form)</b>	<b>General policy objective @</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Nutrition @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Combat desertification @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>11. Internal markers and Tags:</b>	<b>Policy objectives</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Digitalisation @ Tags: digital connectivity digital governance digital entrepreneurship job creation digital skills/literacy digital services	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>
	Connectivity @ Tags: transport people2people	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

	energy digital connectivity		<input type="checkbox"/>	<input type="checkbox"/>
	Migration @ (methodology for tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reduction of Inequalities (methodology for marker and tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Covid-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>BUDGET INFORMATION</b>				
<b>12. Amounts concerned</b>	Budget line(s) (article, item): BGUE-B2021-14 02 01 21-C1-INTPA Total estimated cost: EUR 20 848 805 Total amount of EU budget contribution EUR 20 000 000  This action is co-financed in joint co-financing by: - UN Food and Agriculture Organisation (FAO) for an amount of EUR 848 805			
<b>MANAGEMENT AND IMPLEMENTATION</b>				
<b>13. Type of financing<sup>1</sup></b>	<b>Indirect management</b> with UN Food and Agriculture Organisation (FAO)			

## 1.2. Summary of the Action

Land in Kenya has a major historical, social, economic, cultural, political and spiritual significance. Land has been the main factor of production in Kenya's nature-based economy. Improved security of tenure and equitable access to land and natural resources is therefore crucial to the enhancement of livelihoods and for sustainable socioeconomic development, and in broader terms, to peace and security in general as well as food and nutrition security. It is also a tool for inclusion, especially in areas considered to be communally owned. Access to and availability of land is therefore critical in ensuring real and long-lasting improvement of the well-being of the population.

This proposed Digital Land Governance Programme (DLGP) takes into consideration the numerous challenges that impede sustainable administration and management of land in Kenya. The challenges range from lack of tenure security and low registration of community land, to corruption, manual and inefficient land transactions, delays in access to justice, poor land use planning, gender inequality in access to and ownership of land, negative impacts of COVID-19, among others.

The overall objective of the new programme is to improve food and nutrition security, livelihoods and sustainable development in Kenya through equitable and secure access and management of land as per Vision 2030. The expected outcome of the programme will be improved security of tenure and equitable access to land and natural resources for enhancement of livelihoods and sustainable socioeconomic development for all. The outcome will be achieved via the following expected outputs:

1. Enhance efficient and effective land governance through the digitisation and digitalization of land records and processes
2. Improve conflict and dispute resolution mechanisms on land and natural resources
3. Contribute to inclusive and improved policy, legal and institutional frameworks

This Action will contribute to the Kenya Multi-Annual Indicative Plan 2021-2027 under the following results:

1. Green Transition: Environmental Sustainability and Resilience
  - 1.1. Natural capital and resilience
    - 1.1.1. Agricultural and pastoral ecosystems where sustainable management practices have been introduced with EU support (km<sup>2</sup>) - (EURF 2)

<sup>1</sup> Art. 27 NDICI.

1.1.2. Areas of terrestrial and freshwater ecosystems under a) protection b) sustainable management with EU support (ha) (EURF 9)

It also contributes to the two Team Europe Initiatives in Kenya: Inclusive Digitalisation and Green Deal.

## 2. RATIONALE

### 2.1. Context

In Kenya, land has a major historical, social, economic, cultural, political and spiritual significance. Land has been the main factor of production and investments, among other uses. Given its importance, access to and availability of land is critical in ensuring real and long-lasting improvement in the general well-being of the people of Kenya. Consequently, land has been made a policy priority all the way from the Constitution of Kenya to decentralised government levels (see section 1.3).

In terms of domestic politics, the government has made the issuance of land titles an important part of its delivery in the current mandate, linked to its commitments to improving the business and investment environment. This will guarantee the full buy-in of Kenyan partners in the implementation of the programme. The action will put the EU at the centre of the country political agenda in the next years, as with this action it will remain the largest donor working with the Ministry of Lands and Physical Planning (MoLPP) and National Land Commission (NLC). Although elections will take place in 2022, it is not expected that a new government would consider a reversal of this high-level commitment, given the strategic importance of land governance in Kenya and embedment of the same in policies and laws.

Overall, the development of affordable and accessible housing, settlement of the landless households, slum upgrading, food and nutrition security, and public and private investment are dependent on proper planning for prudent and sustainable land use. However, there is need to seek to balance between the need for food and nutrition security, human settlements, environmental protection and climate change, as well as other economic development pursuits. Also land uses need to take cognizance of social, cultural, economic, political and spatial dimensions of development as well as equality and rights considerations. These will all be considered in the proposed programme.

The proposed Digital Land Governance Programme takes into consideration the numerous challenges that impede sustainable administration and management of land in Kenya. Some of these challenges (some stipulated in the NLC-2021-2026 and MoLPP- 2020-2024 Strategic Plans) include the following.

- 68 % of Kenyans are without land documentation or tenure security. Less than 30 % of Kenya's total land area of 582,650 square kilometers has been registered since independence translating to approximately 11.1 million registered titles countrywide since independence (the bulk of the unregistered land being community land).
- Less than 2 % of land is owned and registered to women and groups living in vulnerable situations. Despite the existing legal framework that provides for the same inheritance rights for women and men, in practice women often do not inherit land and in the rare cases in which they hold a land title under their name, men tend to have control over it. Women also face additional challenges when they want to claim for their property rights, including poor legal literacy and expensive legal proceedings.
- Indigenous communities' land rights framework has been improved since the Community Land Act of 2016, however, they still often lack awareness of the law and process. In some cases, these communities are still facing forceful eviction from their lands.
- Corruption, manual and paper based land records, inefficient land transaction processes, poor access to land information and data all contribute to a high cost of doing business;
- In terms of corruption: The Kenya Bribery Index that has previously ranked the Ministry of Lands at 4<sup>th</sup> and 13<sup>th</sup> respectively between 2006 and 2007, and indicates that 65.7 % of the people visiting the Ministry of Lands could be asked for a bribe and that 36.3 % of declinations resulted in service denial. In terms of costs: land transaction costs such as purchase, transfer, registration, related approvals and taxes consume 25-40 % of development costs in urban areas making construction of affordable housing very expensive especially since end-user pricing becomes too high.
- Delays in access to justice, with 90 % of the many land cases in Environment and Land Court taking longer than expected, locking land out of productive use.

- Conflicting, outdated & inconsistent policy, legal and institutional frameworks are present in the land sector in Kenya additionally contribute to the delays in justice
- Poor land use planning and management leading to poor service delivery and accountability.
- Information on land (registration, cadastres, etc.) for the management of land at county level is not easily accessible, and the capacity to put an information system in place in the counties is inadequate. The capacity of land officers is also limited, particularly in terms of land use planning for livelihood ventures, and land administration to allow for access and tenure rights to land for communities, as well as land disputes resolution and conflicts management both at communities and individuals levels.
- Competing land requirements against environmental conservation and management, for agriculture, commerce, industry and infrastructural development.
- Land and land-based resource disputes lead to conflicts and insecurity.
- Environmental degradation; Climate change and desertification; are all visible in Kenya.
- Negative socio-economic impacts of the COVID-19 pandemic have led to suspension/slowdown of planned activities.

In addition, the programme has provided support on training and sensitization of governments and Civil Society Organisations (CSOs)/ Non Governmental Organisations (NGOs) officers and community members on land governance; support to policy, legal and institutional reforms, and development of strategies and change management training. In terms of policy and legislative support, for instance, the land programme supported formulation, review and implementation of Community Lands Act (CLA) 2016 including registration of community land. There is shortage of resources (both financial and technical) to carry out this exercise but the support offered by FAO and partners has been instrumental to bridge this gap to ensure recognition and protection of community lands in Arid and Semi-Arid Lands (ASALs), and has permitted the first five Community Land Titles in the history of Kenya to be emitted in 2020 and 2021.

Therefore, the proposed new Digital Land Governance Programme (DLGP) is based on the good practices and lessons learnt from the previous land governance programme (see 3.1), in addition to other experiences including FAO's global leadership in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). FAO will be a technical and management facilitator and convener, enabling the relevant duty-bearers and stakeholders to carry out their roles effectively. FAO has established good working relationships with, among others the MoLPP, NLC, county governments and the council of governors, state and non-state actors including civil society organizations and donors in the land sector. This will allow proper inclusive targeting of interventions and consequently effective and speedy implementation of the proposed programme. (see sections 3.1 and 3.2).

In addition, and as part of the project design there will be co-financing from the counties and national government entities (MoLPP and NLC) and other stakeholders, both technical (staff time) and operational support, office space, etc. This will enhance ownership of the programme implementation and deliverables, thus promoting sustainability.

Furthermore, based on the lessons learnt from the land governance programme, the management and implementation modalities will include a Programme Advisory Committee, Programme Coordination Committee and, importantly the county technical committees that will support the programme implementation. The arrangement will co-opt any other stakeholder as need arises, and include persons with disability and women as mandatory stakeholders. (See sections 4.3 and 5.6).

With regards to Team Europe Initiatives (Digitalisation and Green Deal), the commitment of the EU's contribution to the Team Europe Initiatives foreseen under this action will be complemented by other contributions from Team Europe partners. It is subject to the formal confirmation of each respective partners' meaningful contribution as early as possible. In the event that the TEIs and/or these contributions do not materialise the EU action may continue outside a TEI framework.

Overall, the proposed programme will endeavour to realize improved land governance and livelihoods prosperity as the key ingredient for the attainment of Kenya's Vision 2030 which aims to transform Kenya into a newly industrializing, 'middle-income country providing a high quality life to all its people by the year 2030'.

## 2.2. Problem Analysis

This Digital Land Governance programme builds on a previous EU-FAO Land Governance programme under the 11<sup>th</sup> EDF (*Support to the Attainment of Vision 2030 through devolved land reforms in community lands of Kenya, FED/2016/377-185*) implemented in 2016-2021, which has supported the MoLPP, NLC, 10 county governments and communities to address some of the challenges in the land sector. The programme has supported the national and county governments and communities in a number of aspects including digitization of land records and supported the development and launch of the National Land Information Management System (NLIMS – known as *Ardhi Sasa* in Kiswahili) for efficient and effective land governance, and improvement of the customer service centre at the Ministry of Lands. It has further refurbished and equipped 12 county land registries, and established 9 county GIS laboratories to enable them in land recordation and prepare them for the rollout of the county land information management systems.

The key problems which this programme seeks to address are:

1. Inadequate land tenure security and land documentation/registration. Poor land use planning and natural resources management.
2. Poor and delayed access to justice regarding land disputes and conflicts.
3. Outdated, inconsistent, conflicting or poor quality policy, legal and institutional frameworks.

The problems are the result of various factors including historic land injustices (since colonial times), low government capacity in certain sectors, and the complexity of managing the lands sector.

All of these problems impact vulnerable communities (including youth, women and rural communities, displaced persons, indigenous people and persons with disabilities), but also the private sector, the public sector, and the population at large.

To address some of these challenges, the programme has prioritized three key areas, namely: accessible digitization and digitalization to facilitate efficient and effective land governance, promotion of conflict and dispute resolutions mechanisms on land and natural resources; and support to inclusive policy, legal and institutional frameworks.

Identification of main stakeholders and corresponding institutional and/or organisational issues (mandates, potential roles, and capacities) to be covered by the action:

Below are some of the different stakeholders that will be engaged in the programme:

- Communities and individuals in rural, urban and peri-urban areas as the ultimate beneficiaries of the programme. Youth, women and men, including persons with disabilities, and other more marginalised groups such as displaced people, will meaningfully participate in the intervention, including by taking part in consultations, awareness raising activities, etc. and by being represented at the decision-making level of the action.
- Target County Governments (supported by Council of Governors): Many of the activities will be planned and implemented at the county and community levels. The county and other relevant stakeholders will be directly engaged at the county technical committee. Regional Economic Blocs may also provide insights on coordination of land matters including regional planning, land based investments and regional management of natural resources across counties.
- The MoLPP and NLC will be main counterparts (also will be part of the Programme Coordination Unit) due to their mandate in the land sector, and others will be called in either as part of the advisory committee or as need arises, to collaborate on land and other natural resources governance matters.
- Other Ministries including Ministry of Devolution and ASALs, Ministry of Agriculture, the Ministry of Public Service, Youth and Gender Affairs, etc. Some other Agencies e.g. the Kenya Revenue Authority regarding revenue/property tax collection.
- Judiciary offices of the Attorney General and Chief Justice: will be key stakeholders in reviews, drafting, formulation and development of policies and laws; and land dispute resolution activities including the promotion of Alternative Justice Systems. Also the Ethics and Anti-Corruption Commission may be involved.
- National assembly, senate and county assemblies, especially the committees in charge of Lands, Environment and Natural Resources at national assembly, senate and county assemblies: these will be key stakeholders when discussing policy, legislative and regulatory reviews, formulation and enactments, and funding for the Lands sector.

- Research and training institutions including academia to enhance the research & capacity building components, and bring out credible and disaggregated data (at least by sex) and accessible and transparent information for decision making and planning. These will include Universities, Regional Centre for Mapping of Resources for Development (RCMRD), Kenya Space Agency (KSA), Kenya Institute for Public Policy Research and Analysis (KIPPRA), Kenya National Bureau of Statistics (KNBS), KALRO, among others.
- UN and Inter-governmental Organizations. As part of the UN pledge to 'Deliver as one', partnership with other UN Agencies such as UNODC and UN-Habitat (Global Land Tools Network) will bring out technical comparative advantages and synergies. It is also foreseen that this programme will be a basis for other initiatives foreseen in the Multiannual Indicative Programme e.g. on aspects such as housing and slum upgrading, promotion of accountability and transparency.
- Development partners group on land: FAO Kenya is the current chair of the group. The platform will seek to coordinate donors wishing to support the Kenya land reform agenda.
- Land Non-State Actors (Civil Society Organisations/NGOs, including women's and youth organizations, faith and community-based organizations, special interest groups and representatives of marginalised groups, including indigenous communities) will be beneficiaries under the programme (through Letters of Agreement with FAO) and important partners to advocate and lobby for sustainable approaches in the country. It is also expected activities such as Participatory Rangelands Management with communities receiving titles under the Community Lands Act will complement and leverage upon the planned programme.
- Professionals, professional institutions and boards for collaboration on land related matters, professional development on emerging issues and setting of operating procedures, creating awareness on land related policies, laws and activities, and providing advisory services when needed.
- Private sector institutions like Kenya Private Sector Alliance: in addition to being indirect beneficiaries to the programme, they will be important in reviews, formulation and implementation of policies and laws, and providing advisory services. It should be noted that the Results Oriented Monitoring (ROM) mission of the previous programme found that: '[KEPSA] is a strong, multi-actor, and unique organization. It has memberships and secretariat and people are recruited to fill gaps if there is a need. While they are on board with the land programme they are bringing in investment to economic development.'

### 3. DESCRIPTION OF THE ACTION

#### 3.1. Objectives and Expected Outputs

The Overall Objective (Impact) of this action is to improve food and nutrition security, livelihoods and sustainable development in Kenya through equitable and secure access and management of land as per Vision 2030.

The Specific Objective (Outcome) of this action is to improve security of tenure and equitable access to land and natural resources for the enhancement of livelihoods and sustainable socioeconomic development.

The Outputs to be delivered by this action contributing to the corresponding Specific Objectives (Outcomes) are

1. Enhance efficient and effective land governance through the digitisation and digitalization of land records and processes
2. Improve conflict and dispute resolution mechanisms on land and natural resources
3. Contribute to inclusive and improved policy, legal and institutional frameworks

#### 3.2. Indicative Activities

Output 1: Enhance efficient and effective land governance through accessible digitization and digitalization of land records and processes

- i. Establish and roll-out digitization and information management systems for land tenure security that is accessible to all
- ii. Support establishment of county land registries, integration of land information and customized functionalities
- iii. Fast-track ascertainment of rights and interests in land for All including the marginalised, and hasten recognition, protection and registration of community land rights to secure tenure

- iv. Support establishment of an integrated application/approach on land records digitisation and NLIMS and all other related systems including surveying, adjudication, planning, administration, recordation, customer feedback, monitoring and controls, valuation and taxation, revenue collection, E-Citizen, NTSA-TIMS (transport authority), KRA (revenue authority), KIAMIS (farmer data), Integrated Population Registration System (IPRS) under the Directorate of Immigration and Registration Services, etc.
- v. Explore innovative approaches like block chain technology for system security and reliability
- vi. Support development of Cadastre for the counties and linkages of all categories of lands ready for planning and investments
- vii. Support land use and physical planning including county spatial planning, sectoral plans and development plans. These will enable accessible, smart and sustainable transport access planning, provision of public services (schools, hospitals), and so on, by the relevant duty bearers. In addition, this activity will ensure that resources are exploited optimally based on their potential and sensitivity, for example contributing to disaster risk reduction (DRR) e.g. by ensuring that investments are timed and located appropriately to areas less prone to disasters like flooding and drought
- viii. Support identification of available, suitable and secure land for agriculture, housing and slum upgrading, among other development ventures. In addition, the challenges experienced by youth and women-led, and other vulnerable groups ventures to access land and other natural resources at appropriate conditions and using sustainable production practices will be identified and addressed
- ix. Contribute to environmental and biodiversity conservation by assisting in mapping of ecologically sensitive areas and biodiversity hotspots like lakes, wetlands, riparian areas, forests, wildlife conservation areas, including those habited by endangered species, conservancies, parks, and encourage preservation, protection, restoration and sustainable utilization. Assistance to counties in developing integrated management plans of the identified resources will be developed, including an environmental management plan detailing how the potential negative impacts will be mitigated. Where necessary, interventions will be subjected to environmental and social impact assessments to either prevent, minimise or mitigate against potential negative impacts, in line with relevant guidelines and legislations and institutions in land, water, forestry and environment e.g. Environmental Management and Coordination Act (EMCA).
- x. Encourage environmentally friendly livelihoods ventures, both for income and food and nutrition security. Community groups will be linked to relevant government entities and partners for support. Interventions to combat desertification and land degradation such as reforestation and sustainable land management will be encouraged. The aim is to either preserve or enhance provision of ecosystem services through the interventions and livelihood ventures such as eco-tourism, sustainable harvesting of non-timber forest products and other bio-enterprises
- xi. Support inclusion of the private sector in the promotion of various roles they are playing including support services and investments
- xii. Strengthen the inclusion and participation of youth, women, illiterate population, persons with disabilities, displaced persons, indigenous communities and other vulnerable and marginalized groups in land governance processes, access and use of land and natural resources to improve livelihood and enhance food and nutrition security

**Output 2: Improve conflict and dispute resolution mechanisms on land and natural resources**

- i. Support the development of customized framework and guidelines for Alternative Justice Systems (AJS) which include traditional or alternative dispute resolution (TDR/ADR) mechanisms
- ii. Establish strategic linkages between the justice systems and land administration
  - a. Improve administration and accessibility of justice to all in relation to land
  - b. Identify capacity gaps in justice institutions in the adjudication of land matters - fraudulent land transactions, probate, revenue collection, verification of securities in the administration of bail and bond
- iii. Introduce checks and balances for anti-corruption strategies and frameworks for land management
- iv. Support the development of the inventory, progress and monitoring the outcome of formal land related cases
- v. Identify areas of potential conflict and disputes especially within the land and other natural resources uses. Facilitate inter-community and inter-county agreements for peaceful co-existence and sharing of natural resources
- vi. Adopt participatory and inclusive approaches on land and natural resources management, and conflict & dispute resolution
- vii. Raise awareness on land rights and on the existing claims and dispute resolution mechanisms, in particular for women, indigenous communities, and other excluded groups to increase legal literacy and advance the implementation of existing legislation.

### Output 3: Contribute to inclusive and improved policy, legal and institutional frameworks

- i. Support the participatory and inclusive formulation, implementation, review and alignment of policies, legal and institutional frameworks, including relevant laws and regulations, including accessibility standards of digital technology to align the strategic direction of the digitalization and other processes. Where relevant, changes to land use planning policies involve encouragements towards environmental conservation and DRR, in line with national and county level policies and strategic documents and plans
- ii. Identify policy/legislative barriers which limit the scalability of land based investments by all and provide advice towards policy/legislative solutions
- iii. Provide and promote a participatory forum for land sector actors to meet relevant government officials and other stakeholders to discuss/review key bottlenecks and enhance coordination (ensuring inclusiveness of the forum for all)
- iv. Support the formulation of gender and youth sensitive and inclusive procedures, policies and legislations for Sustainable Land Management
- v. Support identification of gaps and opportunities through research and assessments at various levels to support inclusion and mainstreaming, guidance and development of policy, legal and institutional frameworks
- vi. Support communication, public education, awareness and change management training of stakeholders on land sector reforms including digitalization

### 3.3. Mainstreaming

This action significantly targets gender, resilience and conflict sensitivity, environment and climate change and human rights as well as inclusion of persons with disabilities in the scope of the action.

#### **Environmental Protection & Climate Change**

This action will target the improvement of natural resources management, climate change mitigation and adaptation through improved land planning, administration and management.

Output 1 of the action will contribute to environmental and biodiversity conservation by assisting in mapping of ecologically sensitive areas and biodiversity hotspots like lakes, wetlands, riparian areas, forests, wildlife conservation areas, including those habited by endangered species, conservancies, parks, and encourage preservation, protection, restoration and sustainable utilization. Assistance to counties in developing integrated management plans of the identified resources will be developed, including an environmental management plan detailing how the potential negative impacts will be mitigated. Where necessary, interventions will be subjected to environmental and social impact assessments to either prevent, minimise or mitigate against potential negative impacts, in line with relevant guidelines and legislations and institutions in land, water, forestry and environment e.g. Environmental Management and Coordination Act (EMCA).

The action will also encourage environmentally friendly livelihoods ventures, both for income and food and nutrition security. Community groups will be linked to relevant government entities and partners for support. Interventions to combat desertification and land degradation such as reforestation and sustainable land management will be encouraged. The aim is to either preserve or enhance provision of ecosystem services through the interventions and livelihood ventures such as eco-tourism, sustainable harvesting of non-timber forest products and other bio-enterprises

#### **Gender equality and empowerment of women and girls**

As per OECD Gender DAC codes identified in section 1.1, this action is labelled as G1. This implies that gender equality (SDG-5) is one of the primary sustainable goals to be met by this project's implementation as it is outlined as one of the numerous challenges that impede sustainable administration and management of land in Kenya. The action is aligned with the EU's Gender Action Plan III (in particular its objective: Increased access for women in all their diversity to financial services and products, and productive resources).

Output 3: Support will be given to the formulation of gender sensitive and inclusive procedures and drafting of land regulations for sustainable governance of land and natural resources. While supporting formulation, review and implementation of policies, legislations, guidelines and institutional frameworks, the programme will take cognisance of the inequalities on women, youth and other marginalised groups (indigenous, persons with disabilities and others) in access, use and ownership of land. Reference will be made to the Constitution of Kenya, laws, draft land sector gender policy and their provisions on gender equity and equality in the land sector, and promote compliance. Further, greater security in access to land rights to women and the marginalized people (including displaced persons),

including putting in place compensation mechanisms in cases where there are compulsory land acquisitions or displacements that affect the communities.

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### **Human Rights**

Output 2 of this intervention will deal with direct addressing of disputes, conflict sensitivity and human rights via promotion of alternatives conflict and dispute resolution mechanisms on land and natural resources.

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### **Disability**

As per OECD Disability DAC codes identified in section 1.1, this action is labelled as D1. This implies that on the log frame, disability has been presented as a vital indicator. At county technical committees, persons with disabilities will be included as mandatory stakeholders.

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### **Democracy**

The action will contribute to all 5 Ps (People, Planet, Prosperity, Peace, Partnership) of the New European Consensus on Development ‘our world, our dignity, our future’<sup>2</sup>, and to the Human Rights and Democracy action plan which has identified land governance and land rights, the Gender Action Plan III (in particular its objective: Increased access for women in all their diversity to financial services and products, and productive resources), inter alia.

By working with County Governments (supported by Council of Governors), the Judiciary, and the National assembly, senate and county assemblies, this document will support local democratic governance and the devolution process in Kenya.

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### **Conflict sensitivity, peace and resilience**

Poor and delayed access to justice regarding land disputes and conflicts is one of the three key problems to be prioritized by this action. There has been limited number of staff assigned to land issues compared to total county populations and high demand to respond to land disputes, conflicts and general land administration. County Governments are aware of the need to hire more staff and allocate funds that invest in their human resource needs. Through this action, FAO will encourage them to put in place incentives and entry level contracts to mitigate this risk.

By mapping out natural resources as part of project activities, localised disputes and conflict related to natural resources will be mitigated.

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### **Disaster Risk Reduction**

Output 1 will support land use and physical planning including county spatial planning, sectoral plans and development plans. These will enable accessible, smart and sustainable transport access planning, provision of public services (schools, hospitals), and so on, by the relevant duty bearers. In addition, this activity will ensure that resources are exploited optimally based on their potential and sensitivity, for example contributing to disaster risk reduction (DRR) e.g. by ensuring that investments are timed and located appropriately to areas less prone to disasters like flooding and drought.

Climate smart interventions will be identified and encouraged to adapt and mitigate against climate change (i.e. enhance climate change resilience). Conservation and related activities will provide opportunities for enhancing livelihood diversification and improve food security, family incomes as well as contribute to mitigating the effects of climate change.

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### **Other considerations if relevant**

Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes), including in terms of human rights and gender equality, as measured by corresponding indicators, using as reference the Logframe matrix (for project modality) or the partner’s strategy, policy or reform action plan list (for budget support). SDG and GAP III indicators will be privileged to that effect.

### 3.4. Risks and Lessons Learnt

Category	Risks	Likelihood (High/ Medium/ Low)	Impact (High/ Medium/ Low)	Mitigating measures
1	Risk 1 Civil unrest. Whilst Kenya is politically stable, the project will still be under implementation during the 2022 elections, where one of the target groups (youth) have been known to become vulnerable to political agitation.	L	L	Partially suspend activities and, if necessary depending on the severity/duration of the civil unrest, request a revision of the project or project timeline to deal with any fallout from unrest.
3	Risk 2 Mistrust of duty-bearers and public institutions by the general public.	M	H	While this programme is meant to address this problem directly by improving government service delivery and transparency, it will also seek to mitigate this issue by supporting also communication and community engagement. It will also support the government in its complaints mechanisms for the land digitisation system (NLIMS).
4	Risk 3 Fluidity of government commitment. A likely risk is a change in government focus and changes in government officers, in particular the closer we get to the elections.	L	L	Presentation of the project to new government officers. The conclusion of any activity-based agreements with the government prior to the election period, where possible.
4	Risk 4 Delays in the approval of regulations/legislations which are meant to unblock identified bottlenecks in land processes	M	M	Identification of key bottle necks as early as possible. Incorporation of county governments, regional economic blocks, national government and private sector apex bodies in activities designed to build consensus.
3	Risk 5 County executives fail to support the project or become disengaged with project, despite their legal requirements and mandates for improved land use planning and use of GIS.	L	L	Ensure the counties are involved in all the key project activities. Where possible, ensure the counties directly contribute to the some of the project activities either through cash or in-kind (such as dedicated personnel, offices or provision of other county resources).
3	Risk 6 Limited number of staff assigned to land issues compared to total county populations and high demand to respond to land disputes, conflicts and general land administration.	L	M	County Governments are aware of the need to hire more staff and allocate funds that invest in their human resource needs. Encourage them to put in place incentives and entry level contracts to mitigate this risk

4	Risk 7 Lack of implementation of new policies and procedures in government offices.	L/M	M	Conduct effective change management training to staff and other stakeholders as part of the programme; continuous communication, public education and awareness raising about the processes and intended benefits of interventions. Policy dialogue at operational and political level including through the governance structures of the programme (see 5.6).
3	Risk 8 Lack of commitment towards gender equality from stakeholders, including a lack of disaggregated data, lack of gender analysis and assessment.	M	M	The intervention will contribute to support duty-bearers in gathering data and conducting gender analysis that support the design of the action.
3	Risk 9 Localised disputes and conflict over natural resources threaten project activities or reputation. Note that the project will not have any direct impact on increasing the risk of conflict. In areas where conflict over natural resources already exists though, mitigating measures may well be needed.	M	H	Mapping of natural resources as part of project activities. County-level planning support. Engagement with the aggrieved communities early on.
1	Risk 10 Disruption of activities due to COVID-19 pandemic	L	H	Application of and/or alignment of activities as per COVID-19 containment guidelines; Virtual/teleworking modalities at certain periods; online meetings and trainings.

#### Lessons Learnt:

The proposed DLGP builds upon the lessons and experiences learnt from the Land Governance programme 2016-2021, a previous pilot phase 2014-2016, and other experiences. The 2020 Results Oriented Monitoring (ROM) had some notable findings:

- a. Confirmation of the contribution to multiple objectives i.e. gender equality, environmental conservation, conflict reduction and increased investment. *‘Benefits from the program are plentiful including: awareness and respect of women’s rights in decisions related to lands, positive communication between communities, and increase of security of land access which is a great for investors, and a more balanced ecosystem. However, the communities feel like an increase in women’s rights goes against their culture, and in regions where the main activity is pastoralism, nomads fear that their movement will be limited.’* This also chimes with reporting from the Land Governance programme, which states that women’s land title ownership has increased from 5 % to 40 % in the community land areas currently targeted by the project, and that the communities already in possession of Land titles are advocating for livelihood investments and conservation ventures.
- b. The programme has complementarity/synergy with a number of other EU partners, projects and beneficiaries including the Judiciary, Civil Society Organisations (such as WWF, OXFAM, Kenya Pastoralist forum), the EU Participatory Rangeland Project (Reconcile/ International Fund for Agriculture Development/International Land Coalition), Forest Restoration projects and livestock projects. This confirms the topic as a strategic and cross-cutting issue.
- c. One aspect for improvement is the need to enhance livelihoods and support after securing tenure and improving equitable access to land, in order to ensure a community can prosper by managing and protecting the land. This finding was also reported in the FAO Mid-Term Evaluation of 2019.

- d. Further incorporation of digital technologies: *'It is recommended to enhance technology incorporation to ensure access of information on land in all the counties by taking example of the GIS of Vihiga [county]'*).

Likewise, some of the notable observations and recommendations of the FAO Mid-Term Evaluation include the following:

- a. The Programme responds to the need and priorities of the community as it delves into dispute resolution, registration of communal titles, participatory boundary delimitation and the practicalities of transitioning from group ranches to community land with emphasis on the pasture and water resource access rights of other communities and provisions for social amenities (health and education).
- b. The communities are still patriarchal in their set up where women and youth can attend meetings but are more seen than heard. The Programme is addressing this by ensuring that communities continually involve women and youth in decision making on land matters through including in them committees and the opening of the register to include women and youth, which was previously unheard of e.g. in group ranches. This has been possible through awareness creation initiatives under the Programme.
- c. Capacity build community peace and land committees on conflict resolution, peace building and reconciliation leads to reduced risk of conflict arising during adjudication.
- d. The Programme should focus on the use of science and technology in land use suitability and boundary identification and establishment at both the intra and inter community levels as competition for natural resources is the main cause of land-based conflicts.
- e. Among other ventures in land use and physical planning, several counties have started development of County Spatial Plans (CSPs). However, there are numerous challenges which range from inadequate technical capacity and insufficient budgetary allocations, to lack of awareness on the CSP among key stakeholders and sheer lack of prioritization by the county administration. One of the gaps identified in the process of development of CSPs is lack of updated maps and cadastres, which forms the basis for county spatial planning. Therefore, a lot of support to the national and county governments is still needed to fast track the process of development and finalisation of CSPs. Also upscaling and rolling out of the work on digitization and NLIMS to the counties is also a good prerequisite for CSP development.
- f. The need to partner with other organizations focusing on livelihoods, especially in the next programming. The Programme was expected to make an enormous contribution in the counties as it has brought land related legislations to the forefront and introduced the aspect of economic profitability of ASAL community land that was previously considered unproductive.

Indeed, when property (land tenure) rights are protected, people, groups, and businesses make forward-looking investments because they are more confident that they will capture future returns from their efforts, as demonstrated by the example of the Iingwesi community in Laikipia, Kenya. The Iingwesi community has entered into a lease agreement with an investor following their community land registration and are getting approximately KSh 25 000 000 (EUR 200 000) annually (*ceteris paribus*) from the lease and other ancillary benefits through creation of employment, capacity building and technological transfer. For communities living in fragile lands with low agricultural potential, investments in new forms of group ownership that engender equitable sharing can provide stable incomes and expand investment opportunities. These investments can build their resilience to climate change, alleviate poverty and enhance their food security.

Regarding the choice of implementing partner FAO, it has specific sector/thematic expertise, combined with unique logistical capacities, and an added value as a neutral partner in a politically sensitive topic. FAO has formulated and promotes the application of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). FAO has wide experience in policy dialogue support through initiatives under the South-South and Triangular cooperation and international best practices. During the implementation of the previous programme, the EU has found the organisation to be a politically neutral, with a reconciliatory mandate, technically competent and strategic partner, managing to bring best practice and high quality interventions in a politically sensitive topic of Land. In addition, FAO have ensured very good EU visibility in the activities and policy dialogue.

FAO has established a good working relationship with communities, national and county governments, non-state actors including other UN agencies, civil society organizations and the private sector. FAO acts as a neutral agency, honest broker and enabler as the need arises.

### 3.5. The Intervention Logic

The overall objective of the DLGP is to improve land tenure security and create sustainable environment for livelihoods prosperity in Kenya as per Vision 2030. Specifically, the expected impact of the proposed programme is food and nutrition security, poverty reduction, economic development and environmental sustainability leading to better production, better nutrition, better environment and better life for all people. The expected outcome of the programme will be improved security of tenure and equitable access to land and natural resources for enhancement of livelihoods and sustainable socioeconomic development. The outcome will be achieved via the intervention logic as follows.

A comprehensive project on land governance (policy, legal and institutional, tenure, administration and management, dispute and conflict mitigation) requires coordinated action at the following levels:

- As a basis, inclusive policy, legal and institutional arrangements are pivotal to implementation, enforcement and controls of processes within the land sector. It is important to note that there will be need for review, recommend and formulate policies in tandem with new development within the land sector and noting the demands and gaps. It is imperative to integrate safeguards to avoid infringing on or extinguishing tenure rights of others including legitimate tenure rights that are not currently protected by law, in particular the safeguards should protect women, youth, persons with disabilities, indigenous, displaced and other vulnerable and marginalised groups who hold subsidiary tenure rights such as gathering and grazing rights. While Kenya already has some progressive and inclusive legislations and practices, there is a need to implement, coordinate, integrate and institutionalise these while also improving the existing body of frameworks (Result 3). This will create an enabling policy environment for accessible digitalization, digitization of land records, inclusivity and participation of the minorities and the more marginalised, increased investment incentives and sustainable land management.
- As a main activity, coordinated roll-out of an improved and digitised land records systems and processes at county (devolved Governments) and national levels, will address the land planning, administration and management at all levels with a standardized approach. The coordination and integration of national approach together with county interventions will lead to minimised conflicts and increased investment opportunities, better management natural resource and environment as well as better and more inclusive service delivery to citizens. (Result 1).
- Minimisation of potential disputes, conflict and inequalities will be achieved through an inclusive, participatory, locally adapted and efficient conflict and dispute resolution mechanisms on land and natural resources. (Result 2).

The underlying intervention logic for this action is as follows:

#### Overall objective (Impact)

Improve food and nutrition security, livelihoods and sustainable development in Kenya through equitable and secure access and management of land as per Vision 2030.

#### Specific Objective (Outcome)

Improved security of tenure and equitable access to land and natural resources for the enhancement of livelihoods and sustainable socioeconomic development.

#### Expected Outputs (Results)

1. Enhance efficient and effective land governance through the digitisation and digitalization of land records and processes
2. Improve conflict and dispute resolution mechanisms on land and natural resources
3. Contribute to inclusive and improved policy, legal and institutional frameworks

### 3.6. Logical Framework Matrix

This indicative logframe constitutes the basis for the monitoring, reporting and evaluation of the intervention.

On the basis of this logframe matrix, a more detailed logframe (or several) may be developed at contracting stage. In case baselines and targets are not available for the action, they should be informed for each indicator at signature of the contract(s) linked to this AD, or in the first progress report at the latest. New columns may be added to set intermediary targets (milestones) for the Output and Outcome indicators whenever it is relevant.

- At inception, the first progress report should include the complete logframe (e.g. including baselines/targets).
- Progress reports should provide an updated logframe with current values for each indicator.
- The final report should enclose the logframe with baseline and final values for each indicator.

The indicative logical framework matrix may evolve during the lifetime of the action depending on the different implementation modalities of this action.

The activities, the expected Outputs and related indicators, targets and baselines included in the logframe matrix may be updated during the implementation of the action, no amendment being required to the Financing Decision.

Results	Results chain (@): Main expected results (maximum 10)	Indicators (@): (at least one indicator per expected result)	Baselines (values and years)	Targets (values and years)	Sources of data	Assumptions
Impact	Improved food and nutrition security, livelihoods and sustainable development in Kenya through equitable and secure access and management of land as per Vision 2030	1. SDG Indicator 1.4.2 Proportion of total adult population with secure tenure rights to land, (a) with legally recognized documentation, and (b) who perceive their rights to land as secure, by sex and type of tenure  2. Proportion of moderate or severe food insecure people, based on the Food Insecurity Experience Scale (FIES)*	1. improve ment  2. Severe (17%); moderate (50%)	1 2	1. Global SDG Indicators Database: <a href="https://unstats.un.org/sdgs/indicators/database">https://unstats.un.org/sdgs/indicators/database</a> . If data are not available, baseline and endline surveys to be conducted and budgeted by the EU-funded intervention 2. Food Security Assessment reports	Not applicable
Outcome 1	Improved security of tenure and equitable access to land and natural resources for all	1.1 Number of smallholders reached with EU supported interventions aimed to [increase their sustainable production, access to markets and/or] security of land (*NDICI indicator 1) (disaggregated by gender and age) 1.2. Percentage change in land related disputes and conflicts 1.3. Percentage of smallholder producer (farmers, pastoralists and fisher folk) households reporting an improvement in livelihoods	1.1 1.2	1.1. 250,000  1.2. 2.5%  1.3. 50%	1.1 Baseline and endline surveys to be conducted and budgeted by the EU-funded intervention  1.2 Baseline and endline surveys to be conducted and budgeted by the EU-funded intervention  1.3 Baseline and endline surveys to be conducted and budgeted by the EU-funded intervention	County & National MDAs will be interested in partnering with the programme to support development of frameworks & systems for access to land and natural resources  National and county governments working in harmony

<b>Output 1</b>	1.1 Enhanced efficient and effective land governance through the digitization and digitalization of land records and processes	1.1.1 EURF 12. Number of (a) countries supported by the EU to enhance... (b) people supported by the EU with enhanced... access to digital government services	1.1.1 1.1.2	1.1.1 (a) 1 (b) TBC at baseline	1.1.1 EU intervention monitoring and reporting systems: annual and final reports from implementing organisations (e.g. governments, international organisations, non-state actors), ROM reviews, and evaluations	County Governments are willing to collaborate and commit funds/in-kind in line with programme objective No significant institutional conflicts among government line ministries managing different land resources at county level Spatial planning fully anchored in county and national laws and utilized to develop CIDPs, as foreseen.
		1.1.2 EU RF 10. Number of countries supported by the EU to (a) develop/revise (b) implement digital-related policies/ strategies/ laws/ regulations		1.1.2. Target: 1	1.1.2 EU intervention monitoring and reporting systems: annual and final reports from implementing organisations (e.g. governments, international organisations, non-state actors), ROM reviews	All users are able to use digital information e.g. courts, valuers, developers, banks , etc.
		1.1.3 Number of counties with NLIMS with support of the EU-funded intervention		1.1.3. At least 29 counties (may be able to reach all 47)	1.1.3. One stop access center/Systems/ databases	
		1.1.4 Number of people registered in NLIMS (disaggregate by sex) with support of the EU-funded intervention		1.1.4. 5,000 additional (current Nairobi baseline of active profiles is 18,131)	1.1.4. NLIMS records	Digital connectivity and power is adequate in most counties.
		1.1.5 Area (Ha.) of community land recognized, protected and/or registered		1.1.5. 6,000,000	1.1.5 Size; Maps; Reports, Cadastre 1.1.6 Size; Maps; Reports	

		1.1.6 Area (Ha.) of land mapped & identified for investments		1.1.6. 3,000,000		Communities recognize biodiversity as part of development
<b>Output 2</b>	1.2 Improved conflict and dispute resolution mechanisms on land and natural resources	<p>1.2.1 Number of regulations, guidelines, manuals and standard operating procedures for AJS (including ADR and TDR) developed/revised or implemented with the support of the EU-funded intervention</p> <p>1.2.2 Number of people whose cases were handled through AJS (disaggregated by sex)</p> <p>1.2.3 Number of AJS structures/institutions established</p> <p>1.2.4 Number of pending land cases</p> <p>1.2.5 Average time taken to resolve civil cases (days)</p>	<p>1.2.1</p> <p>1.2.2</p> <p>1.2.2</p> <p>1.2.2</p>	<p>1.2.1 10</p> <p>1.2.2 2,900</p> <p>1.2.3. 29</p> <p>1.2.4. Improvements noted</p>	<p>1.2.1 AJS policy documents</p> <p>1.2.2. Inventory of land cases in Counties;</p> <p>1.2.3. Land dispute and conflict resolution reports; Progress reports</p> <p>1.2.4. Court registry reports</p> <p>1.2.5. Cases registry reports</p>	<p>Suggested mechanisms will be used by both national and county governments for land &amp; NR disputes and conflict mitigation &amp; management</p> <p>Adequate training of AJS to community elders</p>

<p><b>Output 3</b></p>	<p>1.3. Contributed to inclusive and improved policy, legal and institutional frameworks</p>	<p>1.3.1 Number of policy, legal and institutional frameworks &amp; guidelines developed and/or reviewed (considering gender sensitivity &amp; inclusivity dimensions) with support of the EU-funded intervention</p> <p>1.3.2. Number of sustainable land leasing framework/models developed or supported with support of the EU-funded intervention</p> <p>1.3.3. Number of people reached through communication, public education and awareness sessions on land sector reforms (disaggregated by gender and age)</p>		<p>1.3.1 At least 30</p> <p>1.3.2. At least 1</p> <p>1.3.3. 29,000</p>	<p>1.3.1. Policy &amp; legal documents</p> <p>1.3.2.Sustainable land leasing frameworks/models;</p> <p>1.3.3. Communication, public education and awareness sessions reports</p>	<p>National and County Governments are willing to improve their policy framework to facilitate equitable access to land and overall governance</p>
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## 4. IMPLEMENTATION ARRANGEMENTS

### 4.1. Financing Agreement

In order to implement this action, it is not envisaged to conclude a financing agreement with the partner country.

### 4.2. Indicative Implementation Period

The indicative operational implementation period of this action, during which the activities described in section 3 will be carried out and the corresponding contracts and agreements implemented, is 84 months from the date of adoption by the Commission of this Financing Decision.

Extensions of the implementation period may be agreed by the Commission's responsible authorising officer by amending this Financing Decision and the relevant contracts and agreements.

### 4.3. Implementation of the Budget Support

N/A

### 4.4. Implementation Modalities

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>3</sup>

#### 4.4.1. Indirect Management with an international organisation

This action may be implemented in indirect management with the UN Food and Agriculture Organisation (FAO). This implementation entails all 3 results of the Action. The envisaged entity has been selected using the following criteria: thematic expertise in the sector; proven operational and management capacity of the organisation; neutrality; mandate and capacity to engage with Kenya and readiness to rapidly implement activities.

In case the envisaged entity would need to be replaced, the Commission's services may select a replacement entity using the same criteria. If the entity is replaced the decision to replace it needs to be justified.

### 4.5. Scope of geographical eligibility for procurement and grants

N/A

<sup>3</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu). Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

#### 4.6. Indicative Budget

	<b>EU contribution (amount in EUR)</b>	<b>Indicative third party contribution (amount in EUR)</b>
<b>Outputs 1, 2, 3</b>		
Indirect management with UN Food and Agriculture Organisation (cf. section 4.4.1)	20 000 000	848 805
<b>Evaluation (cf. section 5.2), Audit (cf. section 5.3)</b>	will be covered by another decision	N.A.
Totals	20 000 000	848 805

#### 4.7. Organisational Set-up and Responsibilities

In the new programme, FAO will be a technical and management facilitator and convener, enabling the relevant duty-bearers and right-holders to carry out their roles effectively. FAO has established good working relationships with, among others the MoLPP, NLC, county governments and the council of governors, state and non-state actors including civil society organizations and donors in the land sector. This will allow proper targeting of interventions and consequently effective and speedy implementation of the proposed programme.

Based on the lessons learnt from the land governance programme, there will be a management and implementation modalities will include a Programme Advisory Committee (PAC), virtual Programme Coordination Unit (PCU) at national level (made up of FAO, MoLPP, CoG and NLC) and, importantly the county technical committees that will support the programme implementation, and will include persons with disability and women as mandatory stakeholders.

The PAC will comprise of the key programme stakeholders including: EU, FAO, Ministry of Lands and Physical Planning (MoLPP), the National Land Commission (NLC), Council of Governors (CoG), CSOs, including women's organizations and organizations working on the rights of indigenous communities, Ministry of Finance and Planning, Ministry of Devolution, and others. The arrangement will co-opt any other stakeholder as need arises. The PAC will provide strategic guidance/oversight on programme implementation. The PAC will meet regularly to: (i) approve the Programme's annual work plan and budget and to review progress reports; (ii) assess the effectiveness of management and partnership; and (iii) recommend corrective measures where appropriate. The virtual PCU will act as a Secretariat to the PAC, and will participate at both the national advisory committee meetings and the county technical committee meetings. This way the PCU will bring tangible field results to the discussion table at national level and discuss policy implications that will have to be addressed.

As part of its prerogative of budget implementation and to safeguard the financial interests of the Union, the Commission may participate in the above governance structures set up for governing the implementation of the action.

## 5. PERFORMANCE MEASUREMENT

### 5.1. Monitoring and Reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (Outputs and direct Outcomes) as measured by corresponding indicators, using as reference the logframe matrix (for project modality) and the partner's strategy, policy or reform action plan list (for budget support).

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

Roles and responsibilities for data collection, analysis and monitoring:

Results-based management approach for Monitoring and Evaluation (M&E) will be used in monitoring progress towards achievement of programme objectives. M&E activities envisioned include; a baseline study to establish indicator baseline values, routine monitoring to track implementation progress to inform any adjustments to strategies or approaches as need be as well as results monitoring to establish the extent to which set targets have been achieved.

Reports shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

### 5.2. Evaluation

Having regard to the nature of the action, an evaluation or evaluations may be carried out for this action or its components via independent consultants contracted by the Commission.

The Commission shall inform the implementing partner at least 15 days in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

Any evaluation will be gender sensitive and also assess the effective integration of relevant cross-cutting issues and implementation of the five HRBA working principles, both in terms of implementation processes and outcomes. In addition, an active and meaningful participation of all identified stakeholders including rights-holders should be ensured in the entire evaluation process.

The evaluation reports shall be shared with the partner country and other key stakeholders following the best practice of evaluation dissemination<sup>4</sup>. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

The financing of the evaluation shall be covered by another measure constituting a Financing Decision.

<sup>4</sup> See best [practice of evaluation dissemination](#)

### 5.3. Audit and Verifications

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audit or verification assignments for one or several contracts or agreements.

## 6. STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY

The 2021-2027 programming cycle will adopt a new approach to pooling, programming and deploying strategic communication and public diplomacy resources.

It will remain a contractual obligation for all entities implementing EU-funded external actions to inform the relevant audiences of the Union's support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. This obligation will continue to apply equally, regardless of whether the actions concerned are implemented by the Commission, partner countries, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU member states.

However, action documents for specific sector programmes are no longer required to include a provision for communication and visibility actions promoting the programmes concerned. These resources will instead be consolidated in Cooperation Facilities established by support measure action documents, allowing Delegations to plan and execute multiannual strategic communication and public diplomacy actions with sufficient critical mass to be effective on a national scale.

## APPENDIX 1 REPORTING IN OPSYS

An Intervention<sup>5</sup> (also generally called project/programme) is the operational entity associated to a coherent set of activities and results structured in a logical framework aiming at delivering development change or progress. Interventions are the most effective (hence optimal) entities for the operational follow-up by the Commission of its external development operations. As such, Interventions constitute the base unit for managing operational implementations, assessing performance, monitoring, evaluation, internal and external communication, reporting and aggregation.

Primary Interventions are those contracts or groups of contracts bearing reportable results and respecting the following business rule: ‘a given contract can only contribute to one primary intervention and not more than one’. An individual contract that does not produce direct reportable results and cannot be logically grouped with other result reportable contracts is considered a ‘support entities’. The addition of all primary interventions and support entities is equivalent to the full development portfolio of the Institution.

Primary Interventions are identified during the design of each action by the responsible service (Delegation or Headquarters operational Unit).

The level of the Primary Intervention is defined in the related Action Document and it is revisable; it can be a(n) (group of) action(s) or a (group of) contract(s).

Tick in the left side column one of the three possible options for the level of definition of the Primary Intervention(s) identified in this action.

In the case of ‘Group of actions’ level, add references to the present action and other action concerning the same Primary Intervention.

In the case of ‘Contract level’, add the reference to the corresponding budgetary items in point 4.6, Indicative Budget.

<b>Option 1: Action level</b>		
<input checked="" type="checkbox"/>	Single action	Present action: all contracts in the present action
<b>Option 2: Group of actions level</b>		
<input type="checkbox"/>	Group of actions	Actions reference (CRIS#/OPSYS#):
<b>Option 3: Contract level</b>		
<input checked="" type="checkbox"/>	Single Contract 1	<foreseen individual legal commitment (or contract)>
<input type="checkbox"/>	Single Contract 2	
<input type="checkbox"/>	Single Contract 3	
	(...)	
<input type="checkbox"/>	Group of contracts 1	

<sup>5</sup> [ARES \(2021\)4204912](#) - For the purpose of consistency between terms in OPSYS, DG INTPA, DG NEAR and FPI have harmonised 5 key terms, including ‘action’ and ‘Intervention’ where an ‘action’ is the content (or part of the content) of a Commission Financing Decision and ‘Intervention’ is a coherent set of activities and results which constitutes an effective level for the operational follow-up by the EC of its operations on the ground. See more on the [concept of intervention](#).

