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Lake Turkana Wind Power Project - Kenya Resettlement Policy Framework

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Executive Summary

The Purpose of this Resettlement Policy Framework (RPF) is to define a set of guiding principles which will ensure a consistent approach to resettlement across the entire Lake Turkana Wind Power (LTWP) project. The key objectives of the RPF are to avoid or minimise resettlement where possible and where unavoidable, to ensure that resettlement and compensation are conceived in a manner that improves or sustains the livelihoods of those affected.

The LTWP project consists of a proposed 300MW wind project in Marsabit District of northwest Kenya and the up-grading of approximately 200km of road from Laisamis to the wind farm site. These project components will be financed by the project proponent – LTWP consortium.

For integration in to the existing grid network, the project will rely on a proposed 428km, 400kV transmission line to be primarily funded by the Spanish Government, and built by the Kenya Transmission Line Company (Ketraco). The transmission line is therefore taken to be an ‘Associated Facility’ as defined by the International Finance Corporation (IFC). The wind farm project Lenders will expect that it is developed and implemented in accordance with the provisions of the World Bank Operational Policies (OP) and IFC Performance Standards on Social and Environmental Sustainability. As resettlement activities associated with the transmission line will be the responsibility of the host Government (through Ketraco), the degree to which the World Bank/IFC standards are adopted for the associated facility will depend on Ketraco and the project funders (Spanish Government). Ketraco has drafted and approved its own RPF which is in line with Kenyan national standard and those of the World Bank Group.

Adopting World Bank/IFC standards will ensure transparency in resettlement planning and implementation and minimise potential adverse effects on the affected communities. This RPF established the principles, procedures, entitlements and eligibility criteria, the organisational arrangements, provisions for monitoring and evaluation, the framework for public consultation and participation as well as the mechanisms for redressing grievances that will be adopted where involuntary land acquisition and resettlement are required.

Currently, significant resettlement is not anticipated at the wind farm site or the route of the proposed road up-grade. Project design is on-going and this RPF has been designed to ensure that a consistent approach is applied in the event that the need for involuntary land acquisition and resettlement is identified further down the process. Where involuntary land acquisition and resettlement will be required, a Resettlement Action Plan (RAP) will be prepared on the basis of the principles defined in this RPF. The scope and level of detail will depend on the magnitude of displacement and the complexity of the measures required to mitigate adverse social and economic impacts.

For the associated transmission line, there is an identified need to prepare a RAP as there will be restriction on the use of land that falls within the wayleave trace, as well as loss of structures and other assets for example crops and trees. Ketraco is in the process of undertaking a RAP for the transmission line in line with its RPF.

1 Introduction

1.1 This Report

This Resettlement Policy Framework (RPF) has been prepared for Lake Turkana Wind Power (LTWP) to ensure safeguards are in place to address and mitigate against potential adverse effects associated with involuntary land acquisition and resettlement. It applies to all project components including those elements that are not fully defined yet. It provides a set of guiding principles which will ensure a consistent approach to resettlement across the project and establishes and discloses the criteria by which affected people will be considered eligible for compensation and other resettlement assistance where the project results in involuntary land acquisition or resettlement.

1.2 Project Description

The proposed Lake Turkana Wind Power Project is situated in the Marsabit district of northwest Kenya, approximately 10km from Lake Turkana. The project aims to provide 300MW of wind energy for the national grid, which equates to around 20% of the current installed capacity. The project is being progressed as two components:

- A wind farm; and
- Associated road upgrades.

The wind farm comprises three hundred and sixty five (365) V52 turbines, a collector grid system and switchyard. To access the site, approximately 200km of road from Laisamis to the wind farm site south of Loiyangalani town requires construction works including; re-alignment, levelling and grading, construction of culverts and general repairs. The project proponent is LTWP consortium.

The intention is that the project be developed and implemented in accordance with the provisions of the World Bank Operational Policies (OP) and International Finance Corporation (IFC) Performance Standards (PS). Adopting these international standards will ensure transparency of resettlement and equitable compensation as well as minimise the project's impact on the environment and adverse social and economic impact on affected communities.

A new transmission line will run 428km from the wind farm site to Suswa where a second switchyard, to connect to the existing double circuit transmission line from Olkaria, will be constructed. The line will be constructed and owned by the newly formed State owned company Kenya Transmission Company (Ketraco).

In the process of project preparation, a review of the proposals against the World Bank/IFC PS found that a Resettlement Action Plan (RAP) is required to guide land acquisition and resettlement as a result of the construction of the associated Ketraco transmission line. The review also found that other project components (wind farm site and road up-grade) may have potential to lead to resettlement of Project Affected Persons (PAPs), subject to further analysis of project impacts, the emerging design of the wind farm and the refining of the proposed route for the road up-grade.

To this end, a Resettlement Policy Framework (RPF) has been prepared to guide land acquisition and resettlement activities for the project. This RPF takes into account the Government of Kenya's compensation legislation, and international best practice with regards to compensation and resettlement, including the requirements set out in the World Bank Operational Policies (specifically OP 4.12 Involuntary Resettlement) and IFC Performance Standards (notably PS1 Social and Environmental Assessment & Management Systems, and PS5 Land Acquisition and Involuntary Resettlement).

1.3 Purpose of Resettlement Policy Framework

Involuntary resettlement 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 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 lost¹.

This RPF has been prepared to ensure safeguards are in place to address and mitigate the impoverishment risks identified above. The purpose of the RPF (as distinct from a Resettlement Action Plan - RAP) is to define a set of guiding principles which will ensure a consistent approach to resettlement across the entire project, even if some project elements are not fully defined as yet. The RPF establishes the principles, procedures, entitlements and eligibility criteria, the organisational arrangements, and provisions for monitoring and evaluation, the framework for participation, as well as the mechanisms for redressing grievances which will be applied to the overall project.

Specific RAPs will then be developed for each project component, on the basis of the RPF principles defined herein. The scope and level of detail of the RAP will be dependent on the magnitude of displacement and the complexity of the measures required to mitigate adverse social and economic impacts. Ketraco is in the process of preparing a RAP in line with its RPF.

The objectives of the World Bank's Safeguard Policy on Involuntary Resettlement are that resettlement should be avoided or minimised where possible, and viable alternatives explored. Hence, at the project design phase, all efforts must be deployed to minimise the need for resettlement. Where it is not possible to avoid resettlement, resettlement and compensation principles, organisational arrangements and design criteria should be conceived and executed as sustainable development programmes, providing sufficient investment to those people displaced by the project and providing them with the opportunity to share the benefits of the project. The aim is to improve or sustain the livelihoods and living conditions of the PAPs prior to Project operations and / or resettlement.

This RPF covers the following key issues:

- Policy principles and objectives governing resettlement preparation and implementation.
- Description of the process for preparing resettlement plans.

¹ World Bank Operational Manual OP 4.12 Involuntary Resettlement.

- Legal framework comparing the borrower laws and regulations and World Bank policy requirements and measures proposed to bridge any gaps between them.
- Categories of displaced persons to the extent feasible.
- Eligibility criteria for defining various categories of the PAPs.
- Methods of valuing affected assets.
- Description of arrangements for funding resettlement, including preparation and review of cost estimates, the flow of funds and escrow contingency arrangements.
- Organisational procedures for delivery of entitlements, including for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government and the private developer.
- Description of the implementation process, linking resettlement implementation to civil works.
- Description of grievance redress mechanisms.
- Description of mechanisms for consulting with, and participation of, displaced persons in planning, implementation and monitoring.
- Arrangements for monitoring by the implementing agency and, if required, by independent monitors.

2 Policy Principles and Objectives

2.1 Policy Principles

This RPF applies to all components under the project - wind farm and road-upgrade. It applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

This RPF sets out the requirements for the development of more detailed RAPs for those sub-projects and associated facilities that entail the acquisition of land and for which displacement or restriction of access may result.

Particular attention will be paid to the needs of vulnerable groups among those displaced; such as those who by virtue of gender, ethnicity, and age, physical or social disability, economic disadvantage or social status may be adversely affected by resettlement than others. They may also be limited in their ability to claim or take advantage of resettlement assistance and potential development benefits. For the purposes of this project, vulnerable people may include the landless, the elderly, women and children, indigenous groups and ethnic minorities, or other displaced persons who may not be protected through national legislative measures in Kenya.

For sub-projects requiring the relocation or loss of housing by the PAPs, measures to assist the displaced persons will need to be implemented in line with this RPF to ensure a resettlement and compensation process which is perceived to be adequate, fair and prompt by the PAPs and other stakeholders.

2.2 Objectives

The objectives of this RPF are to ensure that:

- Involuntary resettlement and land acquisition will be avoided where feasible, or minimised, exploring all viable alternatives to the design of the sub-projects.
- Where involuntary resettlement and land acquisition is unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programmes, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits. Project benefits can include employment by the project of the PAPs.
- Displaced and compensated people will be assisted in their efforts to improve their livelihoods and standards of living where they are affected appreciably 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.

The PAPs comprise those people who will be directly or indirectly affected both socially and economically by the proposed project, as a result of the involuntary taking of land and other assets where they are affected appreciably resulting in:

- Relocation or loss of housing.
- Loss of assets or loss of full access to assets.

- Loss of income or means of livelihood irrespective of the need for physical relocation.

3 Process for Preparing RAPs

3.1 Overview

Unless managed properly, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities. It can also lead to negative environmental effects and social stress in areas where the affected persons have been displaced. International best practice, such as OP 4.12 and IFC PS 5, recommends direct involvement of the client in resettlement activities as experience demonstrates that this can result in cost-effective, efficient, and timely implementation as well as innovative approaches to improving the livelihoods of those affected.

The Performance Standard also encourages clients to acquire land rights through negotiated settlements wherever possible. In the first instance, where physical or economic displacement is triggered as a result of the proposed project LTWP will seek to negotiate settlements by providing fair and appropriate compensation at or greater than market value and other incentives/benefits to affected persons and communities.

3.2 Current Project Status

Wind farm site - Currently, there is no requirement for land acquisition or resettlement at the wind farm site. Public consultation undertaken during the Environmental and Social Impact Assessment (ESIA) for the wind farm identified the potential loss of grazing land as a key concern. To accommodate this, the wind farm area will not be fenced off (apart from the on-site switchyard and individual transformers for safety reasons) and grazing will be permitted between the turbines. The minor loss of land used for grazing (equivalent to the footprint area of the turbines) is considered not to have significant impact on availability of grazing land by the local communities.

A transhumance nomadic clan, of the Turkana pastoralists, inhabit the footprint of the wind farm site having an encampment located nearby the C77 road that traverses the wind farm site. Construction hazards on the wind farm site could potentially be hazardous for the general public, tourists and Sirima pastoralists. Meetings have been held with those pastoralists who use the Sirima encampment to find out what attracts them to the area and in particular this encampment. The opportunity to stop and solicit passing vehicles for water (primarily), food and money are the attraction. The Kenyan government, via the area Member of Parliament, had constructed a seasonal water catchment dam and the Catholic Church had built a school classroom thus these features, with the road nearby, offered and provided opportunities not easily accessible elsewhere in the vicinity or along their pastoral travels within the area. The community leaders and Sirima pastoralists, having considered the potential dangers, have agreed not to utilise the Sirima encampment area during the construction period; LTWP will make available a managed supply of water and Sirima pastoralists have worked with LTWP in identifying a host encampment area nearby (1.5km north of the public road) but away from the construction activities and associated potential dangers to themselves and livestock. One of the three drilled boreholes on site, with confirmed potable water, is located 250m from the agreed relocation area.

Proposed road up-grade – The windfarm site is located approximately 1,200km from the seaport of Mombasa, from where the equipment will be transported to site by road. The

majority of this road is already constructed. However, a distance of approximately 200km of existing rural road between Laisamis – Namerai – Illaut – Arge - Kargi – Loiyangalani Road to the wind farm site does require upgrade works including; realignment, levelling and grading, construction of culverts and general repairs. The road will be 6m wide with a 15m wayleave to each side. The exact alignment of the road has yet to be determined. The road rehabilitation is proposed to follow the current Right of Way (ROW) for the existing road and along the abandoned ‘mapped’ route in two areas. Following consultation with stakeholders and their concerns regarding potential negative transport impacts, the two route diversions were progressed in order to avoid existing settlements at Ngurunit, South Horr and Kurungu.

Whilst the number of people and structures observed along the road upgrade route is very small, the overall need for economic and physical resettlement as a result of road works requires clarification once the exact alignment of the route is confirmed.

3.3 RAP Preparation Process

Where involuntary resettlement is unavoidable, the development of a project-specific RAP will be required. The RAP(s) should take cognisance of the principles of this RPF and be prepared in line with the approach outlined in the IFC Handbook for Preparing a Resettlement Action Plan². As a minimum, the RAP(s) will be required to include the following essential components:

- Identification of project impacts and affected populations;
- A legal framework for land acquisition and compensation;
- A compensation framework;
- A description of resettlement assistance and restoration of livelihood activities where PAPs are affected appreciably;
- A detailed budget;
- An implementation schedule;
- A description of organisational responsibilities;
- A framework for public consultation, participation, and development planning;
- A description of provisions for redress of grievances; and
- A framework for monitoring, evaluation and reporting.

² Handbook for Preparing a Resettlement Action Plan International Finance Corporation (IFC) , April 2002

4 Legal Framework

4.1 National

A new constitution was adopted in Kenya in August 2010. Chapter 5 of the constitution deals with land and requires land to be 'equitable, efficient, productive and sustainable'. The constitution classifies land in Kenya as public, community or private land. It does not provide detailed procedures for land acquisition and expropriation. Currently, these are provided under the "Land acquisition Act" in chapter 295 for private land and chapter 288 for unregistered Trust Lands. "Trust Land" (referred to as Community land in the new constitution) is that land that is still held under African customary tenure. The title to this land is said to vest in the County Council in trust for its inhabitants, hence the term "Trust".

Expropriation in this context refers to the taking away of private land and landed property for public purpose by the government with or without the owner's consent subject to laws of eminent domain, which stipulates prompt and adequate compensation among other things. In Kenya "setting apart" for unregistered Trust Land and "Compulsory acquisition" for all registered private lands are the terms commonly used.

Expropriation of land is a very important aspect in land management in that it is the instrument by which land is availed for various development needs e.g. Infrastructure, Housing, Dams and Irrigation, or Industrial purposes if the development and utilisation of the said land is to promote public benefit. In addition the following legislation is possibly applicable to instances of resettlement and compensation (it is noted that the new constitution provides for the revision of laws on land in Article 68 (a) (b)).

The Land Acquisition Act Chapter 295 Laws of Kenya

This provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public.

The Registered Land Act Chapter 300 Laws of Kenya

This provides for the absolute proprietorship over land (exclusive rights). Such land can be acquired by the state under the Land Acquisition Act in the project area.

The Land Adjudication Act Chapter 95 Laws of Kenya

This provides for ascertainment of interests prior to land registrations under the Registered Land Act.

Physical Planning Act No. 6 of 1996

Section 2 of the Act requires that all land intended for any development requires planning and development permission. Section 36 of the Act also requires that development projects, which have substantial alteration of the state of land, must be subjected to an Environmental Impact Assessment (EIA).

The Environmental Management and Coordination Act 1999

This is the legislation that governs EIA studies. The wind farm, road-upgrades and the transmission line have been subject to EIA in accordance with this Act. Part 3 of this Schedule applies to settlement planning. Resettlement components of the sub-projects may pose potentially negative environmental impacts.

The Wayleaves Act Chapter 292 Laws of Kenya

This provides for certain undertakings to be constructed e.g. pipelines, canals, pathways etc., through or under any lands or settlements. Power lines required by Ketraco will be under the provision of the Act.

The Water Act Chapter 372 Laws of Kenya

The Act vests the water in the State and gives the provisions for the water management, including irrigation water, pollution, drainage, flood control and abstraction. It is the main legislation governing the use of water especially through water permit system where special provision for water may be made for settlements or resettlement areas.

The Lakes and River Act Chapter 409 Laws of Kenya

This Act provides for protection of river, lakes and associated flora and fauna. The provisions of this Act may be applied, in the management of the resettlement zones.

The Wildlife Conservation and Management Act, Cap 376

This Act provides for the protection, conservation and management of wildlife in Kenya. The provisions of this Act should be applied in the management of all resettlement activities where applicable.

The Public Health Act Laws of Kenya

Provides for the securing of public health and recognises the importance of water. It provides for prevention of water pollution by any development activity including resettlement.

4.2 International

The fundamental objectives of OP 4.12 and IFC PS 5 are:

- To avoid or at least minimise involuntary resettlement wherever feasible by exploring alternative project designs.
- To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve or at least restore the livelihoods and standards of living of displaced persons.
- To improve living conditions among displaced persons through provision of adequate housing.

Recognised best practise requires that a RAP shall be prepared and cleared by the Lenders prior to implementing resettlement activities. The World Bank/IFC also requires that the provision of compensation and other assistance to PAPs, to restore livelihoods when these are affected appreciably, shall be done prior to the displacement of people. It also requires particular attention to be given to the needs of vulnerable groups.

4.3 Gap Analysis

The following international requirements, specified in OP 4.12 and IFC PS5, are not addressed by national law and will therefore need to be addressed by the project-specific RAPs:

Resettlement Action Plans and procedural requirements - Under the national legislation, no particular plan that fulfils the standard requirements of RAP needs to be prepared. However, the National Environmental Management Authority may request as a condition of Environmental and Social Impact Assessment that a RAP be prepared. As per World Bank/IFC RAPs are required for projects that result in involuntary loss of land or resettlement. In particular, the project is required to take steps to undertake the activities of a RAP, such as a census, socio-economic survey, consultation with the PAPs, monitoring and reporting.

Public consultation and participation of project affected communities - Existing national legislation does not require resettlement plans be disclosed to and consulted with local affected people. Similarly, no formal provisions are established to redress grievances that may occur to PAPs; the only legal recourse available is through the courts. Under the project specific RAPs, the PAPs will be informed of and participate in the establishment of compensation and rehabilitation measures, and provided with measures to redress grievances, as defined in this RPF.

Categories of people eligible for compensation - Under the national legislation, only those people and entities with registered property rights are entitled to compensation. This potentially precludes many categories of affected people that would be entitled to compensation under the World Bank/IFC standards including:

- Users who use land on the basis of an informal agreement often with a relative or extended family member (share croppers, tenant farmers).
- Owners who occupy land that was transferred by informal agreement from another owner.
- Owners who have not registered a change in ownership following a family death, marriage annulment or similar situation.
- Internally Displaced People (who have no rights to land).
- People who make use of communal resources to which they have no formal title.
- Informal dwellers.

In order to ensure compliance with international standards, such as OP 4.12 and IFC PS5, all affected households and business entities, without regard to their legal status, will be eligible for compensation as defined in the Entitlement Matrix in table 6.1.

Vulnerable groups – National legislation does not require particular attention to be given the needs of vulnerable groups. Project-specific RAPs will be required to pay particular attention to identified vulnerable PAPs including the landless, the elderly, women and children, indigenous groups, orphans, ethnic groups and other disadvantaged groups as previously defined.

Other resettlement support - The current national legislation establishes that compensation is payable for loss of land, buildings, crops, profit and other damages arising from the acquisition of land for a project. Other costs, such as moving cost or rehabilitation support to restore the previous level of livelihood are not covered but are required by World Bank/IFC. This will be covered in the project-specific RAP(s).

5 Eligibility Criteria and Categories of Impact

5.1 Identification of Eligibility

In accordance with international best practice/World Bank/IFC policy, displaced persons are classified as follows:

- Those who have formal legal rights to land (including customary and traditional rights under the laws of Kenya);
- Those who do not have formal legal rights to land at the time of the census, but who have claim to such land or assets – provided that such claims are recognised under the laws of Kenya or become recognised through a process identified in the RAP; and
- Those who have no recognisable legal right or claim to the land they are occupying.

In order to determine the physical location of land parcels and identify the names and locations of their owners, a census will be carried out as part of the RAP(s) and a list of the categories of entitlements will be drafted for each of the sub-projects. The completion of the census will represent a provisional cut-off date for eligibility for resettlement assistance.

The following surveys and inventories will be conducted to ensure consistency and transparency during the RAP process:

- (a) Socio-economic surveys of households and the collection of demographic data. This study will provide a picture of the expected impact of the project, and direct the planning of mitigation measures to minimise risk and maximise the benefits of the project implementation.
- (b) Identification of ownership status which will require the verification of ownership rights and data obtained from the local public register.
- (c) Demarcation and surveying of land parcels within the Project Affected Area which will allow for the project to determine the physical location of land parcels which either fall under the title of direct ownership or that of usufructuary right. The demarcation of the land parcels will require the signatures of the land-owners or land-owner trustees.
- (d) Inventory of existing assets (e.g. land and crops, livestock, property) per land parcel and recording of structures (e.g. fences, walls) which will allow for the identification of the possible types of loss as a result of the project. The inventory of assets will allow the project to determine assets and structures which may be subject to acquisition or expropriation. The on-site inventorisation process will require signatures from the land-owners or land-owner trustees. The project will set out to select final design/alignments which will minimise any negative impacts and therefore minimise the need for expropriation and displacement.

The surveys and inventories will be completed in line with both national and international/World Bank/IFC requirements. The surveys will allow the project to determine the types of project impacts and categories of PAPs that will receive compensation and rehabilitation assistance. For example, project impacts may include:

- Permanent loss of existing assets (e.g. property) and agriculture-related income;
- Permanent loss of commercial structures;
- Permanent loss of land;
- Permanent loss of access to land;
- Permanent loss of shelter; and
- Damage or loss of residential structures.

5.2 Categories of Impact

This RPF applies to all components under the project and to all eligible persons regardless of the severity of impact and whether or not they have legal title to land. The table below shows the categories of impacts likely to be addressed and the specific losses associated.

Table 5.1 Category of Impact

Category of Impact	Specific Losses
Relocation or loss of shelter	Wind farm site – Relocation of Sirima encampment due to safety hazards. Road up-grade – None confirmed. Final route alignment and acceptability of associated impacts to be confirmed.
Business premises	Wind farm site – No businesses identified on site. Road up-grade route – Possible impacts on businesses at South Horr, subject to diversion of road alignment.
Loss of assets or loss of land	Wind farm site – To be confirmed. Road upgrade – To be confirmed.
Trees and/or crops	Road up-grade – Potential for loss of trees (e.g. fruit trees, fire wood) and crops.
Loss of income/source of livelihood	Wind farm site and Road upgrade – Access to land for grazing will be allowed which will mitigate against adverse effects on the communities' nomadic way of life.

6 Compensation Valuation of Affected Assets

6.1 Principles of Compensation

For each land acquisition process, LTWP will adopt a policy for entitlement that accords with the relevant Kenyan legislation and World Bank OP 4.12/IFC PS 5 requirements, to ensure that fair and proper entitlements are provided to all eligible people who are affected by resettlement activities.

An entitlement matrix will serve as a tool used to assess the needs of the PAPs, the level of compensation, the compensation budget and will contribute towards the elaboration of the project-specific RAPs. The World Bank/IFC does not specify compensation rates as these will vary depending on the location and nature of project but it expects all PAPs to be compensated for loss of physical assets, revenue and income resulting from economic or physical displacement.

Following completion of a full census and household surveys, the entitlement matrix and RAPs will be elaborated accordingly for each sub-project. The compensation will follow the principles of compensation set forth in this RPF.

6.2 LTWP Entitlement Matrix

LTWP will ensure that:

- All PAPs, without regard to legal status of property ownership, will be compensated under the current Kenyan legislation and World Bank/IFC requirements and provisions of this RPF.
- Loss of housing and shelter caused by physical resettlement will be compensated at replacement value, based on market values, without depreciation.
- Loss of land and loss of access to land for grazing of livestock will be compensated for at replacement value, based on market values, and loss of income derived from rearing livestock will be compensated as defined in the Entitlement Matrix attached to this RPF for different categories of applicable PAPs.
- Loss of net income and wages will be compensated as defined in the Entitlement Matrix attached to this RPF for different categories of applicable PAPs.
- Compensation of immovable assets, such as fences and walls, which have been removed during construction works will be compensated for (or restored) at replacement value without depreciation.
- Those who do not legally occupy or use land will not be compensated for the loss of land. However, they will be compensated for the loss of non-land assets (including standing crops, buildings and trees) and provided resettlement assistance (as determined in the individual RAP matrix).

- Those households and businesses whose livelihood or businesses are severely and negatively affected by the project will be provided with additional rehabilitation measures, as defined in the Entitlement Matrix attached to this RPF.
- Particular attention should be paid to the needs of vulnerable groups among those displaced as defined by World Bank/IFC.

Table 6.1 Entitlement Matrix

Asset	Specifications	Affected People	Compensation Entitlements
Permanent Loss			
Grazing land (if affected)		Herders (nomads)	<ul style="list-style-type: none"> Acceptable alternative land for grazing to be agreed with affected PAPs
Structures	Bomas/Manyattas	Owners	<ul style="list-style-type: none"> To be valued independently, based on market rates, and compensation negotiated and agreed with PAPs
Buildings and Structures	Houses	Owners of permanent structures	<ul style="list-style-type: none"> House for house swap, or Cash compensation at replacement rates for affected structure and other fixed assets, based on material cost, construction and labour costs free of salvageable materials, depreciation and transaction costs.
		Owners of temporary structures (kiosks, stalls)	<ul style="list-style-type: none"> Approved site to re-locate. Moving costs will be provided.
Trees/crops	Trees/crops affected	All affected persons	<p>Crop/Tree damage compensation is threefold:</p> <ul style="list-style-type: none"> Provision of seed or seedlings; Provision of cash compensation for value of crops lost, at current market value. For crops, rates are derived from the respective District Agricultural Officers and for trees rates are derived from the Kenya Forest Services; and Provision of cash compensation to cover the income foregone during the period that the PAP is without land. The cash compensation will be equivalent to the value of crop production lost, until the replacements are yielding to the same level (i.e., the period until the replacement seed/seedlings are producing – whether the same year for annual crops, or longer in the case of shrub or tree crops).
Business employment	Temporary or permanent loss of business or employment (for example in South Horr if affected by road up-grade)	All affected persons	<ul style="list-style-type: none"> Owner: if permanent, cash compensation equal to one year income; if temporary, cash compensation for the period of loss. Compensation based on tax declaration or official minimum salary. Employees: allowance for lost wages during interruption, up to 3 months.
Temporary Loss			
Land used for construction activities	Subject to negotiation between owner and contractor	Owner (private or public)	<ul style="list-style-type: none"> Contractor pays cash compensation at local commercial rental rates for duration of use. Land restored to original status at end of rental. Environmental safeguard requirements apply.

7 Funding Arrangements

The delivery and implementation of RAP(s) associated with the wind farm site and the road upgrade will be the responsibility of LTWP. Once it is confirmed that resettlement of affected persons is required, LTWP will prepare a detailed budget as part of the RAP process including resettlement costs by category of impact, entitlement and other resettlement expenditure. LTWP will be explicit about the source of the funding for the RAP budget.

If, during the compensation process, there are disputes over payments an escrow account will be established. For instance, in the eventuality that LTWP has offered to pay compensation to an affected person in accordance with an approved resettlement plan, but the offer has been rejected, the taking of land related assets may only proceed if LTWP has deposited funds equal to the offered amount plus 10% in a secure form of escrow for resolving the dispute concerning said offer of compensation in a timely and equitable manner.

8 Organisational Procedures and Implementation

LTWP will identify and provide details on the roles and responsibilities of all the entities that will be responsible for resettlement activities as well as those within their organisations that will be directly charged with managing the RAP process in the project specific RAP documentation.

The project sponsors will play an active role in the preparation, implementation, and monitoring of the RAPs. The project specific RAP(s) will contain detailed information on organisational procedures including:

- Description of the institution(s) responsible for delivery of each item/activity in the entitlement policy; implementation of income restoration programmes; and coordination of the activities associated with and described in the project specific RAPs.
- Statement of 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 (e.g. for the transmission line).
- Identification of the agency that will coordinate all implementing agencies. Ensure it has the necessary mandate and resources.
- Description of 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.
- Discussion of institutional capacity for and commitment to resettlement.
- Description of mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

8.1 Linking Implementation to Civil works

The PAPs will need to be compensated in accordance with this RPF and the project-specific RAP(s) before project civil works can begin.

For activities involving land acquisition, loss of land, loss of access to land or restriction of access to resources, provisions will be made for compensation and for other assistance required for relocation prior to displacement. The assistance includes the provision and preparation of host resettlement sites with adequate facilities where necessary.

The land and assets may be taken away only after compensation has been promptly paid and resettlement sites and relocation assistance have been provided to the PAPs. Those project activities requiring relocation or resulting in loss of shelter will require that measures to assist the PAPs are implemented in accordance with this RPF and the procedures outlined in the project-specific RAPs.

Details on resettlement and compensation will be provided in the implementation schedule of the RAPs and will include target dates for start and completion of civil works, dates of

possession of land that PAPs are using and show links between the activities comprising the RAP and those comprising the implementation of the project.

Scheduling and co-ordination of the civil works will ensure that the PAPs are not economically or physically displaced as a result of the civil works before compensation is paid and before any project activity can begin.

9 Grievance Redress Mechanisms

Grievance redress mechanisms are essential tools for allowing affected people to voice concerns about the resettlement and compensation process as they arise and, if necessary, for corrective action to be taken in a timely manner. Such mechanisms are fundamental to achieving transparency in the resettlement process.

In order to facilitate the handling of individual grievances, LTWP will identify a clear process for grievances to be channelled through. A resettlement task force or Resettlement Working Group (RWG) will be set up (for each RAP process) – more details on RWG are provided in chapter 10. The RWG will document the grievance and send it to the appropriate agency/office for action. This will allow for common grievances to be handled quickly and effectively.

Disputes will be referred to the RWG and the RWG asked to provide a recommendation as to how it is to be addressed within an allotted time period. If deemed necessary by the RWG the case will be re-investigated and referred to the overseeing LTWP management for resolution. If still un-resolved the disputes would ultimately be sent to the courts of law. Grievances will be dealt with as per the figure below. For the purposes of settling grievances the RWG may wish to appoint a sub-committee.

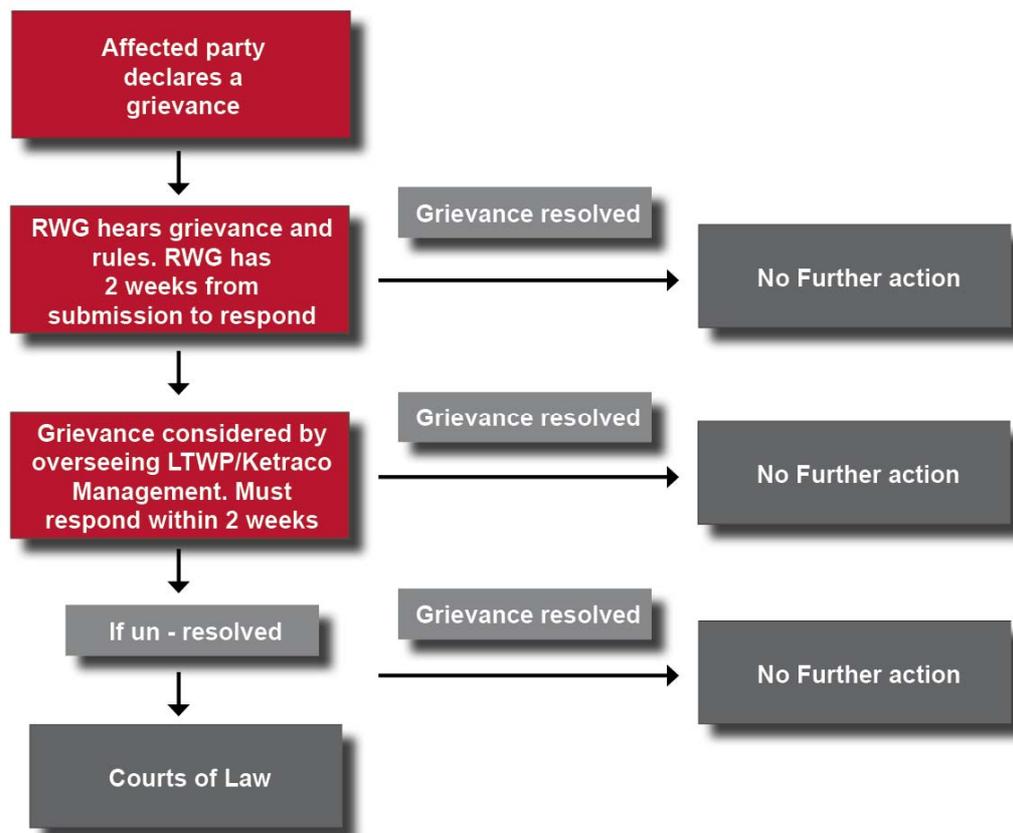


Figure 9.1: Grievance Redress Procedure

On the ground, grievance redress is often handled through the local administration officers (e.g. sub-chiefs, chiefs and District Officials) who act as mediators between the project sponsors and the PAPs. Where this local setting for dealing with grievances is acceptable to PAPs and is efficient in dealing with grievances, the project sponsors will seek to encourage this approach.

The LTWP nominated agent will keep a written record of all disputes/grievances raised and dealt with during the resettlement and compensation process. These records will be monitored regularly by the RWG and by any externally appointed independent Monitoring Team for each RAP process. This will be undertaken as part of the on-going monitoring and evaluation process.

10 Consultation and Participation

10.1 Overview

Effective resettlement planning requires regular consultation with a wide range of project stakeholders. Stakeholders include any individual or group affected by, or that believe it is affected by the project and any individual or group that can play a significant role in shaping or affecting the project. The ESIA for the project includes an annex detailing key issues raised by project-affected people, local communities, stakeholders, and civil society concerning environmental and social issues.

LTWP will identify the relevant stakeholders for the relevant RAPs early on in the resettlement planning process. These will include:

- Local people and businesses affected by the project (PAPs);
- Local government officials;
- Village leaders; and
- Local community organisations.

The objective of consultation will be to secure the participation of all people affected by the project in their own resettlement planning and implementation, particularly in the following areas:

- Alternative project design;
- Assessment of project impacts;
- Resettlement strategy;
- Compensation rates and eligibility for entitlements;
- Choice of resettlement site and timing of relocation;
- Development of opportunities and initiatives;
- Development of procedures for redressing grievances and resolving disputes; and
- Mechanisms for monitoring evaluation and for implementing corrective actions.

As a matter of strategy, public consultation shall be an on-going activity taking place throughout the entire project cycle. In order to do this, consultative mechanisms will be structured at two levels. Firstly PAPs will be consulted individually and in groups, depending on the context. The PAP linked consultation and participation process will include four phases. These will be:

- **Data collection** - In this phase the PAPs will be individually interviewed and asset register compiled. The PAPs will be encouraged to register issues, claims and concerns. These will be registered as part of the formal survey and logged. All PAPs will be interviewed during the course of the data collection phase.

- **Valuation of assets and design of compensation packages** - The process of valuation of compensation will ideally run in parallel with the data collection and as part of the RAP. In this phase estimates of values that will accrue to the PAPs will be undertaken and discussed with the individuals concerned. Where housing is to be replaced the mechanisms by which this will be done as well as design of possible replacement housing will be discussed with the relevant PAPs. The process of compensation payout will be undertaken in a transparent manner.
- **Grievance procedures** - PAPs will have right of access to the formally established grievance process and will be entitled to make their concerns and/or complaints known. They will also be entitled to attend RWG meetings to ensure that their concerns are being addressed.
- **Monitoring and Evaluation** - The Monitoring Team will have the right to visit and interview PAPs and especially those who are adversely affected or those needing greater assistance. PAPs through the grievance procedure process will be able to contact the monitoring and evaluation team to ensure that their concerns are heard.

In addition local level consultative fora, elected, convened and run by the affected parties themselves, but recognised by LTWP and any other relevant implementing agents should be established. These will be established for the purposes of liaison and communication, as well as for the election of representatives to the RWG. It is recommended that one consultative forum per affected local authority be established.

The RWG must be constituted and run in such a way that the affected constituencies must be adequately represented and fairly heard. This is so as to ensure that their concerns and suggestions be taken seriously. To this end, they must be entitled to take grievances appeals to the appropriate channels, and the independent Monitoring Team must monitor the activities and minutes of the RWG.

10.2 Resettlement Working Group

The RWG will act as the primary advisory body in all matters relating to resettlement. It will be constituted in such a manner as to be regarded as the primary representative voice of those affected by resettlement and recognised by LTWP as such. Under the overall authority of its reporting officer, the RWG assigned to each RAP has the following functions:

- To act as the primary channel of communication between the various interest groups/organisations involved in the resettlement process. In particular, it will serve to facilitate communication between LTWP and the affected populace.
- To serve as the court of first appeal to solve any problems that arise relating to the resettlement process. If unable to resolve such problems, it is to channel them through the appropriate grievance procedures.
- To assume primary responsibility for assisting LTWP in overseeing the resettlement processes in all its phases.

The RWG is not a statutory body but the composition should be as follows:

- A representative of LTWP;

- Representatives from the District, i.e. from the District Commissioner's office/his principal agents – including the District Resettlement Officer;
- Representative of the affected communities/villages.

The RWG(s) will meet as often as is deemed necessary, following standard accepted practice, and make relevant documentation available to the project teams. It will also make such records available to any appointed external independent Monitoring Team.

11 Monitoring

Monitoring is a crucial element for the success of any RAP and will be planned and costed as early as possible for each sub-project RAP as may be required. This monitoring plan will indicate parameters to be monitored, institute monitoring milestones and provide resources including responsible persons or institutions to carry out the monitoring activities.

LTWP will be responsible for providing the funding for monitoring to ensure that resettlement is properly implemented, and is in line with the RPF and specific RAPs, that grievances are being attended to, and that any necessary changes to the overall process are being timeously and sensibly made.

The overall internal monitoring procedures will include:

- Internal performance monitoring based on the RAPs; and
- External monitoring.

11.1 Internal performance monitoring

Internal monitoring will be based on the RAP implementation schedule and will check that physical progress has been made in execution of required actions. Narrative reports on progress should be produced on a monthly or quarterly basis. Internal Monitoring will be conducted by a suitably qualified person within LTWP.

Administrative reporting systems will be set and be used to:

- Alert project authorities on the necessity and procedures for land acquisition for the project activities and the need to incorporate land acquisition, resettlement, loss of assets and impact on livelihood provisions in the design technical specifications and budgets;
- Provide timely information about the asset valuation and negotiation process;
- Maintain records of any grievances that require resolution;
- Document timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses, as well as unanticipated, additional construction damage; and
- Update the database with respect to changes that occur on the ground as resettlement and compensation activities are being implemented.

Periodic evaluations will be made in order to determine whether the PAPs have been paid in full and before implementation of the project activities; and whether the PAPs enjoy the same or higher standard of living than before. Discussions will be held with the District Administration (or County Government introduced by new constitution) to assess whether it is appropriate and cost-effective for these offices to have the mandate to carry out independent monitoring of the RAP implementation and compensation plans at periodic intervals of quarterly or half yearly (as circumstances dictate) during the programme life.

This framework proposes that, where appropriate and where it is determined to be cost effective, the office of the District Administration (or County Government set in the new constitution) shall be structured to host the monitoring and evaluation component of the project/programme. This will take the form of giving the districts/counties the mandate to carry out independent monitoring of the implementation of the resettlement and compensation plans at periodic intervals of quarterly or half yearly (as circumstances dictate) during the programme life and providing feedback to LTWP.

11.2 External monitoring and evaluation

It is recommended that external monitoring be conducted by a suitable independent party (preferably a Social Scientist with a minimum of 15 years experience and experience in resettlement), and/or a suitable representative of a local NGO. The external Monitoring Team should visit the project area at least twice per year for a period to be set out in specific RAPs taking into account the level and complexity of resettlement. The Monitoring Team will pay particular attention to the following aspects:

- Ensure that replacement housing for those who have had to move is of an adequate replacement standard;
- Ensure that monies paid to households who have lost crops and other forms of livelihood production have received fair compensation; and
- Ensure that where land has been permanently acquired the households affected have been provided suitable replacement land.

The Monitoring Team must write its reports before the end of each visit and submit them to the appropriate LTWP project manager and applicable RWG. This external evaluation will assess whether compensation and other measures to restore the PAP's living standards have been properly designed and carried out.

Appendix Outline of Resettlement Action Plan

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

Census and Socio-economic Surveys

- Provide the results of the census, assets inventories, natural resource assessments, and socio-economic surveys.
- Identify all categories of impacts and people affected.
- Summarise consultations on the results of the various surveys with affected people.
- Describe need for updates to census, assets inventories, resource assessments, and socio-economic 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.

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- 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 and 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 programmes?
- Describe the process for monitoring the effectiveness of the income restoration measures.
- Describe any social or community development programmes currently operating in or around the project area.
- If programmes exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new programme or expand existing programmes 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 programmes; 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 manner.

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 methods.
- 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.

Costs and Budgets

- Provide a clear statement of financial responsibility and authority.
- List the sources of funds for resettlement and describe the flow of funds.
- Ensure that the budget for resettlement is sufficient and included in the overall project budget.
- Identify resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
- Prepare an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.
- Describe the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.
- Describe the provisions to account for physical and price contingencies.
- Describe the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

Annexes

- Copies of census and survey instruments, interview formats, and any other research tools.
- Information on all public consultation including announcements and schedules of public meetings, meeting minutes, and lists of attendees.
- Examples of formats to be used in monitoring and reporting on RAP implementation.