

RESETTLEMENT POLICY FRAMEWORK

**FOR COMPONENT ONE OF THE
GEORGIA IRRIGATION AND LAND MARKET
DEVELOPMENT PROJECT (GILMD)**

November 12, 2013

PREFACE

The Georgia Irrigation and Land Market Development Project will be supported by the World Bank and IFAD. The development objective of the Project is to improve the delivery of irrigation and drainage services in selected areas and to ensure owners of irrigated or drained land in selected areas have registered land titles.

The expected project results are as follows:

- Irrigation and Drainage Regulation: plans in place for reform of the legislative and institutional framework for regulation and monitoring of water abstraction, quality and delivery;
- Irrigation and Drainage Institutions: Off-farm and on-farm water management institutions established and operational with strategic plans and in place for long term sustainability in target areas;
- Irrigation and Drainage infrastructure: Off-farm and on-farm irrigation and drainage systems operational in target areas;
- Land Market: Land surveys, certification and registration completed in areas where irrigation and drainage rehabilitation take place.

The project has three components:

Component 1, Irrigation and Drainage Improvement

Component 2, Land Market Development

Component 3, Project Management

World Bank policy OP4.12 on involuntary resettlement and land acquisition is triggered for Component 1 of the project, which will finance rehabilitation and modernization of irrigation and drainage infrastructure. For Component 2, a "Country Systems" approach will be followed for the proposed land registration pilots. In this case the "country system" will be outlined in the Georgia Land Reform Strategy and Action Plan and Operations Manual to be developed under the project, which will set out the policy and standards in regards to land acquisition, and the institutional mechanism which is being set up to implement them.

This Resettlement Policy Framework (RPF), has been developed to guide involuntary resettlement and land acquisition issues under Component 1 of the project. It was prepared by the Managing and Monitoring Division of Donor Projects of International Relations Department of the Ministry of Agriculture (MOA) of Georgia (DPIMD). It is one of key safeguard documents for the supported by the World Bank and IFAD (International Fund for Agricultural Development).

This RPF takes into account the approaches to land acquisition and resettlement issues by the Government of Georgia, the World Bank (WB) and the IFAD, and best international practice. The document prepared by the MOA provides the framework for assuring mutually accepted compliance to the concerns of all parties, with the understanding that the most stringent requirements of any party would prevail and be respected.

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ABBREVIATIONS

AF	Affected Family
AH	Affected Household
AP	Affected Person
BP	Bank Procedure
CDD	Community-Driven Development
DP	Displaced Person
DPIMD	Donor Projects Implementation and Monitoring Division.
EA	Executing Agency
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
ESSU	Environmental and Social Safeguards Unit
GEC	Grievance Examination Commission
GILMDP	Georgia Irrigation and Land Market development Project
GEF	Global Environmental Fund
IFI	International Financial Institutions
IMA	Independent Monitoring Agency
IPSA	Initial Poverty and Social Assessment
IFAD	Agricultural Development International Found
LAR	Land Acquisition and Resettlement
LSG	Local Self Government
MOA	Ministry of Agriculture
MRA	Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia
MLARO	Municipal Land Acquisition and Resettlement Office
NAPR	National Agency for Public Registration
NGO	Non-Governmental Organization
OD	Operational Directive
OP	Operational Policy
OM	Operational Manual
PAP	Project Affected Person
PIC	Public Information center
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
ROW	Right of Way
RP	Resettlement Plan
RPF	Resettlement Policy Framework
UASCG	United Amelioration Systems Company of Georgia
WB	World Bank

Glossary

1. **Affected Person (or household)** - People (households) affected by project-related changes in use of land, water or other natural resources. These include permanent and temporary loss of land, assets, and income. Affected persons entitled for compensation or at least rehabilitation provisions under the Project are: all persons losing land, or access to land, permanently or temporarily either covered by legal title/traditional land rights or without legal status; tenants and sharecroppers whether registered or not; owners of affected buildings, crops, plants, or other objects attached to the land; and affected persons losing business, income, and salaries.
2. **Asset Inventory** - A complete count and description of all property that will be acquired.
3. **Compensation** - Loss reimbursement for the Project affected persons; Cash payment or in-kind compensation in the due amount in return for the loss of assets (property), resources or income.
4. **Cut-off date** – The date established for each sub-project as the date for which census and population data of affected persons will apply. Persons who settle in the affected area after the cut-off date will not be eligible for compensation.
5. **Economic Rehabilitation** -E c o n o m i c Rehabilitation implies the measures taken for income restoration or economic recovery so that the affected population can improve or at least restore its previous standard of living.
6. **Eligibility** -The criteria for qualification to receive benefits under a resettlement program.
7. **Eminent Domain** -T h e right of the state to acquire land, using its sovereign power, for public purpose. National law establishes which public agencies have the prerogative to exercise eminent domain.
8. **Expropriation** - Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.
9. **Grievance Procedures** -T h e processes established under law, local regulations, or administrative decision to enable property owners and other displaced persons to redress issues related to acquisition, compensation, or other aspects of resettlement.
10. **Initial Baseline Survey** -T h e population census, asset inventory, and socioeconomic survey together constitute the baseline survey of the affected population.
11. **Income restoration** - Re-establishing income sources and livelihoods of people affected

12. **Involuntary Resettlement - Development** project results in unavoidable resettlement losses that people affected have no option but to rebuild their lives, income and assets bases elsewhere.
13. **Land Acquisition** -The process of acquiring land or land based assets under the legally mandated procedures of eminent domain.
14. **Population Census** - A complete and accurate count of the population that will be affected by land acquisition and related impacts. When properly conducted, the population census provides the basic information necessary for determining eligibility for compensation.
15. **Project Cycle - The** cycle of project development from initial phases of identification and assessment of feasibility, until its final implementation. From standpoint of the project implementing agency, it is convenient to represent the project cycle as consisting of following phases: Pre-feasibility Assessment, Feasibility Studies, Project Design and Appraisal, Project Implementation.
16. **Rehabilitation** -Re-establishing incomes, livelihoods, living, and social systems
17. **Relocation** - Rebuilding housing, assets, including productive land, and public infrastructure in another location
18. **Replacement rates** - Cost of replacing lost assets and incomes, including cost of transactions
19. **Resettlement** - Term – “Resettlement” in accordance to the World Bank Involuntary Resettlement Operational Policy Document 4.12 considers alienation of land parcels, alienation of land based assets and/or physical relocation (moving to other place) of households within the project affected area
20. **Resettlement Entitlements** - Resettlement entitlements with respect to a particular eligibility category are the sum total of compensation and other forms of assistance provided to displaced persons in the respective eligibility category.
21. **Resettlement Effects-Loss** of physical and non-physical assets, including homes, communities, productive land, income-earning assets and sources, subsistence, resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms.
22. **Resettlement Plan** - A time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, action, responsibilities, monitoring and evaluation

23. **Resettlement (Action) Plan** - A resettlement action plan [RAP] is the planning document that describes what will be done to address the direct social and economic impacts associated with involuntary taking of land.
24. **Socioeconomic Survey (SES)** -A complete and accurate survey of the project-affected population. The survey focuses on income-earning activities and other socioeconomic indicators.
25. **Stakeholders** - A broad term that covers all parties affected by or interested in a project or a specific issue—in other words, all parties who have a stake in a particular issue or initiative. Primary stakeholders are those most directly affected—in resettlement situations, the population that loses property or income because of the project and host communities. Other people who have an interest in the project—such as the project authority itself, the beneficiaries of the project (e.g., urban consumers for a hydro-power project), and interested NGOs are termed secondary stakeholders.
26. **Resettlement Strategy (Rehabilitation Strategy)** -The approaches used to assist people in their efforts to improve (or at least to restore) their incomes, livelihoods, and standards of living in real terms after resettlement. The resettlement strategy typically consists of payment of compensation at replacement cost, transition support arrangements, relocation to new sites (if applicable), provision of alternative income-generating assets (if applicable), and assistance to help convert income-generating assets into income streams.
27. **User** - Physical person not necessarily registered as the owner of land at the Public Register, who may or may not have formal rights to the land but who is using the land
28. **Usufruct** - The right to use and profit from land belonging to other person, or group of persons but in difference with the owner he/she will have no right to alienate, mortgage or bequeath of the land parcel
28. **Vulnerable groups** – groups of people who are more at risk of poverty, poor living conditions and social and economic exclusion

1. Project Objective and Anticipated Project Impacts

The development objective of the Project is to increase agricultural productivity in selected Project areas.

The expected project results are as follows:

- Irrigation and Drainage Regulation: plans in place for reform of the legislative and institutional framework for regulation and monitoring of water abstraction, quality and delivery;
- Irrigation and Drainage Institutions: Off-farm and on-farm water management institutions established and operational with strategic plans and in place for long term sustainability in target areas;
- Irrigation and Drainage infrastructure: Off-farm and on-farm irrigation and drainage systems operational in target areas;
- Land Market: Land surveys, certification and registration completed in areas where irrigation and drainage rehabilitation take place.

B. Project Design and Resettlement Implications

The Project consists of three components:

Component 1. Irrigation and Drainage Improvement – 50.5 mln USD This subcomponent will finance the rehabilitation and modernization of selected irrigation and drainage systems including design, design supervision, construction and construction supervision. It will support the rehabilitation of primary and secondary (off-farm) canals, tertiary (on-farm canals), small dams where necessary, and any other major structures as needed in the project areas. The Project will restore previously irrigated and drained areas only, and not build new schemes. While a large part of the rehabilitation will involve reconstruction of original systems, there will be opportunities to modernize water control and delivery structures, including automation of headworks or introduction of SCADA (supervisory control and data acquisition) to monitor and control water distribution in some of the larger canal systems. Low-pressure drip and sprinkler systems may also be employed in some schemes to improve water use efficiency. The Project will employ international design expertise where necessary to enhance the modernization aspects of design.

Selection Of Schemes: Schemes will be selected based on criteria including: (i) Water available to the scheme without affecting adversely other users in the basin, (ii) Maximum cost of rehabilitation about US\$3,000, (ii) community willingness to participate; (iii) potential to establish viable water user organizations or alternative institutional arrangements for on-farm irrigation management; (iv) potential to resolve legal issues relating to on-farm infrastructure; (iv) technical viability of

rehabilitation; (v) willingness to pay for water, financial and economic viability; (vi) complementarity between selected schemes in order to minimize off-farm rehabilitation costs per ha; and (vii) complementarity with other sector developments ongoing in the area; as well as positive environmental, social and safeguards assessments. Selection will be preceded by a public information campaign to ensure widespread participation in consultations with water users on designs.

Component 2. Land Market Development – 4 mln USD The Component will finance the pilot phase of the *Strategy and Draft Action Plan for Reform Land Registration June 2013* (hereafter the Draft Action Plan). The key elements of the Component include: Policy Development, Pilot Registration and Impact Evaluation.

The piloting of the land registration process may require resolving cases where landowners have extended their residences or land use onto State-owned land. Formalization of ownership could result in people losing access to State-owned land that they have been using for economic or residential purposes. Rather than applying OP4.12 to this component however, it is agreed that a ‘Country Systems’ approach should be followed. The Land Reform Strategy and Action Plan and Operations Manual to be developed under the Component 2 will set out the policy and standards, and the institutional mechanism to guide such land loss cases and will be consistent with OP4.12. This RPF does not, therefore relate to Component 2.

Component 3 - Project Management – 1 mln USD

The Project will be implemented by MoA through the Projects Implementation Agency, which will be established by the MoA.

Total Project Cost

The estimated total Project cost (subject to preparation and appraisal), including physical and price contingencies, is about US\$75 million, of which the World Bank will provide US\$50 million IDA credit, IFAD Loan/Grant US\$13.8 million, GEF Grant US\$5.3 million and the Recipient (taxes, beneficiary- UASCG contribution) will provide around US\$ 6 million counterpart funding.

Likelihood of Land Acquisition Under the Project

Below is the summary of resettlement related issues that may occur under the Project, the likelihood of such issues actually happening, and proposed actions to be taken.

Resettlement Situational Scenarios	Probability	Status/Action
Temporary impact on the visual quality of private land; disturbance during construction works without any losses of income or property;	moderate	Allowed/ impact mitigation measures within EMP
Temporary impact on private land; disturbance during construction works associated with the losses of income (loss of harvest and annual income for farmers; losses of income for small businesses, like roadside commercial activities etc.)	moderate	Allowed/ Abbreviated RAP, compensation of losses
Temporary impact on private land; loss of productive assets (trees; ancillary buildings)	moderate	Allowed/ Abbreviated RAP, compensation of losses
Need for ongoing access to private land for scheme maintenance resulting in loss of productive assets and ability	moderate	Allowed/ Abbreviated RAP, compensation of losses
Land take; Acquisition of certain part of private land parcels without or with associated loss of assets	low	Allowed/ RAP, compensation of losses
Structural demolition resulting in physical relocation of households or businesses	moderate	Allowed/ RAP, compensation of losses

The United Amelioration Service Company for Georgia is currently undertaking a detailed inventory of infrastructure and preparing preliminary assessments of rehabilitation needs on all irrigation and drainage schemes which will inform the selection of schemes throughout the Project. Based on information collected to date, three schemes have been provisionally selected from a short-list of 15 schemes, subject to further legal, socio-economic and technical assessments.

Currently the designs for the three pre-selected irrigation and drainage systems to be rehabilitated under the project are not yet final. Final design detail is not expected prior to Appraisal. It is not clear at this stage therefore the extent to which private land plots may be affected, temporarily or permanently, under the project. As soon as designs are final, they will be verified against the cadastral maps for the rehabilitation area to verify whether the works will entail impacts on privately owned land. Since the exact footprints of all civil works or the impact of the Project are still unknown, at this stage this RPF currently remains the main instrument for the project to determine principles for land acquisition should it occur and to frame the development of site (irrigation scheme specific) Resettlement Action Plans (RAP) should they be needed. The present Resettlement Policy Framework, prepared by the DPIMD in line with OP 4.12, sets out the principles and procedures

that will govern resettlement and land acquisition activities, identify categories of affected persons and their respective entitlements, and describe the analytical work and documentation to be prepared before, during and after implementation of the RAPs, which will be the responsibility of the project PIU.

The three schemes proposed for rehabilitation and the proposed scope of works based on draft designs include the following:

- a) *Kvemo Samgori (Kakheti Region)*: The initial works will include headworks rehabilitation which is mainly to improve the hydro-mechanical works and includes: (i) repair of the headwork including main gates; (ii) replacement of all lifting mechanisms and some small gates; (iii) repair of a service office; (iv) provision of office equipment; (v) provision of a generator; and (vi) installation of SCADA system. The current design contract is also for rehabilitation of the right main canal (23.3 km) and the rehabilitation of three siphons. The area served by the right main canal would be about 16,000 ha, and the initial cost estimate is about GEL 10.03 million (US\$ 6.04 million).

Further works will cover the right bank secondary and tertiary canal systems and the left bank main canal. The left bank main canal has a length of about 47 km and serves about 25,000 ha. The left bank secondary and tertiary systems are in bad condition as it is the left bank main canal that includes siphons and many structures.

- b) *Tbisi-Kumisi (Kvemo Kartli Region)*: This is a complicated system with a main canal of about 25 km that includes 12 km of siphons. The proposed works include: (i) automation of the Algeti dam instrumentation; (ii) selective rehabilitation of the main canal lining (concrete, replacement of lining, and joint repairs), and hydraulic and other structures; and (iii) repair/replacement of secondary pipelines and outlets. This will ensure that water delivery and distribution to about 2,500 ha out of the original 14,500 ha. The initial cost estimate is GEL 12.68 million (US\$ 7.64 million).
- c) *Zeda Ru (Shida Kartli Region)*: A new headworks was constructed in 2009, which can adequately serve the scheme of about 2,314 ha (as well as other schemes). The proposed works include comprehensive rehabilitation of the scheme, including: (i) lining selective sections of the main canal with concrete (about 9 km) where soil conditions are poor; (ii) rehabilitation of secondary (40-45 km) canals and tertiary canals. The cost estimates for the proposed works is about GEL 10.19 million (US\$ 6.14 million).

2. Policy, Legal and Administrative Framework

2.1 Institutional Responsibilities

Table 1. State Institutions that may be involved in land acquisition process

The Government of Georgia

Ministries and Departments	Responsibilities
1. Ministry of Economic Development	Matters pertaining to the project site approval, for the projects of Specific Importance (approval within the Construction Permit).
2. Ministry of Justice - National Agency of Public Registry	Identifies the land plots and ownership rights and their Registration into the Public Registry.
3. The Ministry of IDPs from the Occupied Territories, Accommodation and Refugees of Georgia (MRA)	Implements the state policy on refugees, asylum-seekers, internally displaced persons, repatriates, victims of the natural disasters and other migrants in terms of their social and legal protection, accommodation and overall migration control. Within the scope of its competence, the Ministry develops and implements the state wide policy and runs under the art. 1, par. 17 of the Law of Georgia on "the Structure of the Government, its Authority and the Rule of operation."
4. Ministry of Culture, Monuments Protection and Sports	Site approval within the Construction Permit. Certain restrictions on construction in a archaeologically valuable sites.

<p>5. United Amelioration Systems Company of Georgia</p>	<ul style="list-style-type: none"> a) plans the Company's activities in the business area and determines the development prospects taking into account the users' (water users') demands for water and amelioration services; b) provides amelioration services (water delivery, excess water removal) to physical and legal bodies through water supply, water management, irrigation, drainage and pasture watering schemes; c) carries out operation and protection of amelioration, pasture watering schemes and independent hydraulic structures as specified in the current legislation; d) provides amelioration, land reclamation, forest amelioration, soil conservation and other complex services; e) contracts legal and physical persons for the execution of works, water supply, excess water removal and provision of other services; f) trains and improve the qualifications of the staff members, ensure their participation in conferences, workshops and other events; g) Carries out any other activities provided that they are not contrary to the current law and interests of the Company and its partners.
<p>6. Ministry of Agriculture</p>	<p>The Ministry of Agriculture (MOA) through its amelioration department carries out the following activities:</p> <ul style="list-style-type: none"> a) Elaborates uniform state policy in the sphere of amelioration and state control of its implementation; b) carry out observation and inventorying of irrigated lands served by amelioration schemes and adjacent areas and develop their database; c) Organize state control over rational use of land, soil conservation and fertility preservation-improvement.
<p>7. Ministry of Environment and Natural Resources Protection of Georgia</p>	<p>One of the most important goals of the Ministry of Environment Protection and Natural Resources (MOEPNR) is to support sustainable development of the country in the field of environment; to organize environmental planning system; to elaborate and implement state policy, target programs, strategy of environmental protection for sustainable development, national environmental action programs and management plans in the field of environmental protection and natural resources. In case of construction works Environmental Impact Assessment impact is being prepared by the design company during the design phase.</p>

Table 2. The responsibilities of the entities involved in the process of expropriation as defined under the Legislation of Georgia

Measures/activities	Responsible Body
Presidential Decree on Assigning the Right of an Expropriator	The President of Georgia
Right on Undertaking Expropriation	Through the Court Decision
Conducting appraisal (evaluation) of land and real property	Independent legal land expert from private sector invited by the Expropriator
Information regarding the yield capacity of given agricultural lands	Ministry of Agriculture

2.2 Resettlement Related Legislation of Georgia

The table below provides a list of legal acts directly regulating or having regard with the land acquisition issues.

The Frame Legislation	Issues addressed
1 The Constitution of Georgia, August 24, 1995;	Frame legislation covering private ownership, privatization, compensation, expropriation and publicity issue.
2 The Civil Code of Georgia, June 26, 1997;	Frame legislation covering Ownership Rights, Construction Right, Servitude Right and Necessary Right of Way issues.
3 The Law on IDP-Refuges, amendment dated December 23, 2011	The law is based on the Georgian Constitution, on internationally adopted laws and regulations, identifies legal status of the IDPs in Georgia, indicates their legal-economic-social rights, and ensures protection and implementation of their legal rights and legal interests.

The Laws Regulating Land and Property Ownership and Land Acquisition Issues

- 4 The Law of Georgia on Ownership Rights to Agricultural Land, March 22, 1996; as amended The sphere of regulation of the Law on ownership right to agricultural land mainly extends over the agricultural land
- 5 The Law of Georgia on State Property, July 21, 2010 The Law regulates the privatization of State owned agricultural land.
- 6 The Law of Georgia on Public Registry, December 19, 2008 The goal of this law is to declare and verify ownership rights on to immovable property within the territory of Georgia through registration of these rights into the Public Registry
- 7 The Law of Georgia on Privatization of State-owned Agricultural Land, July 8, 2005; regulates the privatization of State-owned agricultural land
- 8 The Law of Georgia on Compensation of Compensatory Land Cultivation Costs and Sustained Damage in Case of Allocation of Agricultural Land for Non-Agricultural Purposes, October 2, 1997, and the last amendment to this Law made on July 11, 2007; The law establishes the rules and compensation levels (according to municipalities and recreational zones) for allocation of agricultural lands for non-agricultural land use purpose.
- 9 The Law of Georgia on Registration Ownership Rights to Immovable Property, December 28, 2005; Defines the rules, terms, and conditions for registration of rights to immovable property
- 10 The Law of Georgia on the Property of Local Self-Governing Units. Identifies property categories, its creation rules and property rights of local self-governing

Legislation Regulating Land and Property Expropriation

- 11 The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need, July 23, 1999 Eminent Domain Law – regulates expropriation of land or property for Necessary Public Need
- 12 Procedural Civil Code of Georgia, November 14, 1997 The general courts of Georgia consider the cases (including land ownership expropriation cases) according to the rules identified under the Procedural Civil

Other Laws Having Regards to Land Acquisition

13	The Law of Georgia Licenses and Permits, 2005	Permits and procedures for the RoW approval within the Construction Permit
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14	The Law of Georgia on Construction Permit	Permits and procedures for the RoW approval within the Construction Permit
15	The Law of Georgia on Environmental Impact Permit, 2008	Permits and procedures for the RoW approval through EIA process
16	The Law of Georgia on Protection of Cultural Heritage, 2007	Permits and procedures for the RoW approval through Archaeological clearance (within the Construction Permit)
	Precedents of Expropriation	
	Presidential Decree No 588, October 1, 2007 about Granting of Ownership Expropriation Rights for Necessary Public Need	Related to expropriation of the private land plot needed for the project

A more expanded review of the Georgian legislation pertinent to the resettlement issues is provided in the Annex 1 of this RPF. Below we will present a brief summary:

Overall the above laws/regulations provide for the principle that acquired property and physical assets will be compensated at replacement market costs. The laws place strong emphasis on consultation and notification to ensure that the Project Affected People (PAP) participate in the process and to ensure that eminent domain is very rarely used by public authorities, to be exercised only when negotiations between the agency acquiring the land and the owners fail.

3. The World Bank Policy, Safeguards and Georgian Legislation

3.1 The World Bank Safeguards and Involuntary Resettlement Policy

The WB financed projects require compliance with the WB safeguards and guidelines. WB BP/OP 4.12 Involuntary Resettlement safeguards policy guiding land acquisition and related resettlement/compensation issues during project implementation. In line with the principles of host-country responsibility, Georgia is committed to implement the WB financed projects in compliance with the requirements of WB BP/OP 4.12.

Generally, the Georgian legislation is compatible with the major provisions of the WB Resettlement Policy but a few important differences are to be noted¹. The WB resettlement policy is directed at improving (or at least restoring) incomes and living standards, rather than merely compensating people for their expropriated assets. This improvement of incomes and living standards broadens the

objective of the policy to include the restoration of income streams and retraining of people unable to continue their old income-generating activities after displacement. The emphasis on incomes and living standards, in contrast to the conventional emphasis on expropriated property, expands the range and number of people recognized as adversely affected. Recognition of this broader range of adverse impacts leads to a greater appreciation of the issues to be considered in resettlement and consequently requires careful delineation of responsibilities, elaborate risk management and explicit and distinct resettlement planning.

The WB policy complements the Georgian legislation/regulation with certain additional requirements, which are mandatory for the WB financed projects. In particular, appropriate planning/management instruments must be developed prior to project appraisal, like **Resettlement Policy Framework (RPF)** and **Resettlement Action Plan (RAP)**, as appropriate.

Resettlement Policy Framework (RPF). A policy framework needs to be prepared if the extent and location of resettlement cannot be known at appraisal because the project has multiple components, as typically happens in projects with financial intermediaries or multiple subprojects. The policy framework establishes resettlement objectives and principles, organizational arrangements, and funding mechanisms for any resettlement operation that may be necessary during project implementation. The framework also assesses the institutional capability to design, implement, and oversee resettlement operations.

Resettlement Action Plan (RAP). All projects that entail involuntary resettlement and/or a livelihood loss require a **RAP**. “The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement” (OP 4.12, Annex A, para. 2). RAP is location-specific and comprehensive action plan including socio-economic assessment, sociological survey, census, valuation of impacts, and consultation with affected persons, a set of compensation/mitigation measures for each affected person/household, and detailed implementation plan with indication of responsible parties and schedule.

The WB Policy on Involuntary Resettlement, as defined in the OP/BP 4.12, is based on the following principles:

- Involuntary resettlement is to be avoided or at least minimized.
- Compensation/Rehabilitation provisions provide affected persons with opportunity to improve, or at least restore, pre-project incomes and living standards.
- Affected Persons should be fully informed and consulted on Land Acquisition and resettlement compensation options.
- Affected Persons’ socio-cultural institutions should be supported/used as much as possible.
- Compensation will be paid at replacement cost to affected persons, without deduction for depreciation or any other purpose.
- Lack of legal title should not be a bar to compensation or alternative forms of assistance as needed to achieve policy objectives. Particular attention should be paid to households headed by women and other vulnerable groups.
- Land Acquisition and Resettlement should be conceived and executed as a part of the

project, and the full costs of compensation should be included in project costs and benefits.

- Compensation and resettlement subsidies will be fully provided prior to clearance of right of way/ ground leveling and demolition.

3.2 Comparison of Georgian Legislation on LAR and WB Resettlement Policy

Generally the Georgian legislation is compatible with major provisions of the WB Resettlement Policy but a few differences are to be noted. The most significant of these differences is that under Georgian legislation/regulation, emphasis is put on the definition of formal property rights and on how the acquisition of properties for public purposes is to be implemented and compensated while in the case of WB policy emphasis is put both on the compensation of rightfully owned affected assets and on the general rehabilitation of the livelihood of the Project Affected People (PAP) and Households (AH). Also, in addition, the legislation of Georgia does not require any specific planning/implementation instrument like RPF or RAP based on extensive public consultations. The differences between the legislation of Georgia and WB policy are outlined in Table below.

Table 2: Comparison of Georgia Laws/Regulations on LAR and WB Resettlement Policy and reconciliation for the purposes of the project

Georgia Laws and	WB Involuntary	Proposed Measures to bridge the
Land compensation only for titled landowners	Lack of title should not be a bar to compensation or alternative forms of assistance. Non-titled landowners may receive alternative forms of assistance in lieu of formal compensation payments.	WB policies will be followed: non titled land users will be considered as Project Affected Persons
Only registered houses/buildings are compensated for damages/demolition caused by a project	All affected houses/buildings are compensated for the damages/demolition caused by a project	WB policies will be followed: non registered residents will be considered as PAP.

Crop losses compensation provided only to registered Landowners.	Crop losses compensation provided to landowners and sharecrop/lease tenants whether registered or not	WB policies will be followed: non registered landowners, sharecrop/lease tenants will be eligible for compensation.
Land valuation based on replacement cost: (i) current market value where active land markets exist; (ii) Reproduction cost of an identical plot where no active land markets exist.	Compensation offered for replacement cost of land based on independent land valuation	WB policies will be followed
PAP with grievance should lodge the complaints at the court.	Adequate grievance redress mechanism, which consists of both formal and informal venues, should be developed and made accessible to all PAP	WB policies will be followed: a grievance redress system to put in place to mediate all grievances and disputes informally before recourse to court.
No formal requirements to organize public consultation to inform the PAP of the nature of the project and expected impact	PAP to be fully consulted at all stages including: being given full information on the undertaking of census and surveys, and on compensation entitlements; being given opportunities to feedback on proposed measures outlined in RPF and RAP; public disclosure of all relevant documents. compensation/financial assistance amounts are to be disclosed to the APs prior to appraisal.	WB policies will be followed: full consultation of PAP at all stages.

No provision for income/livelihood rehabilitation, allowances for severely affected or vulnerable APs, or resettlement expenses.	Income loss, disturbance allowance, and expenses incurred by the PAPs during the relocation process, should be compensated. Livelihoods, if lost, should be restored.	WB policies will be followed.
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4. Principles of Resettlement and Land Acquisition Adopted for the GILMD

Considering the above-mentioned differences, WB policy complements the Georgian legislation/regulation with additional requirements related to (i) the economic rehabilitation of all AP/AF (including those who do not have legal/formal rights on assets acquired by a project); (ii) the provision of indemnities for loss of business and income, (iii) and the provision of special allowances covering PAP expenses during the resettlement process or covering the special needs of severely affected or vulnerable PAPs. Therefore, during implementation of the ILMD the PIU is committed to ensure that:

1. For each subproject that involves acquisition of private land, temporary or permanent income loss, physical displacement of households or businesses, or other impact that triggers the OP 4.12, a Resettlement Action Plan (RAP) will be developed in compliance with policies and procedures set out in this RPF
2. PIU will be responsible for implementing the relevant RAP, but will bring in additional technical support, such as a consultant, where necessary.
3. No civil work can start at the section where impacts that trigger OP 4.12 occur before a RAP Acceptable to the Bank is fully implemented..
4. PAP who will receive compensation or support of various kinds, will include formal landowners and informal land users in accordance with the entitlement matrix included in this RPF
5. PAP will be informed about their rights and existing alternatives;
6. PAP will be consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives;
7. PAP will be offered effective compensation at full replacement cost for losses of assets;
8. PAP will be offered additional support in case impact is considered to be severe, to support their livelihood during the transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;
9. PAP will be provided with development assistance in addition to compensation measures described, such as land preparation, credit facilities, training, or job opportunities;
10. Special attention will be paid to the needs of the most vulnerable groups of the population –

- Children, women, the elderly, those below the poverty line, disabled, refugees, etc.;
11. A fair and accessible grievance redress mechanism will be developed;
 12. Compensation measures are completed prior to startup of the particular construction activities that trigger OP 4.12.

5. Eligibility and Entitlements

Eligibility

PAPs entitled for compensation or at least rehabilitation provisions under the Project are:

1. All PAPs losing land, or access to land, permanently or temporarily either covered by legal title/traditional land rights or without legal status;
2. Tenants and sharecroppers whether registered or not;
3. Owners of affected buildings, crops, plants, or other objects attached to the land; and
4. PAPs losing business, income, and salaries.

Compensation eligibility will be limited by a cut-off date to be set for each subproject on the day of the beginning of the Census. Persons who settle in the affected areas after a locally publicized cut-off date will not be considered project-affected, and persons initiating improvements to land or structures after a locally publicized cut-off date will not be eligible for additional compensation. They, however, will be given sufficient advance notice, requested to vacate premises or dismantle affected structures prior to project implementation. Their dismantled structures materials will not be confiscated and they will not pay any fine or suffer any sanction.

Entitlements

At present, following categories of people are expected to be affected by the project (see Entitlement Matrix, below):

- Private landowners (with or without an established legal title to the land) whose land will be purchased or expropriated to implement subprojects.
- Private owners (with or without an established legal title to the property) whose assets such as residence, stables, workshops, fences, barns, warehouses, trees, standing crops, and other valuable assets need to be damaged, purchased, or expropriated.
- PAPs (including formal and informal businesses) who experience temporary loss of income or asset as a result of restriction of access to land or assets during civil works.
- PAPs (including formal and informal businesses) who experience loss of income or asset as a result of purchase or expropriation of land for implementation of subprojects.
- Leaseholders (individual and enterprise) who have lease agreements with the Municipalities or other owners in existing and alternative alignments and sites
- Informal/illegal occupants and land users on existing rights of way and new alignments and sites.

Affected persons will be compensated for land purchased for permanent structures and for servitude agreements (i.e., easements) on existing and new alignments for land they own or use, formally or informally. Affected persons (i.e., owners, informal users and leaseholders) will also be compensated for damages and structures, standing crops, trees and other economic assets that are affected. If permanent relocation is involved, whenever possible, and when acceptable to PIU, the affected persons will be relocated to new properties of equal quality identified by the Project. Affected persons will be compensated for transportation costs if relocation is involved.

Persons affected temporarily by construction activities will be compensated for any lost income, assets and damages.

Assessment of Compensation Unit Values

The methodology for assessing unit compensation values of different items is as follows:

Agricultural Land will be valued at replacement rates according to two different methodologies depending on whether in affected areas active land markets exist or not.

Where active land markets exist, loss of land will be compensated at the replacement rate based on a survey of land sales in the year before the impact survey. Where active land markets do not exist, loss of land will be compensated based on the cost of reproduction of a plot with equal characteristics, access and productivity to the plot lost. A clear valuation methodology for these cases will be detailed in RAPs.

If damages to residences or commercial structures occur, houses/buildings will be valued at replacement value based on the cost of materials, types of construction, labor, transport and other construction costs. No deductions will be applied for depreciation, salvaged materials and transaction costs.

Annual crops will be valued at net market rates at the farm gate for the first year crop. In the event that more than one-year compensation is due to PAPs, the crops after the first year will be compensated at gross market value (total farm gate sales value minus input costs).

Trees will be valued according to different methodologies depending whether the tree lost is a wood tree or a productive tree.

- Wood trees will be valued based on age category (a. seedling; b. medium growth and c. full growth) and wood value and volume
- Fruit/productive trees will be valued based on age (a. seedling; b. adult-not fruit bearing; and c. fruit bearing) whereas trees at stage a and b will be compensated based on the standard value of the investment made; trees at stage c, instead will be compensated at the net market value of 1 year income x the number of the PIU needed to grow a new fully productive tree

The unit compensation rates will be assessed by Project consultants based on clear and transparent methodologies acceptable to WB. The assessed compensation rates will then be verified and

certified by the Municipality Resettlement Officer and by PIU.

Entitlement Matrix

Asset	Specifications	Category of PAP	Compensation Entitlements	Follow up
Permanent Loss				
Agricultural/ grazing land	(Marginal impact: loss of land <10% of total landholding)	Land owners with or without title	(i) Land for land compensation with plots of equal value and productivity to the plots lost, agreeable to the PAP; or (ii) Lump-sum compensation for affected land at replacement cost (market value) with no deductions for taxes, transaction, registration or transfer costs	PAPs without title will be assisted in formalization
	(Severe impact: loss of land >10% of holding)		(i) Land for land compensation with plots of equal value and productivity to the plots lost, agreeable to the PAP; or (ii) Lump-sum compensation for affected land at replacement cost (market value) with no deductions for taxes, transaction, registration or transfer costs (iii) In addition to (i) or (ii), rehabilitation measures, including additional two times annual crop output value of lost land will be provided	
Residential/ commercial land			(i) Replacement land of the equal market value, agreeable to the PAP; or (ii) Lump-sum compensation at replacement cost free of taxes, registration and transfer costs	
Houses, buildings and other permanent structures	(Marginal impact: without physical displacement of households)	Owners of permanent structures with or without property title	(i) Replacement/repair of the structure; or (ii) Lump-sum compensation at replacement rates for affected structure based on material cost, construction and labor costs free of salvageable materials, depreciation and transaction costs.	

	(Severe impact: requiring physical displacement of households or businesses)	Owners of permanent structures with or without property title	(i) House for house / building for building swap; if replacement is lower value, cash compensation for the difference, or (ii) Lump-sum compensation at replacement rates for affected structure and other fixed assets based on material cost, construction and labor costs free of salvageable materials, depreciation and transaction costs. (iii) In addition to (i) or (ii), allowance sufficient to cover transport expenses and livelihood expenses for one month due to relocation	
		Renters with leases	(i) Three months' rent at prevailing local market rate and assistance in finding alternative property for rent; and (ii) Allowance for moving or storing belongings	
Temporary structures (kiosks, stalls)		Owners of temporary structures (kiosks, stalls)	(i) Approved and suitable site to re-locate, and (ii) If the structure is damaged, cash compensation at replacement rates for affected structure and other fixed assets, based on material cost, construction and labor costs free of salvageable materials, depreciation and transaction costs.	
Other income/productive assets	Loss of standing crops	Owners of the affected crops, including informal land users	(i) Lump-sum compensation equivalent to two years' loss of expected harvest due to construction	
	Loss of standing trees	Owners of the affected trees, including informal land users	(i) Lump-sum compensation at market value on the basis of type, age, and productive value. If affected trees are removable, compensation will be equal the transportation cost plus actual loss.	
Business employment	Permanent loss of business employment or	All affected persons, including squatters	(i) Livelihood rehabilitation grant equal to one year income.	

Asset	Specifications	Category of PAP	Compensation Entitlements	Follow up
Temporary Loss				
Residence	Temporary displacement from residence during construction	Occupants affected housing structures	(i) Lump-sum compensation equal to the rental cost of alternative housing; or (ii) Temporary housing of adequate size and quality to house the members of affected household; (iii) In addition to (i) and (ii), allowance sufficient to cover transport expenses	
Structures	Structures knocked down during construction	Owners of the affected assets	(i) Assets will be restored at the same place after construction; or (ii) Lump-sum compensation for damage at replacement cost	
Income	Loss of income from sales of crops during construction	Owners of the affected crops, including informal land users	(i) Lump-sum compensation equal to the loss of expected harvest due to construction	Restoration of farm land should complete before next farm season
	Temporary loss of income due to loss of access to business location	All affected persons, including informal occupants of business location	(i) Lump-sum compensation at least equal to the lost income during construction	
	Temporary loss of income due to restriction of access to land or natural resources	Domestic animal owners	(i) An alternative temporary access route or grazing land will be provided for the duration of impact	
Agricultural producers		(i) Lump-sum compensation equal to the lost income during construction	Restoration of farm land should complete before next farm season	

Vulnerable PAPs

Vulnerable PAPs	Loss of land, structures, and productive assets	Owners of affected assets in receipt of social assistance payments, including informal users and those without title	(i) In addition to compensation for loss of asset, an adjustment and transition allowance equal to one month minimum salary for minor impacts, and three months minimum salary for major impacts will be provided along with priority access to project related employment.	
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6. Implementation

This policy framework will be implemented in four stages, each of which is described briefly below.

a) **Resettlement Screening and Scoping.** The PIU will ensure that ToR for the Feasibility Studies (FS) and EIA for each subproject includes resettlement screening/scoping paragraph. Resettlement screening will provide sufficient information to determine whether the subprojects trigger OP 4.12 and to identify broad scope and scale of impact. The Consultant to be hired by the PIU to conduct the FS will, at an early phase of the FS, carry out a field survey and consult with the land cadastre, to determine if OP 4.12 is triggered. This is also the case for any sub-project that requires the resettlement of households or businesses. If it is determined that OP 4.12 will not be triggered, the FS for the particular subproject will clearly state to the effect.

b) Preparation of RAPs.

If it is determined that OP 4.12 will be triggered for a sub-project, the PIU will be responsible for developing a RAP in line with this RPF, hiring additional consultants to assist in this task if necessary. The PIU will undertake the necessary census, surveys, consultations and establishment of according compensation entitlements.

The RAP preparation will cover the following essential components:

- Initial consultation to PAP to notify the project and board impact
- Census, geographic survey and socioeconomic survey of PAP
- Determination of PAP and scope/ scale of impact
- Compensation package and drafting of RAP
- Consultation with PAP
- Negotiation with PAP and payment of compensation
- Payment of compensation and implementation of rehabilitation measures
- Indicators and methods for measuring RAP implementation and impact

The PIU will ensure that RAP preparation process meets the Bank's consultation and disclosure requirements and will submit draft RAPs to the Bank and other stakeholders for review and clearance. Approval of the RAP by the Bank is required before any initiation of works.

To coordinate RAP implementation at the local level, the PIU will will establish a special Commission consisting of relevant municipal officials, head of land use and land management services of municipalities, heads of other relevant services of Municipalities, head of legal services, topographers, GIS and land cadastre specialists, etc., highly skilled experts of economic and law procured to fit the purpose.

c) **Implementation of the RAPs.** The PIU will be responsible for the implementation of the RAPs.

The PIU will coordinate Rap implementation with the relevant municipalities through participation the local Commission. The Municipalities will be called upon to assist affected persons in protecting their rights and preparing documentation required to register land purchases, land use agreements and servitude agreements. Compensation/rehabilitation measures will be implemented as the civil works progress but prior to the start of the construction on a particular section.

During RAP implementation the local commission will provide oversight and monitoring including checking the alienation of affected land and the demarcation made by the contractor, also to correct measuring and inventory data stipulated by project possible changes.

Financing for actions under the RAP will come from project proceeds. PAP will be assisted to acquire all necessary and available documentation (extract from public registry, demarcation act, audit conclusion, copy of ID, bank requisites, etc.). On the basis of these submitted documents the local Commission will approve delivery of compensation and in case of owner's consent makes a deed of purchase. Based on contract with the owner the amount will be transferred on private bank account, and afterwards PIU will obtain its right on the land.

The project shall resort to property expropriation only in exceptional cases as the last resort: (i) when negotiation over the purchase price of land and other project affected properties fails; and (ii) re-design of investments is impossible. When an empty land or abandoned structures whose owners cannot be physically identified needs to be acquired, the compensation amount due to the PAP shall be deposited in an escrow account and saved at the bank account, all attempts will be made to contact absent PAP including a minimum of three documented attempts by mail, via home visits and via contact with relatives and neighbours until the PAP is identified.

d) Monitoring. The PIU will develop a mechanism to monitor implementation of the RAPs. Indicators for monitoring and evaluating RAP implementation will include indicators that look at the process of RAP implementation and indicators which track the impact of asset loss and compensation on PAP. Data against these indicators will be collected on a bi-yearly basis. A final external evaluation will assess whether compensation and other measures to restore the living standards of PAPs have been properly designed and carried out. An external independent third party will be hired to carry out this final evaluation.

Indicative indicators for monitoring RAP implementation are:

- #Public consultation meetings held
- #Census, assets inventories, assessments, and socioeconomic studies completed
- #Grievance and redress procedures in place and functioning
- #Compensation payments disbursed

#Land acquisition, if needed, completed

#Income restoration activities initiated

grievances addressed

- Degree of knowledge and concerns amongst PAP regarding the resettlement process, their entitlements, and rehabilitation
- Degree of satisfaction amongst PAP for the effective functioning of the grievance redress system

Indicative indicators for **RAP impact Monitoring are:**

- employment and income levels
- Standards of living

7. Agreements

- Land acquisition and income loss will be kept to an absolute minimum.
- Wherever possible, the Municipality will negotiate with the PAPs to agree on the terms of compensation and avoid expropriation.
- The PIU will report to the Bank Task Team immediately once it is determined that OP 4.12 will be triggered for particular subprojects.
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- The Bank, will review drafts of the respective RAPs and recommend revisions, as needed. Bank approval of each RAP is required prior to imposition of impacts and initiation of works.
- The PIU will establish a monitoring capacity in the Municipality where relevant RAP is implemented to monitor preparation and implementation of the RAPs
- The PIU will provide necessary support to ensure that municipalities implement relevant RAPs satisfactorily.
- The Bank will supervise RAP preparation and implementation during supervision missions
- The PIU will promptly inform the Bank and other stakeholders of significant unforeseen problems or circumstances that may affect outcomes of the RAPs and implementation plans.
- The PIU will submit to the Bank RAP completion reports for each subproject for which a RAP is developed.

8. Grievance Redress Mechanism

- PAPs dissatisfied with compensation or other resettlement assistance at any stage of the process can complain directly to the PIU. A phone number, email address, postal address, and SMS service will be available for this purpose, in order to resolve grievances within a matter of days (maximum 3 days).
- If the PAP is not satisfied with the solution provided by the PIU, then the Municipal Commission can be called together, to hear the case of the PAP. This meeting should be chaired by an independent third party (e.g. NGO, Academic, Retired Judge etc.). This commission should be formed and its findings completed within two weeks of the

- complaint being lodged.
- If the PAP is still not satisfied, then PIU will put together an ad-hoc committee at the national level to review the complaint. This committee will include representatives of the PIU, Municipality, and independent third parties, and its work will be completed within a month of the complaint being lodged.
 - At any point an independent valuation or assessment of the value of the asset to be acquired can be conducted in order to support the grievance redress process.
 - At any point, the PAP is entitled to go to court in order to resolve the grievance.
 - PAPs will be made aware of their rights under the grievance redress mechanism and Georgian law as soon as it is clear that they will be affected.

ANNEX 1

SYNOPSIS OF SELECTED GEORGIAN LAWS AND REGULATIONS ON RAP

Ministry of Agriculture - Elaborates uniform state policy in the sphere of amelioration and state control of its implementation; carries out observation and inventorying of irrigated lands served by amelioration schemes and adjacent areas and develop their database; organizes state control over rational use of land, soil conservation and fertility preservation-improvement.

Ministry of Environment and Natural Resources Protection. Pursuant to the active legislation of Georgia the Ministry of Environment and Natural Resources Protection is responsible for environmental protection. On the given phase the issues related to usage of agricultural land for non-agricultural purposes is resolved on the level of said Ministry. The Ministry participates in the RoW approval through issuance of the Permit on Environmental Impact.

National Environmental Agency is under the Ministry of Environmental Protection and Natural Resources. Its competence is practical implementation of State Management Policy of geodesy and cartography.

The Ministry of Justice. The Ministry of Justice shall lead the most significant role in registration and declaration of ownership rights to land and real property. Declaration and registration of ownership rights to land and real property is undertaken solely by the National Agency of Public Registry at the Ministry of Justice.

Framework Legislation

The Constitution of Georgia, August 24, 1995;

The Constitution determines the essence of **private ownership** and defines presumption of inviolability however also determines the issues related to legislative frames of **compensation** issues and **expropriation** of land and immovable property for necessary public need. The Constitution of Georgia ensures the **publicity** of information. Pursuant to the Article 21 of the Constitution of Georgia "the right of ownership and inheritance is declared and secured". Nobody is eligible to cancel the universal right of ownership and legacy. Throughout of the necessary public

need or in case of emergency necessity the Article 21.3 of the Constitution the expropriation of the private ownership is allowed however, only according to the Court Decision or under the rules identified in the organic law⁵ on basis of the appropriate (fair) reimbursement. The present law regulates **privatization** issues of the existing lands at state ownership and out of subject its topicality less presumable (Existing private owned land parcels assignation to the State). **Herewith is to be noticed that in present some draft law is submitted to the Parliament and after they are adopted they may make influence of the discussion of the existing document.** Organic law is among Constitution and other laws in the hierarchy of the legislation, which underlines its particular importance. Other articles of the Constitution also create legislative basis related to resettlement measures of the motor road construction. **This includes State expropriation of land for urgent public necessity by power of eminent domain, information disclosure and public consultation, protection of cultural property, and grievance resulting** from land acquisition and displacement of the population. The stated regulations create the set of procedures that allow obtaining the land ownership rights for road construction from private owners.

The Article 42 of the Constitution makes the citizens eligible to claim, in particular protects them and encourages appealing to the court for protection of their rights and freedom.

The Civil Code of Georgia, June 26, 1997;

The Civil Code of Georgia regulates private civil relationships, and it evolves property rights, the law of obligations, family law and the law of inheritance. Those regulations of the Civil Code

particularly relevant in the property law section where the ownership, construction and servitude rights are discussed, and other type rights directly spreads on the existing project.

Ownership Rights. The ownership right entitles its beneficiary to freely possess and use property. Mentioned right can be limited within legislative or other agreement. Ownership on the land parcel gives implicit right to land owner to implement construction activities if it is not restricted by any agreement or law.

Construction Right. The owner is allowed to transfer a land plot to another person in temporary usage (not to exceed 59 years) for charge or free of charge. The transferee obtains the right to build a building/construction on or under the land plot, as well as to assign and transfer this right under inheritance or tenancy, borrowing or renting. The construction right may cover such part of a land plot that is not necessary for the actual construction but allows a better use of the facility constructed on the basis of the construction permit. Termination of the construction right requires consent from the landowner. However, as the terms of construction right refer to motor road construction aside to this approach also possible to be utilized the right to request necessary right of way. On the basis of the Article 180 of this Code, if a land parcel lacks the access to public roads that are necessary for its adequate use, the other owner may claim from a neighbor to tolerate the use of his land parcel by the owner for the purpose of providing the necessary access. The mentioned article may be used for road construction, though the determination of necessary right of way is rather complicated procedure and in case of road construction evolves the obligations to prove the existence of the elements of such rights. In case of necessary right of way, the implementer of road project shall

have the right to undertake road construction notwithstanding the owner's will.

It should be noted also Servitude Right on the property, that due to Georgian Civil Code presents establishment the limits on land parcel or on other property in favor to other land parcel or owner of the property (beneficiary). The Beneficiary is granted the right to use land parcel under restriction with some conditions and /or restrict concrete activities or prohibits land owner from using significant rights against this land parcel. Necessary Right of Way. The Georgian Civil Code gives utilities and state agencies the ability to obtain rights of way under the Necessary Right of Way provision

However, in regard with this project, any rights (among them ownership, construction, inevitable road or servitude) the terms and conditions for transfer the right for construction shall be defined against each land parcel in accordance to the identified rules and on the basis of entered and registered agreement entered by a landowner and the party holding the corresponding right of construction.

The Law on IDP-Refuges, amendment dated December 23, 2011

The law is based on the Georgian Constitution, on internationally adopted laws and regulations, identifies legal status of the IDPs in Georgia, indicates their legal-economic-social rights, ensures protection and implementation of their legal rights and legal interests.

Land and Property Ownership Related Legislation

In Georgia, land acquisition for public use is governed by the following laws, reviewed below:

The Law of Georgia on Ownership to Agricultural Land, March 22 1996, as amended;

The current law is completely different from the initial version adopted in 1996. The changes made to this law in different times (among them the amendments on the basis of the Law # 389 as of July 14, 2000) have significantly changed its initial format and simplified to maximum extent the procedures considered under the Law.

The sphere of regulation of the Law on ownership right to agricultural land mainly extends over the agricultural land parcels.

Article 3.1. Defines that "a land parcel with or without household structure that is registered at the public register and used for cattle-breeding and plant cultivation produces is considered as an agricultural land parcel" with existing household and additional structures or without them. Also the share of a member of household community within the shared hay fields, grazing lands or forestry areas and the part of the agricultural land that may be the object "of separate ownership right" (Article 3.2).

The Law determines that the ownership right to agricultural land is granted to the State, physical person, household community (Komli) and legal entity registered in accordance to the legislation of Georgia, which carries out his activities in agricultural sphere. Besides, the Law declares the form of village and household community (Komli) ownership to state-owned grazing lands, private and form

of community ownership in high mountain regions (Article 4.3).

According to the Articles 6 and 8, acquisition of agricultural land is allowed on the basis of ordinary rules and general restrictions. Ordinary rule considers land alienation without any permits and other limitations, and general restrictions consider land alienation only on the basis of the consent of co-owner of shared property. In case of agricultural land acquisition the lessee has the priority right to purchase the land. (Article 10). Alienation is restricted if the area after this action will be less than 5 hectare.

The Law defines Tax sanctions if land has not been cultivated for 2 years and for non-payment of land tax and non transmission to the other person in lease condition. In such cases the law does not directly state any type of penalty and only refers that in described cases shall be exercised the sanctions under the Tax legislation (Article 20).

The Law of Georgia on State Property, July 21, 2010

The Law regulates the privatization of State owned agricultural land. The article 4 of the Law sets forth the categories of agricultural lands that are not subject to privatization.

Under article 7 of the law, the alienation of state owned agricultural land shall be divided into 2 categories: a) The direct Sale; b) The Auction. The whole second chapter of the abovementioned law regulates the conditions upon which the alienation shall take place.

The Law of Georgia on Public Registry, December 19, 2008

The law determines the rules, terms, and conditions for registration of rights to immovable property. The goal of this law is to declare and verify ownership rights on to immovable property within the territory of Georgia through registration of these rights into the Public Registry. The law describes the rules set forth for organization and functioning of Public Registry. Some rights are subject to mandatory registration others may voluntarily be registered. Among them, due to the clause 11 of this law the mandatory registration applies to the following: a)The ownership; b)The right to build; c)Usufruct; d)Servitude; e)Mortgages; f)Leasehold; g)Rent; h)lend.

This law ensures successful process of expropriation and obtaining of necessary right of way since in case of purchasing immovable property from an owner, it is required that land and real property is registered into the public register to provide legal validity to the sales agreement.

Pursuant to the active legislation of Georgia, acquisition of private property is legally valid and ownership rights are declared only after its registration into the Public Registry.

The Law of Georgia on Privatization of State-owned Agricultural Land, July 8 2005, as amended;

The Law regulates the privatization of State-owned agricultural land. On the basis of this law the leased or non leased State-owned agricultural land subject to privatization. However, the categories of agricultural lands listed below do not subject to privatization:

- grazing lands except the grazing lands which before law enactment were leased; grazing lands attached to existing structures being under ownership of legal and/or physical persons or state ownership in accordance to the rule refined by the Law; that
- Cattle-driving routs;

- water fund land, except fish breeding artificial ponds and the lands of common water use category utilized as agricultural lands in accordance to the Law of Georgia on Water.
- Forest fund land used under agricultural designation;
- Recreation lands;
- Lands allocated to Historical monuments, nature and religious monuments;
- Land of protected areas;
- Agricultural reform lands in Adjara Autonomous republic;
- Agricultural lands being used by Budgetary Institutions and legal entities of public law in the form of usufruct.

Privatization of the two categories (forest fund and recreation land) of agricultural land is still allowed, although only for development of resort-recreation infrastructure what the Government of Georgia makes a decision on.

The Law of Georgia on Compensation of Compensatory Land Cultivation Costs and Sustained Damage in Case of Allocation of Agricultural Land for Non-Agricultural Purposes, October 2, 1997, as amended July 11, 2007;

The objective of the law is to establish regulation for allocation, use or dispose of the agricultural land plot for non-agricultural purpose and related compensation values corresponding to municipalities and recreational territories in Georgia, as well as terms of payment. Aside that, the law defines compensations to the private landowners or land leasers for limiting their ownership rights or for worsening the land plot quality and productivity.

According to clause 3 of the law, the land plots beyond the recreational zones owned by the citizens of Georgia (families, komlis) are not subject for the change of the land category from agricultural into non-agricultural in case of need for constructing on the mentioned land plot the leaving house for the owner or any barns and utility rooms. This protects the private landowner from additional compensation payments related with the changes of the land category. At the same time, the outcome of this clause pertinent to resettlement is that certain houses and buildings could be situated on the agricultural land plots and this may have additional impact on replacement cost calculations.

Law of Georgia on Registration of Rights to Immovable property December 28 2005, as amended

The Law defines the rules, terms, and conditions for registration of rights to immovable property (things), rights and obligations of the subjects participating in registration procedures. The goal of this Law is to declare and verify ownership rights on to immovable property (things) within the territory of Georgia through registration of these rights into the Public Register. The Law describes the rules set forth for organization and functioning of Public Register. Some rights subject to mandatory registration others may voluntarily be registered. Among them, mandatory registration extends to:

- a) Obtaining ownership rights to immovable property based on sales transaction, exchange, giving as a gift (bequeath), inheritance, through verification of ownership rights, privatization and also abandonment of ownership rights being registered at the Public Register; and
- b) The rights to build, usufruct, mortgage and guarantee rights, rights to lease and rent (if such is

based on the notarized agreement).

This law ensures successful process of expropriation and obtaining of necessary right of way since in case of purchasing immovable property from an owner, it is required that land and real property is registered into the public register to provide legal validity to the sales agreement. Pursuant to the active legislation of Georgia, acquisition (purchase) of private property is legally valid and ownership rights are declared only after its registration into the Public Registry.

The Law on the Property of Self-governing Units, March 25 2005, as amended

The said law identifies property categories, its creation rules and property rights of local self-governing unit (hereinafter Self-governing Unit”) except land and natural resources the usage, possession and alienation of which is regulated by the special legislation of Georgia. According to the Article 2, the property of self-governing unit is divided into two categories: basic and additional properties. Alienation of the property of self-governing unit is limited, alienation of additional property is possible on the basis of the rule defined by the law. On the basis of the mentioned law the local state-owned property, such as roads, bridges, tunnels, streets, underground crossings, pavements, traffic lights, constructions of outdoor lighting, squares, public gardens, boulevards, fountains, parks, green plants and bank protection constructions may be transferred to the self-governing unit.

Legislation and Procedures Related to Expropriation of Ownership

In Georgia the legislative acts given below regulate the issues related to legal ownership rights to land and real property and the expropriation of land for public needs: The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need July 23, 1999 and Procedural Civil Code of Georgia

In general terms, the above-listed laws and regulations give the possibility of applying the following three mechanisms for legal application of the property rights:

- Obtaining the right on way without expropriation though the payment of due compensation (on the basis of negotiations or a court decision) prior to commencement of the activities;
- Expropriation which gives the possibility of obtaining permanent right to land and/or necessary road on the basis of Eminent Domain Law or a court decision through the payment of due compensation;
- Expropriation of ownership for urgent public necessity, which gives the possibility of obtaining permanent rights on land and/or necessary road for the purpose of national security or accident prevention. Expropriation is to be made on the basis of the

In more details the legal requirements and procedures are described below:

The Law of Georgia on the Rules for Expropriation of Ownership for Necessary Public Need July 23, 1999

The Law requires the implementation of several steps for obtaining ownership rights.

- a. Issuance of Presidential decree;*
- b. Inventorization of all the property that subject to expropriation;*
- c. Informing the landowners on expropriation through publication;*

- d. Submission of the Application to the Court and Court Decision;*
- e. Providing the information to the landowners on the date of submission of application to the Court and the date of court hearing;*
- f. Considering the Application and making a decision by the Court;*
- g. Expropriation;*
- g. Court proceedings in case any disputes being raised in regard with the property market value and compensation amount.*

A. as a result of issuance of Presidential Decree the right to expropriate is assigned to the State or local self-government body, or public or legal person of private law. The Presidential Decree is issued under the Article 21 of the Constitution of Georgia. The Presidential Decree defines the inevitability of expropriation of a land parcel for immediate public needs and the subject (State or local self-government body, or public or legal person of private law) that is granted the right to expropriate.

B. After issuance of Presidential Decree shall be conducted inventorization and evaluation of all the property that subject to expropriation

After the issuance of Presidential Decree the person interested in expropriation ensures that an independent auditor undertakes the inventorization and valuation of the property to be expropriated. Besides, in case of replacement expropriation property by other property, the value of such compensation property is also appraised by an independent auditor. While valuation of the property that subject to expropriation and determination of compensation, the property that is insignificant by size, form and condition but is linked to the property that subject to expropriation and therefore is useless without it shall also be considered. During evolution of agricultural land the value of the standing crops is also considered and calculated based on the income the owner might receive during

the current economic year. Although, if sowing has been undertaken after property appraisal such value shall not be taken into account.

C. In order to inform the landowners the information on the expropriation is published in central and local newspapers.

The information shall contain the scopes of the project implementation, also brief description of the territory and property that may be expropriated.

D. Submission of the Application to the Court is undertaken after the above described activities are implemented. The Law of Georgia on the Rule of Property Expropriation for Necessary Public Needs, article 5 defines that the District (City) Court is eligible to finally assign the right to expropriate on the basis of the Application interested in expropriation. The Application on expropriation shall be submitted to the District (City) Court. The application submitted to the Court shall state the following:

1. Name of the District (City) Court;
2. Name and legal address of the of applicant;
3. Name, address of the Applicant's representative if the application is submitted by a representative;

4. The request of the applicant;
5. The description of the circumstances the applicant refers to;
6. The proofs verifying these circumstances;
7. The list of the documents attached to the Application.

The application shall be attached with (1) the detailed description of the project that requires right of expropriation for its implementation; (2) Presidential Decree on issuance of expropriation; (3) , detailed description of the property that subject to expropriation; and (4) the document verifying the publication of information on expropriation.

E. The owners will be supplied with the information on submission of Application to the Court and acceptance the case.

A person interested in expropriation shall ensure that every owner whose property subjects to expropriation is informed regarding the submission of the application to the court and the date of court case.

F. Court considers the application and makes a decision on expropriation

The Court – after considering the application - makes a decision on granting the right to expropriate. The decision states the person granted the right to expropriate and the detailed description of the property to be expropriated, also corresponding instruction on ensuring due compensation to landowners. The court decision is immediately executed according to the rule of execution of the decision to be executed. This means that even if such decision is appealed the execution of the court decision continues notwithstanding the fact of appeal.

G. Expropriation

After the court makes a decision an expropriator gives the offer on the purchase of the property to the landowners and the rules of compensation for this property and conducts negotiations with the landowners on the rules of compensation for the property to be expropriated in order to make an agreement.

Besides, the expropriator provides the landowner with the written document issued by an independent expert verifying the assessment of the value of property to be expropriated and compensated (compensation to be undertaken by transferring the other property is allowed only if the landowner agrees) Amount of compensation or the value of the property to be compensated shall not be less than the value of the value of the property to be expropriated.

H. Court Proceeding on property market value and compensation. In case the expropriator and the property owner fail to come into agreement regarding the property market value and amount of compensation, in accordance to the Civil Procedural Code of Georgia, any party has the right to apply to the same rayon Court where the land parcel is located for dispute resolution.

The claim of the expropriator shall be attached with: (1) detail description of the property to be expropriated, (2) documents verifying the presence of public needs for property expropriation; (3) documents related to the project to be implemented for public needs; and (4) the Decision of the District (City) Court on grating the right for expropriation

The Court is eligible to assign an independent expert that shall conduct property appraisal and within the defined time terms submits the court with the report on market value of the

property to be expropriated and other property offered to the owner as compensation (if compensation shall be undertaken through transferring replacement property). On basis of the independent expert report and the proofs provided by both parties, the court makes final decision regarding the amount of compensation for property to be expropriated.

The expropriator is responsible to reimburse costs incurred by both parties including the costs for court proceedings, such as court costs in case of disputes and costs for property appraisal services and property transfer costs.

Procedural Civil Code of Georgia, November 14 1997, as amended;

The general courts of Georgia consider the cases according to the rules identified under the Procedural

Civil Code of Georgia. The requirements of the procedural law are exercised during the lawsuit, during implementation of separate procedural actions or execution of the court decision.

The Procedural Civil Code of Georgia also regulates those cases when determination of the defendant is impossible. This may be important for the Project in the cases when the landowner is not found and correspondingly ownership to his/her land parcel cannot be obtained in legally valid manner, i.e. it is impossible to enter corresponding agreement with the landowner or him/her cannot sign other type of document.

According to article 18 of the Procedural Civil Code of Georgia if the claim refers to real property the claimant has the right to submit a claim to the court against the owner according to the land parcel location.

According to Article 78, of the Procedural Civil Code, when the location of the defendant is unknown, there are two alternative ways to provide him/her the information on lawsuit: (1) notice of lawsuit appointment is delivered to local self-government or government bodies; or (2) makes a decision on public notification through publication. Public notification is in written format and contains major data of the documents that the defendant shall be introduced to. Public notification is placed on the Board for

Applications in the Court. However, the claimant is eligible to ensure the distribution of public notification on its own expenses. In both cases, the Civil Code defines one-month term for considering the notification on appointment of a lawsuit as delivered. However, the legislation allows the Court to extend this term not more than for a month. The consideration of notification on application of a lawsuit as delivered allows the judge to conduct the sitting of the court and make a default judgment in regard with real property.

Summary

Overall the above laws/regulations provide that the principle of replacement cost compensating at market value is reasonable and legally acceptable. The laws also identify the types of damages eligible to compensation and indicate that compensation is to be given both for loss of physical assets and for the loss of incomes. Finally, these laws place strong emphasis on consultation and notification to ensure that the AP participate in the process. As in practice, public opposition to expropriation is very strong this instrument to acquire land is used only in extreme cases when

negotiations between the agency acquiring the land and the owners fail. Usually once public interest is established, the investor (RDMRDI, in this case) negotiates compensation for the sale or use of land with landowners and land users.

Other Laws having regard to the land acquisition process.

The Law of Georgia Licenses and Permits, 2005

The law specifies permits and license required in Georgia. Amongst the others the law mentions

Construction Permit and Environmental Impact Permit, which have regard to the highway modernization projects and related activities (construction, upgrading etc.) and RoW or route approval.

The Laws of Georgia on Construction Permit (2004), on Environmental Impact Permit (2008) and on Cultural Heritage (2007) describe permits, related studies and clearance procedures applicable to the road construction projects and required to approve the route, RoW and construction corridor for the motor road. Approval of the RoW and construction corridor is necessary preliminary step before starting land acquisition. We will not describe here these laws in more details, so far as the RoW approval is not a component of the Resettlement Action Plan, but they are reviewed in the Environmental Manual.

ANNEX 2

OP 4.12 INVOLUNTARY RESETTLEMENT

OP 4.12 December 2001

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

Involuntary Resettlement

This Operational Policy statement was revised in April 2004 to ensure consistency with the requirements of [OP/BP 6.00](#), issued in April 2004.

1. Bank¹ experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:
- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.²
 - (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted

and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.⁴

Impacts Covered

3. This policy covers direct economic and social impacts⁵ that both result from Bank-assisted investment projects⁶, and are caused by

(a) the involuntary⁷ taking of land⁸ resulting in

(i) relocation or loss of shelter;

(ii) lost of assets or access to assets; or

(iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) the involuntary restriction of access⁹ to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank-assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP](#)

[4.12http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/BProw/383197ED73D421A](http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/BProw/383197ED73D421A38)

[385256B180072D46D?OpenDocument](http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/BProw/383197ED73D421A385256B180072D46D?OpenDocument), para. 7).¹⁰

Required Measures

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) informed about their options and rights pertaining to resettlement;

(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and

(iii) provided prompt and effective compensation at full replacement cost¹¹ for losses of assets¹² attributable directly to the project.

(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) provided assistance (such as moving allowances) during relocation; and

(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.¹³

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are

(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;¹⁴ and

(ii) provided with development assistance in addition to compensation measures described in paragraph 6(a) (iii), such as land preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

(a) specific components of the project will be prepared and

implemented; (b) the criteria for eligibility of displaced persons will

be determined;

(c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and

(d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,¹⁵ ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A, http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument](http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument) para. 11).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30).

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area,¹⁶ or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small

fraction <http://wbln0011/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BE B6/8BC51CC87982E5BD85256B18006D964D?OpenDocument>¹⁷ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these

groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

Eligibility for Benefits¹⁸

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A](http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument)<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument>[http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?Open Document](http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument), para. 6(a)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A](http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocumenthttp://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument)[http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument](http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument)<http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>, para. 7(f)); and¹⁹

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement

assistance²⁰ in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.²¹ Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](http://wbIn0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocumenthttp://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument)<http://wbIn0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument><http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument>).

[nal/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument](http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument)
[http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F6?Open Document](http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F6?OpenDocument));

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified (see [Annex A](#)
<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument>
<http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F6?OpenDocument>); and

(c) a process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the “resettlement instruments”), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs.²² The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to

resettles (as compared to the “without-project” circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be

economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.²³

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate

(see also [BP](#)

[4.12http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/BProw/383197ED73D421A385256B180072D46D?OpenDocument](http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/BProw/383197ED73D421A385256B180072D46D?OpenDocument), para. 16).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A](#)<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument><http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>, paras. 2-21) for projects referred to in para. 17(a) above.²⁴ However, where impacts on the entire displaced population are minor,²⁵ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex](#)

<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument><http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>, para. 22). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see [Annex Ahttp://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument](http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument)<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument><http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>, paras. 23-25). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex Ahttp://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument](http://wbln0011.worldbank.org/Institutional/Manuals/OpManual.nsf/OPolw/C19E5F010F97E04485256B180070DD3E?OpenDocument)<http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocument><http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument>, paras. 23-25). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential sub-borrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all

subprojects involving

resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects²⁶ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A30](http://Inweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30061BEB6/46FC304892280AB785256B19008197F8?OpenDocumenthttp://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument), paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in paras. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

Process Framework

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before to enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

Assistance to the Borrower

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing
- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
 - (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;
 - (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and
 - (d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

1. "Bank" includes IBRD and IDA; "loans" includes IDA credits and IDA grants, guarantees, Project Preparation Facility

(PPF) advances and grants; and "projects" includes projects under (a) adaptable program lending; (b) learning and innovation loans; (c) PPFs and Institutional Development Funds (IDFs), if they include investment activities; (d) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (e) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs under development policy lending operations. "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.

2. In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include [OP 4.01](#), *Environmental Assessment*, [OP 4.04](#), *Natural Habitats*, [OP / BP 4.10](#), *Indigenous Peoples*, and [OP 4.11](#) (forthcoming), *Management of Cultural Property in Bank-financed Projects*.

3. The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.

4. Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.

5. Where there are adverse indirect social or economic impacts, it is good practice for the borrower

to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.

6. This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see [OP/BP 8.50, Emergency Recovery Assistance](#)).

7. For purposes of this policy, “involuntary” means actions that may be taken without the displaced person’s informed consent or power of choice.

8. “Land” includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.

9. For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

10. The *Involuntary Resettlement Sourcebook* provides good practice guidance to staff on the policy.

11. “Replacement cost” is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see [Annex](#)

<http://lnweb18.worldbank.org/Institutional/Manuals/OpManual.nsf/58AA50B14B6BC071852565A30>

<http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/CA2D01A4D1BDF58085256B19008197F6?OpenDocument> footnote 1).

For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.

12. If the residual of the asset being taken is not economically viable, compensation and other

resettlement assistance are provided as if the entire asset had been taken.

13. The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

14. Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements

15. See [OP / BP 4.10](#), *Indigenous Peoples*.

16. See [OP 4.04](#), *Natural Habitats*.

17. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.

18. Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).

19. Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.

20. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.

21. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.

22. For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under [OP 4.01](#), *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts.

See [The World Bank Policy on Disclosure of Information](#), para. 34, (Washington, D.C.: World Bank, 2002).

24. An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of Bank Management (see [BP 4.12](#), para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.

25. Impacts are considered "minor" if the affected people are not physically displaced and less than 10% of their productive assets are lost.

26. For purpose of this paragraph, the term "subprojects" includes components and subcomponents.

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Annex A
December
2001**

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

Involuntary Resettlement Instruments

1. This annex describes the elements of a resettlement plan, an abbreviated resettlement plan, a resettlement policy framework, and a resettlement process framework, as discussed in [OP 4.12](#), paras. 17-31.

Resettlement Plan

2. The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan.

3. *Description of the project.* General description of the project and identification of the project area.

4. *Potential impacts.* Identification of

(a) the project component or activities that give rise to resettlement; (b) the zone of impact of such component or activities;

(c) the alternatives considered to avoid or minimize resettlement; and

(d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

5. *Objectives.* The main objectives of the resettlement program.

6. *Socioeconomic studies.* The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including

(a) the results of a census survey covering

(i) current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;

(ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;

(iii) the magnitude of the expected loss—total or partial—of assets, and the extent of displacement, physical or economic;

(iv) information on vulnerable groups or persons as provided for in [OP 4.12](#), para. 8, for whom special provisions may have to be made; and

(v) provisions to update information on the displaced people’s livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

(b) Other studies describing the following

(i) land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area;

(ii) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project;

(iii) public infrastructure and social services that will be affected; and

(iv) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

7. Legal framework. The findings of an analysis of the legal framework, covering

(a) the scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;

(b) the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project;

(c) relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights; customary personal law related to displacement; and environmental laws and social welfare legislation;

(d) laws and regulations relating to the agencies responsible for implementing resettlement activities;

(e) gaps, if any, between local laws covering eminent domain and resettlement and the Bank's resettlement policy, and the mechanisms to bridge such gaps; and

(f) any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land—including claims that derive from customary law and traditional usage (see [OP 4.12](#), para.15 (b)).

8. *Institutional Framework*. The findings of an analysis of the institutional framework covering

(a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;

(b) an assessment of the institutional capacity of such agencies and NGOs; and

(c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

9. *Eligibility*. Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

10. *Valuation of and compensation for losses*. The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.¹

11. *Resettlement measures*. A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of the policy (see [OP 4.12](#), para. 6). In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

12. *Site selection, site preparation, and relocation.* Alternative relocation sites considered and explanation of those selected, covering

(a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;

(b) any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;

(c) procedures for physical relocation under the project, including timetables for site preparation and transfer; and

(d) legal arrangements for regularizing tenure and transferring titles to resettlers.

13. *Housing, infrastructure, and social services.* Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services);² plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

14. *Environmental protection and management.* A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement³ and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

15. *Community participation.* Involvement of resettlers and host communities,⁴ including

(a) a description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of the resettlement activities;

(b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;

(c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage

centers, cemeteries);⁵ and

(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

16. *Integration with host populations.* Measures to mitigate the impact of resettlement on any host communities, including

(a) consultations with host communities and local governments;

(b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers;

(c) arrangements for addressing any conflict that may arise between resettlers and host communities; and

(d) any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

17. *Grievance procedures.* Affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

18. *Organizational responsibilities.* The organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

19. *Implementation schedule.* An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

20. *Costs and budget.* Tables showing itemized cost estimates for all resettlement activities,

including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

21. *Monitoring and evaluation.* Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Abbreviated Resettlement Plan

22. An abbreviated plan covers the following minimum elements:⁶

- (a) a census survey of displaced persons and valuation of assets;
- (b) description of compensation and other resettlement assistance to be provided;
- (c) consultations with displaced people about acceptable alternatives;
- (d) institutional responsibility for implementation and procedures for grievance redress;
- (e) arrangements for monitoring and implementation; and
- (f) a timetable and budget.

Resettlement Policy Framework

23. The purpose of the policy framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation (see [OP 4.12](#), paras. 26-28). Subproject resettlement plans consistent with the policy framework subsequently are submitted to the Bank for approval after specific planning information becomes available (see [OP 4.12](#), para. 29).

24. The resettlement policy framework covers the following elements, consistent with the provisions described in [OP 4.12](#), paras. 2 and 4:

- (a) a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement plan as described in paras. 2-21 or an abbreviated plan as described in para. 22 cannot be prepared by project appraisal;
- (b) principles and objectives governing resettlement preparation and implementation;
- (c) a description of the process for preparing and approving resettlement plans;
- (d) estimated population displacement and likely categories of displaced persons, to the extent feasible;
- (e) eligibility criteria for defining various categories of displaced persons;
- (f) a legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- (g) methods of valuing affected assets;
- (h) organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- (i) a description of the implementation process, linking resettlement implementation to civil works;
- (j) a description of grievance redress mechanisms;
- (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- (l) a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- (m) arrangements for monitoring by the implementing agency and, if required, by independent monitors.

25. When a resettlement policy framework is the only document that needs to be submitted as a condition of the loan, the resettlement plan to be submitted as a condition of subproject financing

need not include the policy principles, entitlements, and eligibility criteria, organizational arrangements, arrangements for monitoring and evaluation, the framework for participation, and mechanisms for grievance redress set forth in the resettlement policy framework. The subproject-specific resettlement plan needs to include baseline census and socioeconomic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimate.

Process Framework

26. A process framework is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areas. The purpose of the process framework is to establish a process by which members of potentially affected communities participate in design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities (see [OP 4.12](#), paras. 7 and 31).

27. Specifically, the process framework describes participatory processes by which the following activities will be accomplished

(a) *Project components will be prepared and implemented.* The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. It should also describe the process by which potentially displaced persons participate in project design.

(b) *Criteria for eligibility of affected persons will be determined.* The document should establish that potentially affected communities will be involved in identifying any adverse impacts,

assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.

(c) *Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified.* The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.

(d) *Potential conflicts or grievances within or between affected communities will be resolved.* The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.

Additionally, the process framework should describe arrangements relating to the following

(e) *Administrative and legal procedures.* The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).

(f) *Monitoring arrangements.* The document should review arrangements for participatory monitoring of project activities as they relate to (beneficial and adverse) impacts on persons within the project impact area, and for monitoring the effectiveness of measures taken to improve (or at minimum restore) incomes and living standards.

-
1. With regard to land and structures, “replacement cost” is defined as follows: For agricultural land, it is the pre- project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors’ fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in [OP 4.12](#), para. 6.
 2. Provision of health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease.

3. Negative impacts that should be anticipated and mitigated include, for rural resettlement, deforestation, overgrazing, soil erosion, sanitation, and pollution; for urban resettlement, projects should address such density- related issues as transportation capacity and access to potable water, sanitation systems, and health facilities.
4. Experience has shown that local NGOs often provide valuable assistance and ensure viable community participation.
5. OP 4.11 (forthcoming), [*Management of Cultural Property in Bank-Financed Projects*](#).
6. In case some of the displaced persons lose more than 10% of their productive assets or require physical relocation, the plan also covers a socioeconomic survey and income restoration measures.

ANNEX3

Outline of a Resettlement Action Plan

This section provides an annotated outline for a Resettlement Action Plan. The outline is adapted from the World Bank, *Resettlement and Rehabilitation Guidebook*, which is available on CD-ROM from the World Bank InfoShop. Excerpts from the *Guidebook*, as well as other information related to resettlement, can be found on the World Bank internet web site, <http://www.worldbank.org/essd/essd.nsf>. and selecting "Involuntary Resettlement" from the "All Topics" drop down menu.

Introduction

- Briefly describe the project.
- List project components including associated facilities (if any)
- Describe project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

Minimizing Resettlement

- Describe efforts made to minimize displacement.
- Describe the results of these efforts.
- Describe mechanisms used to minimize displacement during implementation.

Census and Socioeconomic Surveys

- Provide the results of the census, assets inventories,- natural resource assessments, and socioeconomic surveys.
- Identify all categories of impacts and people affected.
- Summarize consultations on the results-of the various surveys with affected people.
- Describe need for updates to census, assets inventories, resource assessments, and socioeconomic surveys, if necessary, as part of RAP monitoring and evaluation.

Legal Framework

- Describe all relevant local laws and customs that apply to resettlement
- Identify gaps between local laws and World Bank Group policies, and describe project-specific mechanisms-to address conflicts.
- Describe entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
- Describe method of valuation used for affected structures, land, trees, and other assets

- Prepare entitlement matrix.

Resettlement Sites

- Does the project require community relocation sites? Have affected people been involved in a participatory process to identify sites, assess advantages and disadvantages of each-site, and select preferred sites?
- Have the affected people been involved in developing an acceptable strategy for housing replacement? Will new housing be constructed/allocated?
- Does the project involve, allocation of agricultural land or pasture/rangeland? Have the individual households that will be allocated lands been involved in identifying-potential new sites, and have they explicitly accepted the selected sites?
- Describe the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages; and selecting, sites.
- Describe the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation' and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.
- Demonstrate that the land quality sand area are adequate for allocation to all of the people eligible for allocation of agricultural land. Provide data-on land, quality and capability, productive potential, and quantity.
- Give calculations relating to site requirements and availability.
- Describe mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
- Provide detailed description of the arrangements for site development for agriculture, including funding of development costs.
- Have the host communities been consulted about the RAP? Have they participated in the, identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP? Do the host communities have a share of the resettlement benefits?

Income –Restoration

- Are the compensation entitlements sufficient to restore income streams for each category

of impact? What additional economic rehabilitation measures are necessary?

- Briefly spell out the restoration strategies for each category of impact and describe their- institutional, financial, and technical aspects.
- Describe the process of consultation with affected populations and their participation in finalizing strategies for income restoration.
- How do these strategies vary with the area of impact?
- Does income restoration require change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?
- How are the risks of impoverishment to be addressed?
- What are the main institutional and other risks for the smooth implementation of the resettlement programs?
- Describe the process for monitoring the effectiveness of the income restoration measures.
- Describe any social or community development programs currently operating in or around the project area. If programs exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new programs or expand existing programs to meet the development priorities of communities in the project area?

Institutional- Arrangements

- Describe the institution(s) responsible for delivery of each item/activity in the entitlement policy; implementation of income restoration programs; and coordination of the activities associated with and described in the resettlement action plan.
- State how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identify the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
- Describe the external (non project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.

- Discuss institutional capacity for and commitment to resettlement.
- Describe mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely fashion.

Implementation Schedule

- List the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.
- Prepare a month-by-month implementation schedule (using a Gantt chart, for example) of activities to be undertaken as part of resettlement implementation.
- Describe the linkage between resettlement implementation and initiation of civil works for each of the project components.

Participation and Consultation

- Describe the various stakeholders.
- Describe the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
- Describe the process of involving affected populations and other stakeholders in implementation and monitoring.
- Describe the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

Grievance Redress

- Describe the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication modes.
- Describe the mechanism for appeal.
- Describe the provisions for approaching civil courts if other options fail.

Monitoring and, Evaluation

- Describe the internal/performance monitoring process.

- Define key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
- Describe institutional (including financial) arrangements.
- Describe frequency of reporting and content for internal monitoring.
- Describe process for integrating feedback from internal monitoring into implementation.
- Define methodology for external monitoring.
- Define key indicators for external monitoring.
- Describe frequency of reporting and content for external monitoring.
- Describe process for integrating feedback from external monitoring into implementation.
- Describe arrangements for final external evaluation.

