



THE GOVERNMENT OF THE REPUBLIC OF MALAWI

MINISTRY OF AGRICULTURE, IRRIGATION AND
WATER DEVELOPMENT (M o A I W D)

ASWAP-SUPPORT PROJECT

Final

RESETTLEMENT POLICY FRAMEWORK

FOR

**THE MALAWI AGRICULTURE
COMMERCIALIZATION PROJECT**

March 2017

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Ministry of Agriculture, Irrigation and Water Development
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List of Acronyms

ADC	Area Development Committee
AFDB	African Development Bank
AGCOM	Malawi Agriculture Commercialization Project
CBO	Community Based Organization
CBRLDP	Community Based Rural Livelihoods Development Project
CWG	Compensation Working Group
DC	District Commissioner
DEC	District Executive Committee
DESC	District Environmental Sub Committee
DPD	Director of Planning and Development
ESIA	Environmental and Social Impact Assessment
EU	European Union
FUM	Farmers Union of Malawi
GDP	Gross Domestic Product
GNI	Gross National Income
GRC	Grievance Redress Committee
GVH	Group Village Headperson
ICT	Information and Communication Technology
ISO	International Standard Organization
JICA	Japanese International Cooperation Agency
M&E	Monitoring and Evaluation
MGDS	Malawi Growth Development Strategy
MITC	Malawi Investment Trade Centre
MoAIWD	Ministry of Agriculture, Irrigation and Water Development
MoLHUD	Ministry of Lands, Housing and Urban Development
MoTT	Ministry of Trade and Tourism
MP	Member of Parliament
NAP	National Agriculture Policy
NES	National Export Strategy
NGO	Non-Governmental Organization
NSO	National Statistical Office of Malawi
PAPs	Project Affected Persons
PAPs	Project Affected Persons
PIU	Project Implementation Unit
PPD	Public Private Dialogue
PSC	Project Steering Committee
RAP	Resettlement Action Plan
RIA	Responsible Investment in Agriculture
RPF	Resettlement Policy Framework
STI	Sexually Transmitted Infection
TA	Traditional Authorities
ToRs	Terms of Reference
UN	United Nations
US	United States
VDC	Village Development Committee
VGGT	Voluntary Guidelines on Responsible Governance
VH	Village headperson
WB	World Bank
WTO	World Trade Organization

Definition of Terms used in this Report

The following terms shall have the following meanings: -

1. Abbreviated Resettlement Action Plan (ARAP) - may be prepared where impacts on the entire displaced population are minor, or fewer than 200 people are displaced". (This is to define ARAP
2. "Census" means a field survey carried out to determine the number of Project-affected persons (PAP) and their assets;
3. "Compensation" means the payment in kind, cash or other assets given to project-affected persons in exchange for loss of land or loss property including trees;
4. "Cut-off date" is the date of commencement of the census of PAPs within the project area boundaries. This is the date after which people encroaching into the area will not be eligible for compensation.
5. "Project-affected persons" (PAPs) refer to people directly affected, socially and economically, by a project construction, as a result of: (i) The appropriation of land and other assets causing relocation or loss of shelter; loss of assets or access to assets; loss of income sources or means of livelihood, whether or not of the affected person; and persons must move to another location; and (ii) The restriction or denial of access to legally designated areas that result in adverse impacts on the livelihood of the economically or physically displaced persons.
6. "Involuntary Resettlement" means the involuntary taking of land or impact on land or assets, resulting in direct or indirect economic and social impacts, whether or not the PAP must physically relocate, caused by:
 - a) Loss of benefits from use of such land;
 - b) relocation or loss of shelter;
 - c) loss of, or impact on, assets or access to assets; or
 - d) loss of income sources or means of livelihood, whether or not the project-affected person has moved to another location.
7. "Involuntary Land Acquisition" is the taking of land by government or other government agencies for compensation, for the purposes of a public project against the will of the landowner or the occupant. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested legal or customary rights.
8. "Land" refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required, or impacted, for the Project.

9. "Land acquisition" means the taking of or alienation of land, buildings or other assets thereon for purposes of the Project.
10. "Resettlement and Compensation Plan", also known as a "Resettlement;
11. Resettlement Action Plan (RAP)" is a resettlement instrument (document) which contains specific and legally binding requirements to be abided by to resettle and compensate the affected party before implementation of the project activities causing adverse impacts.
12. "Replacement Cost" means replacement of assets with an amount sufficient to cover full replacement cost of lost assets and related transaction costs. In terms of land, this may be categorized as follows;
13. "Replacement cost for agricultural land" means the pre-project or pre-displacement, whichever is higher, value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: preparing the land to levels similar to those of the affected land; any registration, transfer taxes and other associated fees;
14. "Resettlement Assistance" means the measures to ensure that project-affected persons are provided with assistance such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement during relocation,
15. "The Resettlement Policy Framework (RPF)" is a framework that will be used as an instrument to be used throughout the Agriculture Commercialisation Project implementation. The RPF will be publicly disclosed in impacted areas to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the program. The Resettlement Action Plans ("RAPs") for the Agriculture Commercialisation Project will be prepared consistent with the provisions of this RPF.
16. "Vulnerable Groups" refers to: Widows, the disabled, marginalized groups, low income households and informal sector operators;
17. Incapacitated households – those no one fit to work and; Women headed households, Child-headed households and street children.

EXECUTIVE SUMMARY

1.0 Introduction

Malawi Government through the Ministry of Agriculture, Irrigation and Water Development would like to implement the Malawi Agriculture Commercialization Project in all the districts in the country. The project aims at increasing the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promoting vertical integration through the support to business oriented farmers' organizations, around targeted value chains. The Project will also invest towards making land more available to resources constrained smallholders.

2.0 Scope of the project

This is a US\$95,000,000.00 project that will be implemented for a period of 6 years starting from July 2017 – June 2023. The project has four components and these will include Building Productive Alliance; Support Investment Enabling Services; Contingent Emergency Response Component (CERC); and Project Coordination and Management.

3.0 Objectives of the project

Specifically, the project will:

- a) Contribute to the higher level objectives of poverty reduction; and
- b) Improved gender and climate change mitigation and adaptation through supported CSA initiatives.

4.0 Objectives of the Resettlement Policy Framework

The main objectives of RPF are to set out policies, principles, institutional arrangements, schedules and indicative budgets that will take care of anticipated resettlements. It addresses any potential land acquisition and/or physical relocation, loss of livelihood or restriction of access to natural resources and outlines compensation for affected persons. These arrangements will ensure that there is a systematic process (as opposed to an adhoc one) for the different stages of the implementation of the framework that assures participation of affected persons, involvement of relevant institutions and stakeholders and adherence to both World Bank and Malawi Government procedures and requirements.

5.0 Methodology for the RPF preparation

The methodology used in this study can broadly be divided into three parts namely data collection; data analysis; and preparation of the RPF report.

Data required for the RPF study was collected through primary and secondary sources, which included:

- a) Literature review;
- b) Site visits; and
- c) Public consultation.

6.0 Legal framework for resettlement and compensation

The legal framework provides for acquisition of land for public purposes for the different development projects. At National level, the Land Acquisition Act is the guiding framework for how the resettlement and compensation will be done. In addition to the different national policies and legislation which have been examined when preparing this RPF, provisions of

other international policies and laws have also been examined and these include the World Bank Policy on involuntary resettlement.

7.0 Socio-economic situation of the farming communities in Malawi

The socio-economic study showed that the majority of the farming communities in Malawi rely on crop cultivation as their means of livelihood with an average monthly income per household of about \$20. This income level indicates that most households live below the UN poverty datum line. A number of crops are grown by the smallholder farmers and these include maize, cotton, sweet potatoes, tobacco, groundnuts, cassava, beans, vegetables, sorghum and other crops. Some of the produce from the farms is used for domestic consumption and the bulk is sold at different markets within the community as a source of income. However the low prices in the market due to failure to access better markets result in the people getting very low value for their crops and products.

8.0 Entitlement Matrix

The losses that the Project Affected Persons (PAPs) shall suffer will include permanent and temporary loss of access to farming land, income, housing, proximity to utilities and social amenities. The identification of persons eligible for compensation and resettlement in the project area was based on the following criteria:

- a) Persons losing land with or without legal title;
- b) Persons losing temporary or permanent access or rights to services;
- c) Persons losing business or residential property;
- d) Person with homes, farmland, structures or other assets affected by project construction-related activities;
- e) Vulnerable individuals who may be too old or ill to fend for themselves. These PAPs shall receive additional assistance;
- f) Members of the household who cannot reside together because of cultural rules, but depend on one another for their livelihood;
- g) Members of the household who may not eat together but provide housekeeping or reproductive services, critical to the family's maintenance;
- h) Persons that incur losses whether partial or total and whether they have their own land; and
- i) Rented land, including those that rent or occupy buildings individually or as a group for business or as households.

The laws and policies of Malawi consider all titled landowners, customary landowners, encroachers (who have settled before the cut-off date), persons affected by loss of access to sources of income and persons affected by loss of access to natural resources (water, wood, grazing areas etc.), as PAPs. Therefore, PAPs will be entitled to compensation based on the status of their occupation of the affected areas.

9.0 Institutional and organizational framework for compensating the PAPs

The Ministry of Agriculture, Irrigation and Water Development will have the overall responsibility for coordinating and monitoring implementation of the RAPs that will be prepared for the projects. The District Councils, where the different projects will be implemented, shall make every effort to ensure that no land is acquired against the will of any person(s), exercising rights over their land. The District Councils and the local leaders are the important institutions, which will have interface with the RAPs implementing agency. They will play an important role during RAPs implementation. The Ministry of Agriculture, Irrigation and Water Development will oversee the progress of land acquisition through the

District Councils. The District Councils will initiate land acquisition, secure replacement of land and prepare and maintain records of the PAPs. The Village Development Committees will coordinate with the District Councils to implement the resettlement and rehabilitation activities, among other activities.

10.0 Public Consultation

A number of public consultation meetings were undertaken in the three sampled districts for the project namely Mchinji, Salima and Kasungu. The consultation meetings were organized in order to ensure that all the information pertaining to the project and its likely impacts is disseminated to the District Councils and the concerned stakeholders. Particular focus was given to the issues related to involuntary resettlement. The consultation meetings further provided an opportunity for stakeholders to express their views and opinions on the project and to raise issues of concern relating to the Project. Major issues discussed during consultations included:

- a) Different project activities and their impacts;
- b) Expected benefits from the project which shall include short term employment during the construction period; increased agriculture productivity, improved value for agriculture produce, and improved storage facilities for agriculture produce, which the stakeholders welcomed;
- c) Loss of land, which called for discussion on compensation requirements, participation of the stakeholders in valuation of their property, the assessment of different crops, and compensation for dual seasonal planting;
- d) Involvement of women and youth in the project which will include employment opportunities, position of women and youth around landholding tenure and farming; and
- e) Health concerns, which will involve the spread of STIs, particularly HIV/AIDS and an increase in water-borne diseases particularly malaria.

11.0 Monitoring and Evaluation

Monitoring and evaluation will form an integral part of project implementation, providing the necessary information about the involuntary resettlement aspects of the project and measuring the extent to which the goals of the RAPs will have been achieved and the effectiveness of mitigation measures.

Indicators and targets will be established for the project as a whole, in consultation with representatives of the affected communities and other key stakeholders. Indicators will be grouped into different categories as spelt out in the RAPs/RAPs including: input indicators, output indicators, outcome indicators, impact indicators and performance indicators. This RAPs/ARAPs also details out the performance monitoring, impact monitoring and qualitative monitoring.

12.0 Grievance Procedures

At the time that the individual RAPs/ARAPs will be prepared and approved and individual compensation contracts will be signed, PAPs and households will have been informed of the process for expressing dissatisfaction and to seek redress pertaining to valuation of the affected property. The grievance procedure will be simple and will be administered as far as possible, at local levels to facilitate access by PAPs. Since the implementing agency of the Project will

be party to the contract, it will not be the best office to receive, handle and rule on disputes. This RPF contains principles of grievance redress and elaborates the grievance redress process.

13.0 Compensation and Resettlement Costs

Meetings with different stakeholders showed that PAPs will prefer to get cash for compensation and then look for an alternative land on their own with the assistance of their traditional leaders. Cash compensation was therefore considered as the preferred compensation option.

14.0 Conclusion and Recommendations

The Malawi Agriculture Commercialization Project will generate some significant socio-economic benefits to the country as a whole and in the different project impact areas in particular. The RPF study also established a number of potential negative social impacts in the project impact areas and beyond. Some of the potential negative impacts include Loss of property, Loss of cultivable land, Loss of grazing sites, Risk of Increased incidences of Sexually Transmitted Diseases (STIs) and HIV/AIDS, Social disruption and family instability due to influx of people to the area, Disruption of livelihoods and social cohesion, Disruption of existing cultural practices, Loss of residence, Permanent or temporary loss of business, Disruption of public service utilities, Loss of Places of worship, Loss of cultural resources including graveyards, Risk of social conflict, Construction related accidents, Increased risk of illicit behavior and crime, Influx of additional population (“followers”), Impacts on community dynamics, Increased burden on and competition for public service provision, Increased risk of communicable diseases and burden on local health services,

To manage these potential negative impacts, it will be necessary for the project to ensure that resettlement / compensation of affected people should be properly planned for in the RAPs/ARAPs for the project in accordance with World Bank Policies and Malawian legislation.

CHAPTER 1 INTRODUCTION AND BACKGROUND TO THE PROJECT

1.1 Introduction

Malawi Government, through the Ministry of Agriculture, Irrigation, and Water Development; and the Ministry of Industry, Trade and Tourism would like to implement the Malawi Agriculture Commercialization project in all districts of the country. This is a US\$95,000,000.00 project that will be implemented for a period of 6 years starting from 2017 – 2023. The Project seeks to increase the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promoting vertical integration through the support to business oriented farmers’ organizations, around targeted value chains. The Project will also invest towards making land more available to resources constrained smallholder farmers.

The project’s major components include:

- a) Building Productive Alliance;
- b) Support Investment Enabling Services;
- c) Contingent Emergency Response Component (CERC); and
- d) Project Coordination and Management.

Infrastructure development of this nature brings along with it some environmental and social impacts in the project impact areas and beyond. Some of the social impacts that the project will generate will include; physical relocation, loss of assets, loss of access to assets, loss of income sources and loss of means of livelihood. In order to manage these impacts effectively, the developer has prepared this Resettlement Policy Framework in accordance with the Terms of Reference as provided in Annex 1 to guide the preparation of site specific Resettlement Action Plans (RAPs) for the Project Affected Persons (PAPs).

The developer will be required to acquire land for the proposed project for access roads, storage facilities for different agriculture produce, irrigation facilities, dams and infrastructure for value addition on a “willing seller / willing buyer” basis, and will avoid the use of expropriation. The land that will be used to accommodate the different project infrastructure belongs to different community members in the project area. Apart from farming activities, the community members use the land for different livelihood activities and as a source of their income and food. All those people who will lose their land and property as a result of the project will need to be compensated appropriately.

It is the developer’s intention to comply with Malawian laws and internationally recognized safeguards, such as the World Bank safeguards policies on resettlement and compensation and the World Bank Group’s Operational Directive on Involuntary Resettlement (OP 4.12). This directive provides that where land acquisition impacts people and their livelihoods, a RAP/ARAP must be prepared and consulted upon, regardless of the land acquisition process used.

Regarding compensation alternatives, the RPF study showed that most of the PAPs prefer monetary compensation over “in-kind” compensation such as replacement of the lost property. The PAPs preferred to look for alternative land on their own with the assistance of the local leaders to settle or use for their livelihood activities.

1.2 Background to the project

The agriculture sector remains the backbone of Malawi's economy. Agriculture accounts for 30 percent of Gross Domestic Product (GDP) and generates over 80 percent of national export earnings. Between 2005 and 2011, over 80 percent of the country's total exports were agricultural commodities, primarily tobacco, sugar and tea. The sector in Malawi is categorized into estate agriculture sector and smallholder sector, with the latter accounting for 60 percent of agriculture GDP. Most households are involved in smallholder sector and they contribute 80 percent of overall agriculture production and 70 percent of agricultural GDP.

Despite its contribution to National GDP, agriculture commercialization in Malawi is very low. Some of the factors which hinder agriculture commercialization in Malawi include:

- a) Agro-climatic conditions and risks;
- b) Access to markets and infrastructure;
- c) Community and household resource and asset endowments;
- d) Input and factor markets;
- e) Laws and institutions; and
- f) Cultural and social factors affecting consumption preferences, production and market opportunities and constraints.

Malawi in recent years has made efforts to commercialized agriculture. The Malawi Government has formulated several strategies to support agriculture growth and commercialization, through increased liberalisation, development of rural marketing infrastructure and agricultural market information systems, and the establishment of commodity exchanges. Some of these strategies include:

- a) Malawi Growth and Development Strategy (MGDS) II;
- b) Draft National Agriculture Policy (NAP);
- c) Contract Farming Strategy; and
- d) ASWAp and the National Export Strategy (NES).

The Malawi Agricultural Commercialization Project (AGCOM) is aimed at increasing commercialization of selected farm and agribusiness products for domestic and export markets. The project is in consistent with the World Bank Malawi Country Assistance Strategy (2013-16) and is aligned with Malawi Growth and Development Strategy (MGDS II) under the Sustainable Economic Growth (Theme 1), the National Agricultural Policy and the National Export Strategy.

1.3 Project Overview

The project has four components and these include Building Productive Alliance; Support Investment Enabling Services; Contingent Emergency Response Component (SERC); and Project Coordination and Management.

1.3.1 Component 1: Building Productive Alliance

Building Productive Alliance (PA) will address the following constraints which are the underlying causes of low agricultural productivity in the targeted value chains:

- a) Inadequate integration of actors, information asymmetries, and coordination failures among stakeholders;
- b) Unreliable access to quality raw material;
- c) Poor rural access roads to connect producers to markets; and
- d) Limited access to finance in agricultural value chains.

Addressing these through PAs has the proven potential to increase incomes, productivity and commercial viability, prospects for employment generation, and integration of youth and women.

1.3.2 Component 2: Support Investment Enabling Services

This component will address some of the systemic gaps and challenges that constrain investment and trade in the agribusiness sector. These gaps and challenges include:

- a) access to agricultural finance;
- b) access to land for commercial agriculture, policy dialogue on agribusiness; and
- c) removing some of the barriers to trade for agriculture business such as on standards and certification.

Unless addressed, these constraints may impede the formation of POs and prevent PAs from operating optimally. The component will address processes in efficient access to finances, land and regulatory and operational business enabling services.

1.3.3 Component 3: Contingent Emergency Response Component (CERC)

This contingent emergency response component is included under the project in accordance with OP/BP 10.00, paragraphs 12 and 13, for situations of urgent need of assistance. This will allow for rapid reallocation of project proceeds in the event of future natural or man-made disaster or crisis that has caused or is likely to imminently cause a major adverse economic and/or social impact during the life of the project. This component will not have funding allocation initially. In the event of a future emergency, it can be used to draw resources from the unallocated expenditure category and/or allow the government to request the Bank to re-categorize and reallocate financing from other project components to cover emergency response and recovery costs, if approved by the Bank.

1.3.4 Component 4: Project Coordination and Management

This component will finance activities related to the coordination and actual implementation of project's activities. This includes both costs for:

- a) Project management/coordination including procurement, financial management, monitoring and evaluation (M&E), mitigation of potential negative social and environmental impacts, and communication about project implementation and results;
- b) Sector and cross-sector coordination with the agriculture, water, industry, trade, lands plans and frameworks; and
- c) Facilitating inter-ministerial collaboration on tackling implementation challenges. Given the multi-sectoral nature of the Project, a Project Implementation Unit (PIU) will be established to handle day to day activities of the Project.

1.4 Project proponent and implementing agencies

1.4.1 Project proponent

The project proponent is Government of Malawi through the Ministry of Agriculture, Irrigation and Water Development. Details of the proponent are provided as follows:

Project Developer: Malawi Government through the Ministry of Agriculture, Irrigation and Water Development.

Project details: Agriculture Commercialization project

Postal Address: Ministry of Agriculture, Irrigation and Water Development, P. O. Box 30134, Capital City, Lilongwe 3, Malawi

Contact Person: The Principal Secretary

1.4.2 Implementing agencies

The project implementing agency is the Ministry of Agriculture, Irrigation and Water Development (MoAIWD). The MoAIWD will provide overall oversight and policy guidance during the project implementation through the Project Steering Committee (PSC). The day-to-day management of the project activities will be managed by the Project Implementing Unit (PIU). Therefore the overall responsibility of implementing the RPF at national level is with the MoAIWD. The Ministry will be assisted technically by the PIU which will be established under the project, the Ministry of Lands, Housing and Development and the Ministry of Finance and the private sector organizations.

At local level, the District Councils shall be responsible for implementing the RPF at the respective local councils, with assistance from the Project PIU, the Ministry of Agriculture, Irrigation and Water Development and Ministry of Lands, Housing and Development.

1.4.3 Funding and Funds for compensation and resettlement

Under the project, any potential involuntary resettlement will be financed by Government of Malawi. The MoAIWD in liaison with the Ministry of Finance will establish a fund for compensation of PAPs. The funds will be utilized if the investments or subprojects to be implemented under the project will have impacts on loss of assets or displacement. If the subprojects will require compensation, and the exact cost of the resettlement is identified through RAP/ARAP, the MoAIWD in collaboration with concerned District Councils will arrange with the Ministry of Finance to release the funds for compensation payment.

1.5 Project location

The project will be implemented in all the districts throughout Malawi. Map of Malawi showing all the districts where the project will be implemented is provided as Annex 2.

1.6 Rationale and objectives of the RPF

Initial appraisal of the Malawi Agriculture Commercialization project has shown that the project will generate both positive and negative impacts on the biophysical and socio-economic environment in the project impact areas and beyond and would trigger some World Bank environmental and social safeguards policies. Components of the project which would trigger environmental and social safeguards policies are rehabilitation and reconstruction of public infrastructure such as access roads, irrigation facilities, market centres and the various agro enterprises to be implemented. The safeguards policies that the project will trigger will include Environmental Assessment (OP 4:01), Pest Management (OP 4:09), and Involuntary Resettlement (OP 4:12).

Evaluation of scope of activities of the project and potential scale of impacts have rated the impacts moderate. The project has therefore been assigned as the environmental assessment risk category B. This category requires partial assessment of impacts, and in line with safeguard requirements, preparation of an Environmental and Social Management Framework, Integrated Pesticide Management Framework and Resettlement Policy Framework were recommended in

order to provide guidance on mainstreaming environmental and social considerations in the project activities.

1.6.1 Rationale for the RPF

Preparation of the RPF for the project was required as an assessment of the activities of the project has shown that the project will generate some negative impacts in the project impact areas and beyond. Most of the positive impacts will be on the socio-economic environment and will mostly be experienced during project operation and maintenance phase. Most of the negative impacts will be manifested during project planning, construction and demobilization phases and will affect both the biophysical and socio-economic environment of the project impact area and beyond. There is need therefore that both the positive and negative impacts be ascertained and their management measures be developed as a key requirement for Government of Malawi and the World Bank before the approval of the project.

Some of the activities of the different components of the proposed project will lead to either loss of grazing land; physical relocation; loss of assets; loss of access to assets; loss of income sources; loss of means of livelihood; land acquisition; and restriction to, or loss of access to economic assets and resources for the people in the project area. This will trigger relevant laws and policies of Malawi and the World Bank Operational Policy on Involuntary Resettlement (OP 4.12) and as a result there is need for resettlement planning and implementation.

The RPF has been prepared because AGCOM project will support a range of sub-components of which may require involuntary resettlement and/ or restriction to access to resources or livelihoods. RPF has been prepared in line with World Bank (OP 4.12) to guide key stakeholders on how the project will avoid, manage or mitigate potential risk which may occur due to land acquisition and resettlement which may arise during the project implementation.

The development of this Resettlement Policy Framework will guide the preparation of the Resettlement Action Plans (RAPs) or Abbreviated Resettlement Plans (ARAPs) for the respective components of the project in different districts. Thus the RPF will serve as a framework within which Resettlement Action Plans will be developed when the project is certain of the locations and specific impacts.

1.6.2 Objectives of the RPF

The main objective of the RPF is to define essential principles, procedure, organizational structure, capacity requirements, and funding mechanism to manage resettlement process according to Malawi Laws and World Bank (OP 4:12). By the time of preparation of this document the type and location of the subprojects which will be supported by this project were unknown. Thus framework is being prepared and not Resettlement Action Plan.

The specific objectives of the RPF are to:

- a) Establish the AGCOM resettlement and compensation principles and implementation arrangement;
- b) Describe legal and institutional framework underlying Malawi approaches for resettlement and compensation;
- c) Identify stakeholders and ways of their engagement in course of Project implementation;

- d) Describe mitigation measures under this RPF and individual RAPs/ARAP, including procedures in order to minimize impacts on PAPs during Project implementation, including specific mitigation measures provided for vulnerable groups and women;
- e) Define the eligibility criteria for identification of PAPs;
- f) Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders;
- g) Provide procedures for filing grievances and resolving disputes;
- h) Establish a gender- sensitive framework for resettlement;
- i) Define the need and extent of monitoring and evaluation of the resettlement process including external monitoring and evaluation; and
- j) Provide identified sources and estimates of required resources for implementation of the RAP/ARAP.

1.6.3 Key areas of the RPF

This RPF covers the following key areas:

- a) Project Description and Rationale
- b) Legal and Institutional Requirements
- c) World Bank Safeguards Policies
- d) Gap analysis between Government of Malawi and the Bank policies of resettlement, compensation and rehabilitation
- e) Basic Socio-economic Information
- f) Estimated Population and Categories of Affected People
- g) Eligibility Criteria for Categories of Affected People
- h) Entitlement Matrix for Resettlement and Compensation
- i) Methods for Valuing Affected Assets
- j) Organizational Arrangements and Procedures for Delivery of Entitlements
- k) Consultation and Participation of Affected People
- l) Disclosure and Notification
- m) Grievance Redress Mechanisms
- n) Implementation Schedule
- o) Budget and Funding Arrangements
- p) Monitoring Arrangements

1.7 Key Principles of RPF

This RPF will apply to all project components and activities that will lead to either land acquisition and/or denial of, restriction to, or loss of access to economic assets and resources, whether permanent or temporary. The procedures outlined in this RPF will be carried out throughout the preparation and implementation of the project and different project components, and impacts of any potential resettlement will be included in Monitoring and Evaluation.

When RAPs will be required for implementation of the project in different districts, the RAPs will be prepared in accordance with the guidance of this RPF. Preparation of this RPF has been guided by provisions of the Malawi legislation and international policies and regulations such as the World Bank Operational Policy on Involuntary Resettlement (OP4.12), as described in Annex 3. This RPF seeks to ensure that any possible adverse impacts of the proposed project activities to people's livelihoods are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks will be minimized by:

- a) Avoiding displacement of people as much as possible;

- b) In the event that displacement is inevitable, having a well-designed compensation and relocation process in place;
- c) Minimizing the number of PAPs, to the extent possible;
- d) Compensating for losses incurred and displaced incomes and livelihoods; and
- e) Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs and their well-being and restore livelihoods.

The Government of Malawi with support from the World Bank has financed preparation of this RPF and will further finance designs, ESIA and RAP studies for the project in the different districts in Malawi, where the project and or different project components will be implemented. Once the project is approved by Government and the World Bank, it will trigger approval processes for funding for implementation of the different project components and activities.

1.8 Users of the RPF

The RPF contains useful information on the procedures for resettlement planning for sub-projects, potential socio-economic impacts; and measures for addressing the negative impacts. In addition, the framework contains useful information on list of required statutory approvals/licences which need to be obtained in order to ensure that the implementation and management of the project follows sound social management practices stipulated in various policies and pieces of legislation in Malawi and worldwide. Such information will be useful in planning, implementation of the proposed project activities. In this regard, the report will be useful to the following implementing agencies such as MoAIWD; Ministry of Trade; Ministry of Local Government and Rural Development; Ministry of Finance and Economic Planning; Ministry of Natural Resources, Energy and Mining, district councils; project consultants (Project Manager, Project Architects and Project Engineers); project construction contractors; Environmental Affairs Department. The framework will further be useful to NGOs; and civil society organizations and development partners such as the World Bank; District Commissioners (DC), District Executive Committees (DEC), staff of local councils, Area Development Committees (ADC) and Area Executive Committees (AEC). Consultants hired to conduct project specific environmental and resettlement studies shall also use the framework to inform their studies.

The document is organized into fourteen (14) chapters: **Chapter 1** Introduction and background to the project; **Chapter 2** Project Description; **Chapter 3** Policy, Legislation and Administrative Framework on Resettlement; **Chapter 4** Social Assessment and Socio-economic Status of the people in Malawi; **Chapter 5** Principles Governing Resettlement Preparation and Implementation; **Chapter 6** Entitlement for Eligibility for Resettlement and Compensation; **Chapter 7** Procedures for Acquisition and Notification; **Chapter 8** Organizational Arrangements and Procedures for Delivery of Entitlements; **Chapter 9** Procedures for Grievance Redress; **Chapter 10** RAP Preparation; **Chapter 11** Resettlement Budget Estimates; **Chapter 12** RAP Implementation Schedule; **Chapter 13** Monitoring and Evaluation; and **Chapter 14** Conclusion and Recommendations.

1.9 Methodology for the preparation of the RPF

The RPF study for the proposed project was carried out in accordance with the Terms of Reference that were provided by the Ministry of Agriculture, Irrigation and Water Development as provided in Annex 1. The study was undertaken during the month of February 2017. The study methodology, which was used has been divided into three parts namely:

- a) Data Collection;
- b) Data Analysis; and

- c) Preparation of the RPF report.

Data required for the RPF study were collected through primary and secondary sources, which included:

- d) Literature review;
- e) Site visits; and
- f) Public consultation.

Data already available by means of books, reports and unpublished documents and newspapers were used as secondary data sources in this study. Field surveys were mainly used to collect data of physical, biological and socio-economic environment in the districts where the project will be implemented.

1.9.1 Literature review

Literature review involved acquisition and review of documents, reports maps and drawings relevant to the project. Some of the documents which were reviewed included national policies and laws and international policies and laws that promote best environmental and social management practices when implementing development projects. Besides, a number of Socio Economic Profiles for the different districts were also be reviewed. Examples of the information obtained from the different documents included project design, planned project activities and description, data on rainfall, flora and fauna, population statistics, socio-economic data, altitude and hydrology regimes of the area, rainfall figures and maps.

1.9.2 Site visits

A number of visits to the different districts and likely project areas were carried out. The site visits served as an opportunity for the consultants to familiarize themselves with the proposed project areas and the consultants used this opportunity to brief staff from different District Councils and farming communities in different districts of the coming of the project.

During the site visits, the consultants carried out different surveys. The surveys focused on the existing physical environment (topography, soils, water resources, etc.), biological environment (flora and fauna), cultural and socio-economic environment (data on existing human population, settlement pattern, economic activities, cultural sites such as grave yards and land use patterns). Data generated through this baseline study was used in the description of existing socio-economic environment for the project.

1.9.3 Stakeholder Consultation

Stakeholder consultation meetings were conducted at district and community levels in sampled districts of Mchinji, Salima and Kasungu with the District Executive Committee (DEC) members and the farming communities respectively in different districts. Figure 1.1 provides a picture of some of the stakeholder consultation meetings which were held during the study.



Figure 1.1 Stakeholder consultation meeting in Mchinji

Stakeholder consultations help to identify and promptly address the concerns of different stakeholders and the PAPs regarding their rights and interests. Stakeholder consultation meetings were specifically conducted in order to:

- a) Inform the stakeholders about the project;
- b) Identify concerns from different stakeholders concerning the project;
- c) Address different concerns of stakeholders about the project; and
- d) Document the concerns from stakeholders about the project with a view to minimizing potential conflicts that could arise during project implementation.

1.9.3.1 Identification of stakeholders

The consultant together with the client identified the stakeholders who needed to be consulted for the project. These included the District Executive Committee (DEC) members and the farming communities in Mchinji, Salima and Kasungu. The choice of selecting to consult the DEC members was due to the fact that DEC members comprise the different technical staff at district level that work with the different farming communities in the different development programmes. Based on the roles the DEC members play at district level to assist the local communities develop, it was felt that they could have the type of information the consultant needed to assist them with the development of the RPF. Details of the stakeholders at District and local levels are provided in table 1.1.

Table 1.1 Details of stakeholders consulted

Stakeholder	Relevance
Local Government stakeholders	
<p>District Commissioner for Mchinji, Salima and Kasungu; District Agricultural Officers; Environment Officers; District Planning and Logistics; Education and Traditional Authority Leaders; District Health Officers; District Forestry Officers; District Fisheries Officer; District Lands Officers; District Information Officers; District Irrigation Officers, NGOs and CBOs</p>	<ul style="list-style-type: none"> • Support for the project; • Vital source of information about the population trends and other dynamics within the project area; • Can be utilized as the contact persons in the project area; • Their structures at the lower local government can be utilized in the mobilization of communities for the good of the project; • Can be used in the follow up and supervision of community and non-technical programs; • Given their experience in the project area, they can come up with proposals on how to social mitigate the impacts of the project; • Responsible for security in the area; • Will help the consultant to identify “restricted area” graves, wetlands, and Shrines.
Community members stakeholders	
<p>Village chiefs, elders and other influential people in the project area and community members</p>	<ul style="list-style-type: none"> • Can provide vital information at the village level such as number of households in village etc • Can be used as mobilizers of the community members • Provide support to the project to mobilize the community, to lead the community in implementation of various mitigation measures and to channel information to and from the community <p>Help in identifying assistants to consultants e.g. enumerators.</p>

1.9.3.2 Message to stakeholders

The messages to the stakeholders and communities included that Malawi Government, The Malawi Agricultural Commercialization Project (AGCOM) is aimed at increasing commercialization of selected farm and agribusiness products for domestic and export markets. The project is in consistent with the World Bank Malawi Country Assistance Strategy (2013-16) and is aligned with Malawi Growth and Development Strategy (MGDS II) under the Sustainable Economic Growth (Theme 1), the National Agricultural Policy and the National Export Strategy.

The AGCOM project has four components and these include: 1. Building Productive Alliance; 2. Support Investment Enabling Services; 3. Contingent Emergency Response Component (SERC) and 4. Project Coordination and Management.

Areas discussed during the meetings included the following:

- a) Nature of the project;
- b) Project impact areas;
- c) Activities of the project;
- d) Environmental and social impacts of the different project activities;
- e) Measures to manage the different impacts;
- f) Most important features in the project impact area;
- g) Sensitive areas (protected areas, graveyards, historical sites, etc.) in the project impact area;
- h) Socio-economic and environmental issues to arise from implementation of the proposed Project activities;
- i) Gender and HIV issues;
- j) Economic activities of the area;
- k) Livelihood programmes in the area;
- l) Land tenure and land use;
- m) Employment opportunities;
- n) Occupational health and safety;
- o) Benefits (increased trade, employment, social amenities and transport); and
- p) Positive or negative experiences with other projects of similar nature.

1.9.3.3 Advantages of the project

The Project seeks to increase the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promoting vertical integration through the support to business – oriented farmers’ organizations, around targeted value chains. The Project will also invest towards making land more available to resources – constrained smallholders. Specifically, the project will:

- a) Contribute to the higher level objectives of poverty reduction; and
- b) Improved gender and climate change mitigation and adaptation through supported CSA initiatives.

1.9.3.4 Project impacts

On the project impacts, the following issues were discussed:

- a) Destruction of subsistence crops, fruits, and commercial plantations;
- b) Destruction of homes and business premises;
- c) Separation of families; and
- d) Involuntary resettlement.
- e) Loss of land;
- f) Loss of livelihoods;
- g) Increased population levels in the project impact area;
- h) Increased crime rate;
- i) Potential increase in diseases;
- j) Potential threat towards safety of the project areas in general; and
- k) Inappropriate compensation packages;

1.9.3.5 A summary of the issues raised during stakeholder consultation meetings

A number of issues were raised during the stakeholders consultation meetings at district level as outlined in Annex 4 as follows:

- a) Increased employment opportunities during construction and operational phases;
- b) Improved socio-economic status and food security of the project areas
- c) There will be interaction and exchange of technology between the local community members and the immigrants;
- d) Improvement in access road will open up markets for their produce and people who will come during construction will also create a market for the local produce; and
- e) Overall project will have a positive impact on economy of the area and quality of life of the locals.

However, the stakeholders also raised a number of concerns that need to be considered when planning for implementation of the project. The concerns were similar in most meetings. The following were the concerns which were raised and which need to be addressed before project implementation:

a) Potential loss of farmland

During public consultations, it was observed that some people in the project impact area were bound to lose their farmland upon which they depend for their livelihoods. Responding to the concern, the Consultant informed participants to the meetings that those people who will lose farmland or any property as a result of the project will be compensated accordingly through their respective District Commissioners.

b) Loss of settlement areas including houses

The meetings expressed concern that they can foresee that the project has potential to cause loss of settlement areas and their houses and also they were unsure as to where they would be resettled as most areas were already settled. In response, the Consultants informed the community members that a detailed assessment will be carried out by Lands Department to establish the number of houses, size of farmland including graveyards that will be affected by the project and then value all the property upon which compensation will be calculated.

c) Time of relocation

The DEC members wanted to know as to when affected people will be reallocated from the proposed project area. In response, the Consultants informed participants to the meetings that issues of relocation will only arise after all the surveys are concluded and specific sites for implementation of different project components are identified. That is once the exact PAPs are known, their property inventoried and valued, contracts signed and compensation paid. Once the compensation is paid, the project Developer in liaison with the respective DCs will give areas of relocation and the PAPs will be expected to vacate the affected and compensated pieces of land within a period of 6 months as is stipulated within the policies and laws to do with resettlement. The Consultants also dispelled fears that all affected people will be relocated to new villages. Participants were informed that only those PAPs whose whole compounds will be affected will be relocated. The number and names of families who will be affected by the project will only be known once a detailed census and identification of the PAPs is concluded in each of the affected Districts. It was pointed out that a resettlement Action Plan Report will be prepared by the consultant once property valuation has been completed to guide compensation and resettlement issues.

d) Social disruption and family instabilities

The community members were worried that the project will cause some social disruption and family instability. They observed that this will occur following mobilization of large numbers of laborers to the project site and also the availability of increased disposable income in the area. To manage the concern raised by the community members, the contractor will be advised to employ most of the unskilled workforce from the local communities who already have homes within the project area and therefore live with their families, orient immigrant workers on the traditions of the area in collaboration with Village Head persons, and team up with Malawi Police Service (MPS) and Village Head persons to institute a community policing group.

e) Loss of livelihood resulting in increase in social ills

The community members were worried that the project will cause loss of livelihood resulting in increase in social ills. The concern was observed as to occur during the time the affected people who are currently cultivating within the project impact area will lose their property such as fruit trees, farmland, etc. upon which the affected people might have been depending for their survival. This loss of livelihood can result into increased crime rate in the project impact area and the surrounding areas. The consultants assured the community members in the project impact area that the developer will closely work with relevant authorities to find interim alternative income generating activities (IGA).

f) Increased spread of HIV and AIDS and STIs

The community members were worried that the project is likely to employ a lot of people both skilled and unskilled workers (men and women) during construction phase of the project who will be coming from faraway places. Therefore, the implementation of the proposed project is likely to increase economic activity but also increase chances of employees contracting HIV/AIDS as well as other sexually transmitted infections (STIs). To manage the HIV/AIDS problem the consultants informed the meeting that the developer shall:

- i) Sensitize all employees and the community at large on the dangers of contracting HIV/AIDS and STI and their prevention measures such as abstinence; and
- ii) Ensure availability of free condoms.

g) Disruption of existing cultural practices

The community members observed that there will be increased influx of people to the project impact area for fishing, looking for jobs including commercial sex workers, small entrepreneurs, etc. these people will have a potential to cause disruption of existing cultural practices during the operational phase of the hydro power plant. To manage this concern, the consultant advised the people that the developer will:

- i) Educate the workers on the cultural sensitivities in the host communities;
- ii) Identify with the host communities during festivals;
- iii) Ensure that priority should be given to people from the local communities when recruiting project workers; and

- iv) Ensure that the local communities will be sensitized on the dangers of population influx on their cultural values, safety, etc.

CHAPTER 2 PROJECT DESCRIPTION

The Malawi Agricultural Commercialization Project (AGCOM) is aimed at increasing commercialization of selected farm and agribusiness products for domestic and export markets. The project is consistent with the World Bank Malawi Country Assistance Strategy (2013-16) and is aligned with Malawi Growth and Development Strategy (MGDS II) under the Sustainable Economic Growth (Theme 1), the National Agricultural Policy and the National Export Strategy.

2.1 Aim and objectives of the project

The Project seeks to increase the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promoting vertical integration through the support to business – oriented farmers’ organizations, around targeted value chains. The Project will also invest towards making land more available to resources – constrained smallholders. Specifically, the project will:

- c) Contribute to the higher level objectives of poverty reduction; and
- d) Improved gender and climate change mitigation and adaptation through supported CSA initiatives.

2.1 Project Components

The AGCOM project has four components and these include: 1. Building Productive Alliance; 2. Support Investment Enabling Services; 3. Contingent Emergency Response Component (SERC) and 4. Project Coordination and Management.

2.2.1 Component 1: Building Productive Alliance

The objective of this component is to support small-scale, emerging farmers integrate into value chains by improving their capacity to finance and execute productivity-enhancing investments and respond to the requirements of the end-markets and buyers.

The component will finance the following: (a) organization of and capacity building in Producer Organisations (POs) and PAs (b) matching grant investments in Productive Organizations (POs) (c) partial credit guarantee fund (and (d) last mile public good infrastructure to facilitate the selected POs and PAs

The component has the following subcomponents: (a) Horizontal Alliances; (b) Productive Alliances and (c) Last Mile Infrastructure for Productive Alliances

2.1.1.1 Subcomponent 1.1: Horizontal Alliances (PO formulation)

The objective of the sub-component is to organize smallholder producers into formal organizations and to strengthen the governance capacities of these newly formed farmer organizations for the purpose of them being able to effectively enter PAs with off takers. Special attention will be given to emerging women and youth POs to participate in PAs. This will be done by carrying out an effective communication and dissemination campaign and strengthening the capacity of these new farmer organizations in their ability to coordinate their business activities and manage funds.

The communication and dissemination will support of PO formation, but will also advertise PA opportunity to market-ready Pos. For the existing producer organizations, the support under the project will include providing the business skills and leadership trainings to the management committee as well as providing infrastructure support such as equipment. For

organizing the farmers into new farmer organizations, a more structured and focused approach will be followed.

2.1.1.2 Subcomponent 1.2: Productive Alliances

The objective of the subcomponent is to implement Productive Alliances (PA) in Malawi by financing the business proposals of the PAs that are successfully selected through the calls for proposals outlined in Component 1.1. A PA is based on a commercial agreement between a project supported PO and a commercial off-taker.

Through the combination of grant financing and provision of technical support, the project will facilitate the evolution of productive partnerships between aggregated farmers and off-takers. Better integration of relationships between producers and off-takers will be mutually beneficial. POs will receive TA to improve production and management of their organizations, grant funding to invest in technical and infrastructure enhancements, and support to access commercial loan finance. Off-takers will benefit from improved and consistent volumes and quality of supplies received. The PAs will assist in improving economic benefits derived from crop yields, rural accessibility and post-harvest gains, processing facilities, better organized value chains, and access to new markets. In addition, the project will establish a Partial Credit Guarantee Fund in order to reduce risk exposure of the financial institutions in financing producer organizations. These improvements will directly help farmers to secure their incomes and manage the production risks from climate change and climate variability (CC&CV), especially concerning droughts and flooding as demonstrated in the *climate risk screening* carried out by the team. Better organized value chains and access to new markets are beneficial to climate change adaptation through all stages of value chain, as they build farmers' assets and institutional linkages, and increase efficiency, and deliver higher profitability to farmers and small businesses in the value chain. These efficiency gains also generate mitigation co-benefits.

The project will finance the costs related to the subprojects of the PAs. The TAs are fully financed by the project while inputs and other working capital will need to be financed by the POs and financial institutions facilitated through the Partial Credit Guarantee Fund. MGs will be available to cover up to 70 percent of the total investment costs. The rest will be self-financed through cash or/and in kind and the difference through financial institutions, if any. The involvement of the financial institutions should happen from the beginning of the formulation of the productive alliance so that they can gain deeper knowledge on the producer organizations and appraise sub-projects. The project will place a strong preference on the sub-projects with external financing; however, it is not a prerequisite for the PAs. The business plans will be evaluated and selected by an independent group and based on their technical and financial feasibility, in line with the terms and conditions further detailed in the Project Implementation Manual (PIM). The business plans will include identification of key risks associated with each value chain, including weather and climate related risks, and measures to mitigate these risks. The project will also look for opportunities to support new income generating value chains utilizing agriculture products and practices better adapted to climate risks, such as more drought-resistant varieties and wider adoption of climate-smart farming systems.

The sub-component will have a special window with focusing on youth POs and Pas. Within this window, the project will also support Mhub and similar business incubator institutions to innovate and develop successful youth business entrepreneurship. Special attention will be given to training, skills development and mentorship in business entrepreneurship, facilitation of negotiations with the industry, targeting agribusiness and horticulture value chains.

2.1.1.3 Sub-component 1.3: Last Mile Infrastructure for Productive Alliances

The objective of the subcomponent is to provide an infrastructure envelope that will invest in ‘last mile’ public good infrastructure to enable the creation of more PAs (separate from the direct investments in PAs through MGs). This investment envelope will focus on infrastructure whose cost will be prohibitively high for PAs, whose benefits will exceed those to the PAs and reach broader surrounding rural communities, and finally, those that push otherwise unfeasible PAs over the sustainability and profitability line—as such this subcomponent is aimed as an enabler to the PAs but will be managed separately. The infrastructure investments will also help POs to manage the risks, especially drought-related risks, and hence reduce the vulnerability of participating farmers. In addition, these infrastructure investments will be built to ensure sustainability in the face of potential future climate hazards (e.g. extreme precipitation and droughts as expressed in the climate risk screening tool) to make sure farmers do not lose access to economic activities. The activities of this sub-component will be:

- a) develop/rehabilitate small scale irrigation infrastructure benefiting Producer Organizations (POs) in productive alliances to accelerate the pace of diversification, intensification and commercialization of agricultural production;
- b) Construct/rehabilitate feeder roads to access to the productions areas;
- c) improve the access to electricity in project areas; and
- d) provide access to clean water for value addition where required

2.2.2 Component 2: Support Investment Enabling Services

The objective of the component is to support business enabling services by addressing some of the systemic gaps and challenges that constrain investment and trade in the agribusiness sector. Unless addressed, these constraints may impede the formation of POs and prevent PAs from operating optimally. These include access to agricultural finance; access to land for commercial agriculture, policy dialogue on agribusiness; and removing some of the barriers to trade for agriculture business such as on standards and certification. The component will address processes in efficient access to finances, land and regulatory and operational business enabling services.

The component has two subcomponents: (a) Access to Agricultural Financing; Support for business enabling services and (b) Access to Land for Commercial Agriculture.

2.2.2.1 Subcomponent 2.1: Access to Agricultural Financing

The objective of the component is to increase access to agricultural financing thereby strengthening the warehouse receipt financing system in Malawi. Warehouse receipt financing has been growing, but still limited in terms of amount of loans and number of participating financial institutions. The limited capacity of banks on agricultural commodities and warehouse receipts is one of the biggest obstacles. The participating banks are exposed to various risks related to handling and storage of the crops. This risk exposure is translated into higher interest rates limiting farmers from utilizing warehouse receipt financing. A mitigation mechanism such as insurance or/and indemnity fund is required to assume the risks related to possible mismanagement of stored crops in certified warehouses. Limited capacity of smallholder farmers also prevents active participation in the system, and the benefits of storing crops in warehouses are not fully materialized.

Risk mitigation measures will be introduced in order to upgrade the credibility of the warehouse receipt system in Malawi. International experience indicates that insurance and/or indemnity fund are useful tools to protect the value of the stored crops from various risks

including the deterioration of quality and loss of crops. The project will provide technical assistance to analyze the existing structure in the country, gather international experiences and recommend suitable risk mitigation mechanisms that would strengthen the Malawi warehouse receipt system. Key considerations include an appropriate incentive structure to enhance the trust of the various players; developing a common mechanism to cover commodity exchanges in the country; and sustainability beyond the project. The project will facilitate the consensus-building among the stakeholders and continue to support the implementation which includes technical assistance and contribution to the indemnity fund as a seed capital.

The project will provide technical assistance and capacity building to POs, organized farmer organizations and PAs to participate in warehouse receipt system. It will also provide grant contribution for building and rehabilitation of rural warehouses through PPP arrangements with farmer organizations. This will be implemented with some collaboration with ACE, AHCX, and agri-business companies in Malawi. The location of the rural warehouses will be selected by the agribusiness companies to ensure their strong commitment and a commercially-directed investment framework. Technical Assistance will be provided to the farmer organizations and SMEs. The project funds will be leveraged by contributions from other donor agencies and private sector players to achieve a larger impact. Progress of the PPP formulation will be closely monitored and supported to reduce coordination failures among key stakeholders

2.2.2.2 Subcomponent 2.2: Access to Land for Commercial Agriculture

The objective of the sub-component is to support the policy and regulatory environment aimed at increasing access to land and tenure security for commercially oriented smallholder and commercial farmers, and other actors in the agriculture value chains. Under the subcomponent, this project will:

- a) Strengthen the capacity of stakeholders (Ministry of Lands, Ministry of Trade, MITC, Ministry of Agriculture and private sector Institutions) as regards to the implementation of the new land bills within the context of PA. Within this capacity building support, the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) and the Principles for Responsible Investment in Agriculture and Food Systems (RIA) will be duly integrated. TA will be hired.
- b) In line with the new land bills, the project will support the registration of land processes and equipment to the selected POs (based on need) in order to ensure land tenure security. The project will work closely with the Ministry of Lands to register the land pieces and provide title deeds to respective POs. The project will cover the costs related to all processes to ensure that this happen. Land rights for women and youth will be particularly protected and strengthened.

Support Malawi Investment and Trade Center (MITC) in its mandate to avail land for commercial investments in the agriculture sector, in line with the new land bills. MITC will be connected to Land Information System. Ministry of Lands is conducting a performance study on estates and the results will identify land for possible reallocations. The project will strengthen multi sectoral linkages and operationalization of Land Information and Management System by provision of technical assistance and equipment to MITC and the Ministry of Lands.

2.2.2.3 Subcomponent 2.2 Support for business enabling services

The project will support the improvement of regulatory environment for agriculture businesses in order to improve agriculture related commerce. The sub-component will focus on support for dialogue between private sector and government, a number of key challenges to agriculture businesses. Activities in this subcomponent will be enhanced through complementary World Bank Group technical assistance, typically using IFC administered trust funds that will provide hands-on consultation on policy reform and regulatory drafting providing of targeted institutional capacity building and analytical work supporting agreed development objectives. Activities are also complemented by World Bank lending programs. Specifically the project will:

- a. Strengthen Public-Private and inter-ministerial dialogue on key policy issues around agribusiness. Key challenges to effective PPD work are ineffective representation of the small, micro and informal enterprises and inadequate capacity to research, analyze and frame issues in a way that enables presentation of compelling cases for reform. This project will support economy-wide PPD forum and create an agribusiness specific taskforce that will address issues of commercialization, prioritize key challenges and identify international good practice that can be adopted to the Malawi context. The project shall also support the Trade and Industry Sector Wide Approach (TIP-SWAp) and ASWAp technical working groups (TWGs), in order to improve dialogue on agriculture commercialization challenges and policy reform and implementation. The TWGs will promote sector inter-ministerial coordination on key business issues. This project will provide funds to the Ministry of Industry and Trade and of Agriculture to facilitate activities of the PPD and TP-SWAP/ASWAP Secretariats to make this dialogue to translate into reforms in the agriculture production and agriculture business.
- b. Support improvements in services (operations and regulations) to agribusiness related to standards and certification provided by Malawi Bureau of Standards (MBS). It will address inefficiencies in product certification that affect agriculture businesses that make the agriculture products less competitive on the domestic and international markets, such as:- a) lack of capacity by the bureau to execute its responsibilities in a timely manner; b) overlaps between MBS technical regulations and some of the country's laws and duplications on of inspection responsibilities with Ministry of Agriculture, especially those related to food safety; and c) unnecessary or high inspection fees. The project will support a) the introduction of risk assessment, improved market surveillance, and incentives for more compliance responsibilities to the agribusiness, b) improved efficiencies to testing and certification, c) strengthening, coordinating and improving the implementation of technical regulations in the BOS and other relevant ministries or agencies and d) introduction of automation to certification processes. The sub-component will provide finance directly to the Malawi Bureau of Standards (MBS) to undertake these activities. The project will also provide financing the Bureau to facilitate POs, organized farmers and PAs to obtain certification standards such as a) SPS certification; b) global gap; c) rain forest; d) halaal certification; e) fair trade certification and f) HACCP certification. It will also provide finance to at least three Malawian manufacturing firms with horizontal links to POs or organized farmers to obtain ISO certification. This work will be complemented by World Bank Group advisory services where advice on policy and procedural change. It will be analyzed if standards and certifications pose different constraints for men and women, and restrictive standards and practices will be addressed.

- c. Build on activities by the Southern Africa Trade and Transport Facilitation Program (P145566), which supports investment in hardware and software of modern trade systems in Malawi, and build on IFC Advisory project on Trade Facilitation. It will address some of the key prevailing limitations, such as low capacity in the Ministry of Industry and Trade on Trade facilitation, and cumbersome trade procedures that discourage agriculture businesses and trade. The sub-component will also focus on supporting the simplification and modernization of international trade practices affecting agriculture products; the removal of challenges on cross border trade for agriculture products, and capacity building. These activities will be implemented by the Ministry of Industry and Trade.

2.2.3 Component 3: Contingent Emergency Response Component (CERC)

This contingent emergency response component is included under the project in accordance with OP/BP 10.00, paragraphs 12 and 13, for situations of urgent need of assistance. This will allow for rapid reallocation of project proceeds in the event of future natural or man-made disaster or crisis that has caused or is likely to imminently cause a major adverse economic and/or social impact during the life of the project. This component will not have funding allocation initially. In the event of a future emergency, it can be used to draw resources from the unallocated expenditure category and/or allow the government to request the Bank to re-categorize and reallocate financing from other project components to cover emergency response and recovery costs, if approved by the Bank.

2.2.4 Component 4: Project Coordination and Management

This component will finance activities of the Project Implementation Unit (PIU). The PIU will oversee the implementation of project activities, ensure sound fiduciary management in the project (both procurement and financial management), carry out monitoring and evaluation (M&E), ensure social and environmental safeguards compliance, and engage in communication and reporting. A main responsibility of the PIU will be to comply with the World Bank's fiduciary reporting requirements. This includes submitting a project implementation progress report on a semi-annual basis. In addition, the PIU would be responsible for implementing the calls for proposals and administrating the grants component under Component 1.1 and 1.2. Additional support will be provided under this component to support any relevant research and analysis that can inform implementation of the project, as well as provide an opportunity for learning and informing future operations. An example would be some SME diagnostic.

Given the multi-sectoral nature of the project, a Project Implementation Unit (PIU) will be established to coordinate and manage the project. The PIU is justified based on complexity of the project which involves multiple stakeholders and government Ministries. Staff of the PIU will be recruited competitively to manage the project on behalf of government. Detailed activities and staffing of the PIU are provided under Annex 2. It will be ensured that project's decision-making bodies at all levels include both men and women

Cross-cutting issues: The project would support the mainstreaming of cross-cutting issues (gender, nutrition, and CSA & resilience) throughout the above components as follows:

- a) **Gender:** The project will contribute in closing gender gaps in productivity and women's access to agriculture inputs and services. It will also seek innovative ways to reduce women's work burden e.g. through labor-saving technologies and child care arrangements. The activities targeting women will be demand led and based on analysis of women's and men's constraints and opportunities under each component. The project will ensure that

both men and women are enabled and encouraged to participate in and benefit from project activities (Annex 7). The result framework will include indicators to monitor outcomes of the gender actions. The results of gender actions are monitored and corrective actions are taken, if needed.

- b) **Nutrition:** The project will support nutrition interventions in line with the Malawi National Nutrition Plan, through the diversification of crop and livestock production including under irrigation, the identification, validation and dissemination of nutrition dense crop and livestock technologies, increased attention to storage and processing of foods and awareness of nutritional issues at household level.
- c) **CSA and resilience:** The project will support the adoption of climate-smart and environmentally friendly practices in the agro-food sector with the main purpose of minimizing the impacts of weather-related risks and of strengthening the resilience of the investments. Through the support provided to farmer organizations, the focus will be on sustainable intensification to increase the yields and productivity, and in improving the resilience of the farmers and farming practices. Adoption of practices such as conservation agriculture, agroforestry and sustainable intensification will also bring mitigation co-benefits through reduced GHG emissions and improved soil carbon sequestration. The project will systematically ensure that all activities and investments financed include climate-smart and good environmental management practices, and that the technical support and financial incentives provided by the project facilitate the wide adoption of such practices. Climate-smart practices for the purpose of minimizing production risks and enhancing resilience of the proposed business plans will also be part of the selection criteria under the Competitive Grants Program.

2.3 Resettlement impacts and mitigation

Land acquisition for construction of infrastructure for different development projects negatively affects the biophysical and socio-economic environment in the project impact area and beyond. A number of people in the project impact area are usually affected by such projects through direct losses of land or by restriction to access land or other assets such as roads, foot paths. Restrictions to access to assets inhibit free movement of people and also increases distance of travel in communities.

Based on the studies conducted for the preparation of this RPF, the project is an infrastructure development and therefore has potential for adverse negative social impacts that will require Environmental and Social Assessment (WB OP 4.01), land acquisition and resettlement.

The project is likely going to have direct impacts in areas where the different project components will be implemented. The people occupying or using the respective lands will be permanently displaced and they will lose assets and properties and access to their social and economic livelihoods. Vulnerable people within the project impact area will be the most affected as the project will likely deteriorate their already vulnerable situation.

2.3.1 Potential socio-economic impacts

The Project will have the potential to impact on a wide range of households, business operators, institutions and community members. These impacts, however may manifest at individual and group level. Some of the losses qualify for compensation and resettlement assistance include:

a) Loss of property

Cause: The project and different project components and activities will require land especially the irrigation scheme facilities and many other infrastructure. This will result into some people in the project area losing their property on those pieces of land.

Mitigation measures: Mitigation measure for this impact includes conducting more public awareness meetings on the project and consultations with stakeholders including project affected persons on how best to compensate and resettle the affected persons where necessary.

b) Loss of cultivable land

Cause and Comment: Agricultural land will be lost to the project facilities and infrastructure, creating shortage of land for cultivation thereby creating land use conflicts.

Mitigation measures: The developer will:

- i) Compensate all people who will have lost their cultivable land before starting construction;
- ii) Ensure that compensation will be made in good time to avoid disturbances to livelihoods;
- iii) Ensure that compensation packages will take into consideration the inflation rates before effecting payments;
- iv) Liaise with chiefs to allocate alternative land to the affected persons to farm;
- v) Ensure gender equity in compensation; and
- vi) Ensure payment is made to the affected women and not to the heads of the families.

c) Loss of grazing sites

Cause: The project and different project components and activities will require land especially the irrigation scheme facilities. Community members with livestock will lose Project affected grazing areas as well as a source of water for livestock.

Mitigation measures: Mitigation measure for this impact includes conducting more public awareness meetings on the project and consultations with stakeholders. The developer together with the traditional leaders will look for alternative grazing sites.

d) Risk of Increased incidences of Sexually Transmitted Diseases (STIs) and HIV/AIDS

Cause and comment: When large scale development of infrastructure projects take place in poverty stricken rural areas of any developing country, it has been observed that diseases and infections transmitted through sexual routes have been common across the globe. This mainly happens during the construction phases when workers from outside the region, who are mostly solitary males, come for work on the construction site. These workers, both unskilled and skilled, get close to host communities, especially with women for meeting their physical needs. On the other hand, some women from the poor host communities get easily allured by extra cash earnings and indulge in unprotected sex with these workers. This causes a threat to both the partnering groups through the spread of STI and STDs.

Mitigation measure: The contractor will: This potential impact will be carefully managed through implementation of an HIV/AIDS Management Plan that will be implemented by the Developer and HIV/AIDS Workplace Committee of the different farming communities. Furthermore, the developer will be required to:

- i) Civic educate the workforce of the danger of STIs and HIV/AIDS; and
- ii) Where possible employ people from the surrounding area.

e) Social disruption and family instability due to influx of people to the area

Cause and comment: The establishment of the project in the area will attract people to the area in search for employment.

Mitigation measure: To reduce influx of workers to the area maximize employment of local people particularly for the unskilled labour force.

f) Disruption of livelihoods and social cohesion

Cause and comment: The project may result into some potential impacts on livelihoods as some households will be affected due to permanent land acquisition of their agri-horticultural plots for the project. Some affected households will lose their source of earning as their shops / commercial structures will be adversely impacted due to project implementation.

Furthermore, the social fabric of rural settlements, especially the smaller ones, may be disrupted by an influx of construction workers and the opportunities these pose for providing services and forging new relationships. The construction camps can severely disrupt the social fabric of settlements by exposing residents to different norms and practices.

Mitigation measures: As an enhancement measure, the developer will:

- i) Compensate properly all the affected people; and
- ii) Closely work with relevant authorities to find interim alternative income generating activities (IGA) for the affected persons.

g) Disruption of existing cultural practices

Cause and Comment: The impact is likely to be caused due to increased influx of people to the project impact area. The people will be flocking to the area looking for jobs and business opportunities.

Mitigation measures: As mitigation measures, the developer will:

- i) Educate the workers on the cultural sensitivities in the host communities;
- ii) Ensure that priority should be given to people from the local communities when recruiting project workers; and
- iii) Ensure that the local communities will be sensitized on the dangers of population influx on their cultural values, safety, etc.

h) Loss of residence

Cause and Comment: The impact will occur as the different project components will require reasonable pieces of land for the different project infrastructure. The land being required may accommodate some residences for the farming communities who may be displaced by having to move their places of residence to allow for implementation of the different project components or any other associated infrastructure.

Mitigation measures: As a mitigation measure, the developer will:

- i) Compensate properly all the affected people; and
- ii) Closely work with relevant authorities to find interim alternative income generating activities (IGA) for the affected persons.

i) Permanent or temporary loss of business

Cause and Comment: In some project areas, the project activities will affect market places and in places where people are doing different business activities. Some people will be displaced by having to move their places of business to allow for implementation of the different project components or any other associated infrastructure. These may include business shelters, places such as brick ovens, rice drying and selling points etc.

Mitigation Measures:

The Developer will be required to prepare an inventory of all the people whose businesses will be affected and appropriate compensation packages prepared for their business.

j) Disruption of public service utilities

Cause and Comment: There is a high probability that excavation and other project construction activities will cause damage to other utilities and communal resource base. These will include boreholes, water taps, communal play grounds, market places, grazing sites and other resources.

Mitigation Measures

The Contractor will be required to:

- i) determine in advance before any construction activities are done the different infrastructures for other utility services;
- ii) repair the damaged utilities as quickly as possible to reduce the suffering the absence of a particular utility services will cause on the people

k) Loss of Places of worship

Cause and Comment: The different project activities and their land requirements will affect worshipers who may have their places of worship to be relocated.

Mitigation measures: Mitigation measure for this impact includes conducting more public awareness meetings on the project and consultations with stakeholders including project affected persons on how best to compensate and resettle the affected persons where necessary.

l) Loss of cultural resources including graveyards

Cause and Comment: People in Malawi have strong attachments to traditional worship and graves and other related shrines have deep significance. The project will have the potential to affect some archaeological places remains and structures of historical importance in the country. These may include grave yards etc.

Mitigation measures: Mitigation measure for this impact includes conducting more public awareness meetings on the project and consultations with stakeholders including project affected persons on how best to compensate for archaeological and cultural heritage.

Table 2.1 summarizes impacts commonly triggered by resettlement.

Table 2.1 Summary of main social and economic impacts from resettlement activities

Category of losses	Social and economic impacts
Land and property loss	<ul style="list-style-type: none"> • Landlessness • Loss of productive resource for agriculture and other businesses
Loss of residential property and homestead	<ul style="list-style-type: none"> • Landlessness, homelessness • Impoverishment of people • Disturbance of house production systems • Loss of sources of income • Loss of or weakening of community system and social networks. • Loss of access to ancestral sites, graveyards • Loss of access to social amenities such as hospitals and schools. • Loss of traditional authority.

Category of losses	Social and economic impacts
Loss of assets or access to assets	<ul style="list-style-type: none"> • Impoverishment • Loss of sources of income • Loss of employment opportunities (self – employment)
Loss of income sources or means of livelihood	<ul style="list-style-type: none"> • Impoverishment • Loss of self – employment opportunities • Disruption of attainment of services such as schools, health services resulting in further impoverishment, malnourishment
Loss of identity and cultural survival	<ul style="list-style-type: none"> • Alienation of persons from their tribal society • Lack of access to community support
Loss of access or proximity to social amenities e.g. water sources	<ul style="list-style-type: none"> • Impoverishment. • Loss of sources of income • Increased time to access resources. Loss or shortage of time for other activities
Loss of grazing land	<ul style="list-style-type: none"> • Difficulties in rearing livestock
Disruption of public service utilities	<ul style="list-style-type: none"> • Limited access to public service utilities

The number of PAPs is not yet known. This is because most of the components will involve site specific activities. The sites are not yet known. Some of the activities will include rehabilitation/ re-construction of public infrastructure (damaged sections of access roads, water conveyance systems, damaged irrigation schemes, damaged, storage facilities, and facilities for value addition).

Identification of resettlement issues will be done during project identification and site selection process. It is at this stage that planning team of District Executive Committee will carry out resettlement screening and work before the project can be appraised by the District Executive Committee (DEC).

2.3.2 Potential Labour influx Impacts

The activities of the project or project components will have a greater potential to trigger labor influx impacts. This is because people from faraway places and beyond will flock to the different project sites in search of employment and business opportunities. Their presence in the project impact area may lead to negative impacts on the host communities specifically when problematic social behavior is culturally tolerated or even accepted, nationally or locally. Some of the common categories of social risk to be associated with labor influx for the proposed project and its components include:

a) Risk of social conflict

Cause and Comments: The implementation of the project and sub-project components activities in the different project areas in the country will result into increased influx of people to the project impact areas. The people will be flocking to the area to look for employment and business opportunities. Conflicts may arise between the local community and the construction workers, which may be related to religious, cultural or ethnic differences, or based on competition for local resources. Tensions may also arise between different groups within the labor force, and pre-existing conflicts in the local community may be exacerbated. Ethnic and regional conflicts may be aggravated if workers from one group are moving into the territory of the other.

Mitigation measures: As mitigation measures, the developer will:

- i) Educate the workers on the cultural sensitivities in the host communities;
- ii) Advise the workers to identify themselves with the host communities during festivals;
- iii) Ensure that priority should be given to people from the local communities when recruiting project workers; and
- iv) Ensure that the local communities will be sensitized on the dangers of population influx on their cultural values, safety, etc.

b) Construction related accidents

Construction sites are usually associated with different types of occupation hazards as some construction equipment e.g. an excavator and construction vehicles may cause accidents in the case of construction.

Mitigation Measures

The Contractor will be required to:

- i) train the workers about the possible occupation hazards that may be associated with this type of work;
- ii) provide PPE such as helmets, boots, overalls etc; and
- iii) properly label all the accident prone sites especially when rehabilitating the roads.

c) Increased risk of illicit behavior and crime

Cause and Comments: The influx of workers and service providers into communities may increase the rate of crimes and/or a perception of insecurity by the local community. Such illicit behavior or crimes can include theft, physical assaults, substance abuse, prostitution and human trafficking. Local law enforcement may not be sufficiently equipped to deal with the temporary increase in local population.

Mitigation measure: Mitigation measure for such impacts will include social integration of migrant workers and local communities to ensure mutual and equal access to existing socio-economic opportunities. Deployment of social security staff and regular engagement of the local Police can ameliorate occurrence of mischiefs. Sensitization on security matters, formation of neighbourhood watch groups, render support in establishing community police post.

d) Influx of additional population (“followers”)

Cause and Comments: Especially in projects with large footprints and/or a longer timeframe, people can migrate to the project area in addition to the labor force, thereby exacerbating the problems of labor influx. These can be people who expect to get a job with the project, family members of workers, as well as traders, suppliers and other service providers (including sex workers), particularly in areas where the local capacity to provide goods and services is limited.

Mitigation measures: As mitigation measures, the developer will:

- i) Educate the workers on the cultural sensitivities in the host communities;
- ii) Advise the workers to identify themselves with the host communities during festivals;
- iii) Ensure that priority should be given to people from the local communities when recruiting project workers; and
- iv) Ensure that the local communities will be sensitized on the dangers of population influx on their cultural values, safety, etc.

e) Impacts on community dynamics

Cause and Comments: Depending on the number of incoming workers and their engagement with the host community, the composition of the local community, and with it the community dynamics, may change significantly. Pre-existing social conflict may intensify as a result of such changes.

Mitigation measures: As mitigation measures, the developer will:

- i) Educate the workers on the cultural sensitivities in the host communities;
- ii) Advise the workers to identify themselves with the host communities during festivals;
- iii) Ensure that priority should be given to people from the local communities when recruiting project workers; and
- iv) Ensure that the local communities will be sensitized on the dangers of population influx on their cultural values, safety, etc.

f) Increased burden on and competition for public service provision

Cause and Comments: The presence of construction workers and service providers (and in some cases family members of either or both) can generate additional demand for the provision of public services, such as water, electricity, medical services, transport, education and social services. This is particularly the case when the influx of workers is not accommodated by additional or separate supply systems.

Mitigation measures: The Developer will ensure that he provides some public services, such as water, electricity, medical services, education and social services as part of his social responsibility to deal with the problem of increased burden and demand on social services.

g) Increased risk of communicable diseases and burden on local health services

Cause and Comments: The influx of people may bring communicable diseases to the project area, including sexually transmitted diseases (STDs), or the incoming workers may be exposed to diseases to which they have low resistance. This can result in an additional burden on local health resources. Workers with health concerns relating to substance abuse, mental issues or STDs may not wish to visit the project's medical facility and instead go anonymously to local medical providers, thereby placing further stress on local resources. Local health and rescue facilities may also be overwhelmed and/or ill-equipped to address the industrial accidents that can occur in a large construction site.

Mitigation measures: As mitigation measures, the developer shall:

- i) Sensitize all employees and the community at large on the dangers of contracting HIV/AIDS and STI and their prevention measures such as abstinence; and
- ii) Ensure availability of free condoms.

CHAPTER 3 POLICY, LEGISLATION AND ADMINISTRATIVE FRAMEWORK ON RESETTLEMENT

Malawi has a policy and legal framework on resettlement. The basis of legislation on resettlement is the Constitution. However, there is also legislation which deals specifically with land. Between 2016 and 2017 Malawi passed several Bills which either repealed legislation on land issues or amended it. Key Government policies and legislation relevant to issues of resettlement in Malawi include; the Malawi National Land Policy of 2002, Land Act No.16 of 2016, the Customary Lands Act No.19 of 2016, the Lands Acquisition Act and the Lands Acquisition (Amendment) Act No. 9 of 2017, the Physical Planning Act No.17 of 2016, the Public Roads Act and the Public Roads (Amendment) Act No of 2016, the Forestry Act 1997 and the Forestry (Amendment) Act No.5 of 2017. In addition to these Acts, there are other laws which have provisions pertaining to resettlement.

3.1 Policy and Legal Framework for expropriation and compensation

Expropriation can be defined as ‘the taking of private property for public use or in the public interest’

3.1.1 The Constitution of the Republic of Malawi

The Constitution is the basis for legislation on expropriation and compensation. Section 207 of the Constitution vests all lands and territories in Malawi in the Republic. The word ‘Republic’ means the people and territory of Malawi; and therefore, this section vests land ownership in the people of Malawi. Specific legislation providing for issues pertaining to title, claim or specific responsibility over land is outlined below.

Section 28 of the Constitution provides that every person shall be able to acquire property alone or in association with others and that no person shall be arbitrarily deprived of property.

In Malawi, an individual cannot be deprived of property without compensation. Section 44 of the Constitution provides that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.

3.1.2 The Malawi National Land Policy 2002

The goal of the National Land Policy in Malawi is to ensure tenure security and equitable access to land in accordance with section 28 of the Constitution and to facilitate the attainment of social harmony and broad based social and economic development through optimum and ecologically balanced use of land and land based resources.

Section 5.0 specifically provides for land administration and resettlement. The definition of ‘land administration’ in the Policy is broad and includes the delivery of land rights, the planning of land uses, demarcation and survey of land parcels and the registration and maintenance of land information. It also includes conveyance, policies to facilitate decisions on mortgages and investment, development management, property valuation for assessment purposes and monitoring the environmental impact of all land based activities.

The Policy recognizes that there are several institutions and statutory agencies dealing with land which could result in confusion over jurisdiction and inadequate policy intervention; therefore, the principal authority responsible for land matters should be the Ministry responsible for lands.

The Policy also provides clear definitions and categories of land tenure and outlines proposals to reform the land tenure system.

Section 5.19 to 5.22 of the Policy deals with Land Redistribution and Resettlements. This part focuses on the acquisition of land for redistribution to the landless and also for promoting a strategy to encourage the resettlement of landless and land-short households in carefully selected areas throughout the country in order to relieve land pressure and poverty in some of the most congested agricultural districts in the nation.

The Policy recognizes that in order to undertake any systematic redistribution and resettlement policy the Ministry needs technical assistance and funding support to develop and refine procedures for; mass resettlement , a revolving fund to finance the acquisition of land, the physical relocation of settlers and issuing of land and production loans to the settlers .

The Policy further provides notes that relocation and resettlement would have to take into consideration the following factors:

- a) the principles of fairness, equity and human rights;
- b) the fact that people cannot be forced to relocate to any location without their consent and that individuals and household's readiness to resettle in a different traditional area, district or region is a matter of personal choice;
- c) the fact that the potential disruption of social, cultural and economic existence may be traumatic enough to make the prospect of relocation untenable to some, and the prospect of leaving valuable immovable property is always a cause for resisting relocation; and
- d) how much will respondents demand to be successfully resettled.

In spite of the fact the provisions of the Policy focus on re-distribution of land to the landless and land poor, the principles and factors are applicable to issues of relocation and land settlement in general. The National Land Policy provided a basis for the review and amendment of land legislation to ensure conformity with the goals and strategies of the Policy.

3.1.3 The Land Act No.16 of 2016

The Land Act No. 16 of 2016 is the principal legislation dealing with land tenure and land use. It repealed the Land Act of 1965. Sections 6 and 8 of the Land Act reiterate the Constitutional provisions that all land is vested in perpetuity in the Republic. The Act provides that all land is administered by the Commissioner of Lands on behalf of the Republic and the Minister responsible for lands may delegate any of the powers and duties conferred on him to the Commissioner.

Section 7 of the Act recognizes two categories of land namely; public land and private land.

Public Land

The Act defines public land as held in trust for the people of Malawi and managed by Government, a local government authority and a Traditional Authority. Public land includes;

- a) Any land held by Government or a local government authority consequent upon a reversion thereof to the Government or local government authority, as the case may be, on the termination, surrender or falling in of any freehold or leasehold estate therein pursuant to any covenant or by operation of law;

- b) Land acquired and privately owned by Government or a local government authority used for dedicated purposes such as Government buildings, schools, hospitals and public infrastructure;
- c) Land gazetted for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites;
- d) Land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes; and
- e) Unallocated and communal land within the boundaries of a Traditional Land Management Area.

Private Land

Private land is defined as all land which is owned, held or occupied under a freehold title, leasehold title or as a customary estate or which is registered as private land under the Registered Land Act.

Customary estate means any customary land which is owned, held or occupied as private land within a traditional land management area and which is registered as private land under the Registered Land Act. Customary land means all land used for the benefit of the community and includes unallocated customary land within the boundaries of a traditional land management area. Freehold is defined as an estate which is held in perpetuity and a lease includes an agreement for lease. .

Relevant Provisions

The Act places restrictions on body corporates from holding land unless under a licence granted by the Minister responsible for lands in consultation with the President. Section 11 provides that land designated for investment purposes shall be identified and published in a gazette and thereafter allocated to the Malawi Investment and Trade Centre Limited which shall create derivative rights to investors in accordance with the Investment and Export Promotion Act.

Section 12 of the Act empowers the Minister responsible for lands to make and execute grants, leases or other dispositions of public land classified as Government land for any such estates, interests or terms and for such purposes and on such terms as and conditions as he may think fit.

Section 21 of the Act enables the Minister, upon application by any person in a prescribed manner, to grant or allocate leasehold or customary estate on terms and conditions as he may determine, however according to section 22 he cannot grant freehold title. Section 36 places restrictions on a person to sell or otherwise to convey, lease, transfer or assign any private land without prior written consent of the Minister or local government authority to sell, convey, lease, transfer or assign the land. The granting or refusal of consent must be communicated to the person who intends to sell within 30 days of receipt of the written notice. The provisions of this section do not apply to sale, conveyance, lease, transfer or assignment by or direct to the Government, any agreement to lease for a non-renewable term of not more than 3 years, a sale pursuant to an order of court by any officer in the public service acting in his official capacity and pursuant to any written law and any mortgage or other hypothecation for repayment of money lent in good faith.

The section also provides restrictions on grants and sale of private land to persons who are not citizens of Malawi. Section 37 provides that any grant of private land to a person who is not a citizen by way of sale, conveyance, lease, transfer, assignment or other transaction shall not be

for an estate greater than a lease of fifty years unless a greater estate is required for the realization of investment. Section 38 provides that a person shall not sell, by private transaction, tender, auction or other means, any private land to a person that is not a citizen of Malawi before offering such land for sale to citizens. For such a sale to take place a number of administrative steps have to be taken including publication of the intention to sell the land in a national newspaper and if no offer has been made to buy the land by a citizen of Malawi then the land can be sold to a non-citizen. A purchaser that is not a citizen of Malawi cannot buy the land at a lower price than the published one. The Act prohibits transfer of title to private land between non-citizens by way of gift or transfers between the living.

Section 39 provides that where a holder of private land under freehold title has not developed the land and not shown his intention to develop or dispose of it within 2 years from the date of registration the Minister may in writing demand voluntary surrender of that land to the Government and if there is no voluntary surrender the Minister may acquire the land under the Lands Acquisition Act and its 2016 Amendment or exercise powers under section 64 of the Physical Planning Act 2016.

Part VII deals with trespass or encroachment upon, or unlawful occupation of, land. Section 45 enables a magistrate with relevant jurisdiction, upon complaint by a person claiming to have lawful title to the land, to issue summons against an alleged trespasser, encroacher, or unlawful user or occupier (defendant) requiring him to attend court. If the magistrate is satisfied the defendant has trespassed, encroached or unlawfully occupied the magistrate may make an order requiring the defendant to vacate land within 7 days or longer. The number of days to vacate land depends on a on several factors including; how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police officer or officer of the court. The Land Act emphasizes the fact that procedures under Part VII must be in accordance with the Courts Act.

Section 17 enables the Minister to acquire unallocated customary land for public utility purposes. The section provides that where it appears to the Minister that unallocated customary land is needed for public utility, the Minister shall serve notice upon the Traditional Authority within whose traditional land management area the customary land is situated. Section 18 provides that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in such land because of the land being acquired for public utility purposes, under section 17, should be paid such compensation for such disturbance, loss or damage as is reasonable.

3.1.4 The Customary Land Act No.19 of 2016

The Act provides for the management and administration of traditional land. In the Act, customary land consists of; land within the boundaries of a Traditional Land Management Area other than Government or reserved land, land designated as customary land under the Land Act of 2016, land, the boundaries of which have been demarcated as traditional land under any written law or administrative procedure in force at the time before the Act came into operation and land the boundaries of which have been agreed upon by a land committee claiming jurisdiction over that land.

The Commissioner is required to issue a certificate of customary land for every Traditional Land Management Area in respect of which the boundaries to the area have been demarcated or agreed. Such certificate is issued in the name of the Traditional Authority, confers upon the land committees in that area the function of management of customary land and affirms the occupation and use of customary land by the persons in the Traditional Land Management Area in accordance with the customary law applicable to land in that area.

The customary land committee are established by section 5 of the Act. These committees are supposed to be at Group Village Headman level and their main function is to manage customary land within their area of jurisdiction, on trust, as if the committee were a trustee of the land and the villagers were beneficiaries. The committee is required to adhere to the principles of sustainable development and utilization of natural resources and consultation with public authorities and local government authorities having jurisdiction in the area where the customary land is located. The Act provides that the customary land committee may not allocate land or grant a customary estate without the prior approval of the relevant TA.

The Act also provides for joint customary land agreements between different customary land committees within a Traditional Land Management Area and for a TA to enter into an agreement with another TA concerning the use of lands by groups of persons which is partly between the jurisdiction of two Traditional Land Management Area.

Section 13 divides Traditional Land Management Areas into three categories namely:

- a) Land which is occupied or available for occupation and use on a communal or public basis to be known a communal land;
- b) Land which is occupied or used by an individual or family or a group of persons under customary law; and
- c) Land which may be available for communal or individual occupation and use through allocation by a land committee.

Customary land under b) and c) may be made subject to the grant of a customary estate and customary land under c) may in addition may be made the subject of a derivative right granted by a land committee.

Part III Section 17 provides for procedures to be followed for the transfer of customary land in a Traditional Land Management Area to Government or reserve land for the public interest. A notice is published in a gazettee and sent to the relevant land committee. If the land has been allocated to a person or group of person under a customary estate they have to be informed of the notice and may make representations to the Commissioner on the proposed transfer. If the land is transferred appropriate compensation must be paid after being assessed by a registered valuer. The transfer of customary land to Government must be gazetted and comes into effect 30 days after publication in a gazette.

The Act also provides for the grant of a customary estate and gives the land committees powers to allocate customary estate to citizens of Malawi and a partnership or corporate body, the majority of whose partners or shareholders are Malawian citizens. Customary estate shall be for an indefinite estate, inheritable and transmissible by a will and liable subject to adequate notification and prompt payment of full and appropriate compensation, to acquisition by Government in the public interest and in accordance with the Lands Acquisition Act. The part further provides for the procedures for applying for a customary estate, necessary application forms to be completed, how a decision is reached and communicated to the successful

applicant, conditions attaching to the grant and payment of fees and rent for the grant of the customary estate.

Section 25 provides that a lease or sublease may be granted out of a customary estate to be called customary estate lease or customary estate sublease. According to section 28, all transactions involving customary estates during the first five years of registering and titling of estates shall be approved by a land committee and the Traditional Authority in whose jurisdiction the land is situated. A customary estate may be surrendered under section 29 or considered abandoned under the provisions of section 34.

Dispute resolution is provided for in part VII of the Act. The Act establishes Customary Land Tribunal in every Traditional Land Management Area which is supposed to adjudicate on any disputes concerning customary land in that area. The membership of the Tribunal includes the T/A and 6 members of the community who are knowledgeable about customary land law in that area.

A person who is aggrieved by a decision of the Customary Land Tribunal may appeal to the District Land Tribunal which is created under section 46 of the Act. This Tribunal is presided by the District Commissioner and includes 3 T/As, 3 reputable persons residing in the area and the District Land Registrar who are knowledgeable about customary land law. A person who is aggrieved by a decision of this Tribunal can appeal to the Central Land Board which is established under section 38. This Board is presided over by a Resident Magistrate. Section 49 provides for land tribunals.

3.1.5 The Lands Acquisition Act No. 21 of 1979 and the Lands Acquisition (Amendment) Act No. 9 of 2017

The Lands Acquisition Act No. 21 of 1979 was enacted to provide for the acquisition of land. The Lands Acquisition (Amendment) Act No. 9 of 2017 has amended some provisions of the Lands Acquisition Act, the main one being that the Amendment Act now provides for the acquisition and compensation of land in the citation.

Section 3 of the Act read with the Amendment Act empowers the Minister responsible for lands whenever he is of the opinion that it is desirable or expedient in the interests of Malawi, to acquire land for public utility, either compulsorily or by agreement, and pay compensation as may be agreed or determined under the Act.

Sections 5-7 of the Act provide for the issuing of notices upon the persons who are possessed of an interest in the land. According to section 12 of the Amended Act when a notice to acquire land has been issued and published, the land shall revert to the Government as public land within 2 months of the publication of the notice.

Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment Act further provides that compensation shall be paid in one lump sum; therefore the assumption is that compensation shall only be monetary.

Amended provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise. The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of occupational rights, loss of land, costs

of professional advice and disturbances which are a natural and reasonable consequence of the disposition of land. The Amendment has inserted substantive provisions on matters to be taken into consideration in assessing compensation for alienated land under section 10A.

Section 11 of the Act deals with the effect of payment of the compensation and states that a person who has been paid compensation for land cannot make further claims in respect of the land. However, this does not prevent any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof.

3.1.6 The Physical Planning Act No 17 of 2016

The Act repeals the Town and Country Planning Act. It provides for physical planning and the orderly and progressive development of land in both rural and urban areas and for issues relating to the grant of permission to develop land and for other powers of control over the use of land. The Act is administered by the Commissioner for Physical Planning and also provides for the establishment of the Physical Planning Council. The Act provides for development permission including application forms, processing and revocation. Section 54 provides that a person shall not commence the development of any subdivision of any land unless he first obtains a grant of a development permission. In addition, a person applying for the registration of any land under the Registered Land Act must attach a copy of the grant of development permission in order for his documents to be considered.

Part VII of the Act deals with acquisition of land and compensation. The section provides that the Minister may acquire any land, either compulsorily or by agreement if it considered desirable or expedient in the interests of the implementation of any plan of the proper control and furtherance of development of any land under the Act. Compensation will be paid in accordance with the Lands Acquisition Act as amended. Section 68 of the Act provides for occasions when compensation is payable for planning actions, section 69 deals with how compensation can be assessed and section 70 provides for how a claim for compensation can be made. The Second Schedule of the Act is on the calculation of compensation under section 68. .

The Act provides for circumstances when an appeal can be made and the fact that an appeal can be made to the Council. A person aggrieved by a decision of the Council may apply to the High Court for judicial review.

3.1.7 The Registered Land Act No.6 of 1967 and the Registered Land (Amendment) Act No.7 of 2017

The Act makes provision for the registration of title to land, and for dealings in land so registered. The Act has been amended several times since 1967 with the most current amendments being passed in 2017. The Amendment Act amends some provisions in the Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

3.1.8 Land Survey Act No.18 of 2016

The Land Survey Act provides for land surveys, the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council.

3.1.9 The Local Government Act, 1998 and the Local Government (Amendment) Act No. 10 of 2017;

The Local Government Act, 1998 consolidates the law relating to local government. Section 34 of the 1998 Act provides for the acquisition of land by Agreement. It states that that for the purpose of (a) any of its functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of section 34 of the 1998 Act has been deleted and substituted with a new subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions.

The Amendment Act also amends the principal act by providing that the Council may dispose of land held by it in accordance with the Land Act 2016 and the Registered Land Act.

3.1.10 The Forestry Act 1997 and The Forestry (Amendment) Act No.5 of 2017

The principal legislation that governs forestry matters in Malawi is the Forestry Act No. 11 of 1997, which provides for participatory forestry, forest management, forestry research, forestry education, forest industries, protection and rehabilitation of environmentally fragile areas and international co-operation in forestry and for matters incidental thereto or connected therewith.

The purposes of the Act include; promoting community involvement in the conservation of trees and forests in forest reserves and protected forest areas and protection of fragile areas such as steep slopes, river banks, water catchment and to conserve and enhance biodiversity.

The Forestry (Amendment) Act amends some provisions in the Forestry Act of 1997 including the inclusion of a new definition of customary land committee which is in accordance with the Customary Land Act, 2016. The Amendment Act also amends section 30 of the Forestry Act so that it provides that 'any customary land committee may, with the advice of the Director of Forestry, demarcate on unallocated customary land a village forest area which shall be forest areas protected and managed in the prescribed manner for the benefit of that village community.

3.1.11 The Public Roads Act No.11 of 1962 as amended and the Public Roads Amendment Act No.8 of 2017

The Public Roads Act of 1962 as amended was enacted to consolidate and amend the law relating to Public Roads. In this Act the highway authority is assigned responsibilities for the construction, care and maintenance of any road or class of road in accordance with the Act.

The Public Roads Act provides for various instances when compensation may or may not be paid. Sections 44-50 of the Act provide for issues relating to compensation including assessment of compensation generally and for surface rights, compensation for land which becomes public land, matters to be taken into consideration in assessing compensation for alienated land and claims for compensation. The part also provides for procedures to be followed before a Land Tribunal and the right to apply to the High Court for judicial review if the claimant of highway authority is unhappy with a decision of the Land Tribunal.

3.1.12 Environment Management Act No.23 of 1996

The Environment Management Act No.23 of 1996 (EMA) was enacted to make provision for the protection and management of the environment and the conservation and sustainable

utilization of natural resources. The Act provides for Environmental Impact Assessment to be done in certain circumstances.

Malawi has developed Guidelines for Environmental Impact Assessment (EIA) in Malawi. The purpose of the Guidelines is to facilitate compliance with Malawi's EIA requirements by Government, project developers, donors and the general public. The guidelines help to integrate environmental concerns in national development and will be applicable to all types of projects, in the public and private sectors, for which EIA studies may be or are required.

3.2 Other Policies and Legislation

3.2.1 National Decentralisation Policy, 1998

The policy devolves administration and political authority to the district level; integrates governmental agencies at the district and local levels into one administrative unit, through the process of institutional integration, manpower absorption, composite budgeting and provision of funds for the decentralised services; diverts the centre of implementation responsibilities and transfers these to the districts; assigns functions and responsibilities to the various levels of government; and promotes popular participation in the governance and development of districts.

3.2.2 The Public Health Act, 1982 as amended

The Public Health Act, 1982 as amended creates the legal framework for the protection of public health in Malawi and provides for powers of the administration to regulate and control issues such as animal and food production and handling, food and water supply and sewerage.

3.2.3 The Occupational Safety, Health and Welfare, 1997

The Occupational Safety, Health and Welfare Act of 1997 makes provision for the regulation of the conditions of employment in workplaces as regards the safety, health and welfare of persons employed therein; for the inspection of certain plant and machinery, and the prevention and regulation of accidents occurring to persons employed or authorized to go into the workplaces.

3.2.4 National Environmental Policy 2004

The 2004 revised National Environmental Policy recognizes the importance of creating an enabling policy and legal framework for cross sector coordination, participation of non-state sectors, strengthening the enforcement machinery and decentralizing natural resources and environmental management and governance. The overall goal of the Policy is the promotion of sustainable, social and economic development through the sound management of the environment and natural resources.

3.2.5 Gender Equality Act No.49 of 2012

The Act promotes gender equality, equal integration, influence, empowerment, dignity, and opportunities for men and women in all functions of society, prohibits and provides redress for sex discrimination, harmful practices and sexual harassment and provides public awareness on promotion of gender equality.

3.3 Key legislation on Resettlement

Table 3.1 provides details of key legislation on Resettlement.

Table 3.1 Details of key legislation on Resettlement

LEGISLATION	FUNCTIONAL RELATIONSHIP TO RESETTLEMENT
The Constitution of the Republic of Malawi	Basis for legislation on property, land, expropriation and compensation.
The Malawi National Land Policy, 2002	Provides policy objectives on land administration and resettlement.
The Land Act No.16 of 2016	Principal legislation dealing with land tenure and land use
The Customary Land Act No.19 of 2016	Provides for the management and administration of traditional land
The Lands Acquisition Act No. 21 of 1979 and the Lands Acquisition (Amendment) Act No. 9 of 2017	Provides for the acquisition of land for the public benefit. Empowers Government to acquire land for public utility if it is desirable or expedient in the interests of Malawi and sets out procedures for compensation.
The Registered Land Act No.6 of 1967 and the Registered Land (Amendment) Act No.7 of 2017	Provides for registration of title to land.
The Physical Planning Act No 17 of 2016	Provides that a person shall not commence the development land unless he first obtains planning and development permission
The Land Survey Act No.18 of 2016	Provides for land surveys
The Public Roads Act No.11 of 1962 as amended and the Public Roads Amendment Act No.8 of 2017	Provides for construction, care and maintenance of any road or class of road and payment of compensation where this has an impact generally and on surface rights
The Local Government Act, 1998 and the Local Government (Amendment) Act No. 10 of 2017;	Provides for the acquisition of land by the Council for any of the Council's functions and for the making of By-Laws by the Council
Environment Management Act No.23 of 1996 and Environmental Impact Assessment Guidelines	Provides for Environmental Impact Assessment and public consultation.

3.4 Overview of World Bank's Safeguard Policies

World Bank Policy on resettlement is outlined in Operational Policy (OP 4.12), and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy encourages community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to displaced persons. In addition the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

3.5 Gap analysis between national law and the Bank Policy on Resettlement

The World Bank Policy on resettlement as outlined in Operational Policy (OP 4.12) and the laws of Malawi have several common aspects in management of resettlement. The policy and the national laws; require compensation for expropriation of land, emphasise the need for meaningful consultation with persons and communities affected by the project and recommend fair (or reasonable) and adequate compensation to PAPs. However, there some gaps which exists between the World Bank policy and the laws of Malawi. Some selected examples are as follows:

- a) Under World Bank Policy displaced persons are classified into the three groups mentioned in section 3.3 (a, b and c). Land owners under Group a and b, are among the PAPs who are entitled to full, fair and prompt compensation as well as other relocation assistance. With respect to those in Group c, where displaced persons have no recognizable legal rights they are to be provided with resettlement assistance in lieu of compensation for the land they occupy, as well as other assistance. Under Malawian legislation, Group (a) and (b) are entitled to compensation. However, those under (c) are not entitled to compensation but they can be given compensation for the investment they made on the land.
- b) On aspects on compensation on land, the laws of Malawi consider the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land). In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. The World Bank OP4.12 also distinguishes whether it is land with formal legal rights/customary rights, land without recognizable legal right or claim (such as squatters and encroachers), or leased land. The compensation for each type is different accordingly.
- c) In cases of compensation of loss of land by project affected people, the World Bank policy prefers land for land compensation. In Malawi an option of land for land compensation is normally preferred in customary land transaction while the option of land for money compensation is the preferred options in urban areas.
- d) The World Bank policies clearly stipulates resettlement as an upfront project – in that all issues of land acquisition and relocation of PAPs must be done prior to commencement of the project site on the acquired site. Malawian laws do not clearly spell out this approach and in practice; resettlement is treated as a separate exercise outside project planning and implementation.
- e) The World Bank policy clearly recommends adequate resettlement assistance and rehabilitation assistance to relocated people as a way of restoring and enhancing socio – economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawian legislation does not clearly define the extent of resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the project affected people.
- f) The World Bank Policy advocates identification of persons who will be affected by the project to determine who will be eligible for assistance and also requires meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations. Malawian legislation and Guidelines also require sufficient

public consultation to determine potential impacts of the project and to ensure the public can participate in decision making.

Other gaps between the two approaches are in the following areas:

- a) Extent of entitlement: World Bank OP/BP 4.12 includes affected parties with non-formal property rights, while this does not apply in all instances in Malawi.
- b) Timing of payments: World Bank OP/BP 4.12 requires payment before loss of assets, while the Malawi legislation does not have this requirement.
- c) Relocation and resettlement: World Bank OP/BP 4.12 requires additional assistance with resettlement (such as establishment of new sites) while this is not provided in Malawi's laws.
- d) Livelihood restoration: The World Bank OP/BP 4.12 requires that livelihoods are improved or at least restored, while the Malawi's laws contains no requirements for livelihood restoration.
- e) Grievance mechanisms: World Bank OP/BP 4.12 requires that a grievance mechanism is established as early as possible in the project development phase, while the Malawian legislation provides for dispute resolution mechanisms in the form of land tribunals and the court system requires .

Table 3.2 summarizes selected differences between the laws of Malawi and OP4.12 and does not provide comprehensive comparison with the laws of Malawi.

Table 3.2 A summary of some selected differences between the World Bank Policy on Resettlement (OP 4.12) and Laws of Malawi

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
Land Owner/Occupier	Public Roads Act (chapter 69:02) and Public Roads (Amendment Act) No.8 of 2017	<ul style="list-style-type: none"> • The Act and its amendment stipulate payment of compensation based on loss or damage suffered by the claimant arising from the damage to or destruction of his interest in the surface rights on such land • This damage or loss includes; the damage sustained because of the severance of such land from his other land or other injurious matter affecting his other movable or immovable property and if the claimant is compelled to change his residence or place of business, the reasonable expenses incidental to such change 	<ul style="list-style-type: none"> • The policy stipulates that land owners are entitled to compensation of land, compensation of building on replacement costs, expenses on labour • The policy stipulates that land owners are entitled to compensation for crops 	<ul style="list-style-type: none"> • Compensation of land for land to project affected persons. • Compensations on crops and trees on real replacement values.
Land Owner/Occupier	Public Roads Act (chapter 69:02) and Public Roads (Amendment Act) No.8 of 2017	<ul style="list-style-type: none"> • The Act and its Amendment stipulate that for customary estate, land owners are entitled to reasonable compensation in respect of disturbance 	<ul style="list-style-type: none"> • The policy stipulates that the recommended option is compensation of land for loss land. Other losses to be 	<ul style="list-style-type: none"> • Compensation of land for land to project affected persons will be the first priority. • Compensation of money for land to project affected persons in

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
		<ul style="list-style-type: none"> • This compensation shall be assessed using open market value based on the loss suffered by the claimant arising from damage to or destruction of his interest in the land, and the surface rights on such land may include compensation for other disturbance- <ul style="list-style-type: none"> -where he has to move his residence or place of business -where alternative land cannot be made available to him and the land remaining to him for any purpose is not an economic unit -where alternative land is made available to him, and where in making the alternative land equally as fit for use as the land which he has been deprived of, is likely to involve a loss in terms of money, materials or work. 	<p>compensated at replacement costs.</p> <ul style="list-style-type: none"> • The policy stipulates that temporary structures or buildings are entitled for compensation for loss of assets other than land or cash compensation at full replacement costs including labour and relocation expenses prior to displacement 	<p>cases of lack of alternative suitable land.</p> <ul style="list-style-type: none"> • Compensation of all structures at full replacement costs and labour costs prior to displacement • Compensations on crops and trees on market values. • Resettlement assistance to project affected persons.

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
Land Owner/Occupier	Lands Acquisition Act 21 of 1970 and the Lands Acquisition (Amendment) Act No. 9 of 2017	<ul style="list-style-type: none"> • The Act and its amendment stipulate that compensation will be based on an assessment done by an independent valuer appointed by the Minister. • The Act and its amendment stipulate that compensation is given when land is acquired. 	<ul style="list-style-type: none"> • The policy stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement. 	<ul style="list-style-type: none"> • Compensation of all structures at full replacement costs prior to displacement
Land Owner/Occupier	Lands Acquisition Act 21 of 1970 and the Lands Acquisition (Amendment) Act No. 9 of 2017	<ul style="list-style-type: none"> • The law stipulates that reasonable compensation should be given for loss of land by affected persons • The Act and its amendment stipulate that in assessing compensation the following matters should be taken into consideration; <ul style="list-style-type: none"> -the market value of the land, or interest therein of the claimant at the valuation date -the damage, if any, sustained by the person interested, at the valuation date, because of the severance from his land as a result of it being acquired 	<ul style="list-style-type: none"> • The policy stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement. 	<ul style="list-style-type: none"> • Compensation of structures at full replacement costs and labour costs prior to displacement

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
		<p>-if the claimant is compelled to change his residence or place of business, reasonable expenses incidental to such change</p> <p>-any increase in the value of the land or other benefit likely to accrue at the valuation date from the proposed development of the person interested</p> <p>-the relief obtained by the claimant because of the taking of land against the necessity of carrying out any order or direction against the land made under any law relating to the use and protection of land when the work required by the order or direction has not been commenced or completed at the valuation date</p>		
Land Owner/ Owner	Land Act No.16 of 2017	<ul style="list-style-type: none"> • The Act states that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in unallocated 	<ul style="list-style-type: none"> • The policy stipulates that land owners are entitled to compensation of land, compensation of building on replacement costs, expenses on labour 	<ul style="list-style-type: none"> • Compensation of land for land to project affected persons. • Compensations on crops and trees on real replacement values.

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
		customary land because of the land being acquired for public utility purposes should be paid reasonable compensation for such disturbance, loss or damage	<ul style="list-style-type: none"> The policy stipulates that land owners are entitled to compensation for crops 	
Encroachers	Land Act No.16 of 2017	<ul style="list-style-type: none"> The Act states that a court order can be issued against alleged trespassers, encroachers, or unlawful users or occupiers to vacate land within 7 days or longer. The number of days to vacate land depends on a on several factors including; how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will 	<ul style="list-style-type: none"> The policy stipulates that persons are entitled to compensation regardless of the legal status of their structures or occupation of the land The policy stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement The policy stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including 	<ul style="list-style-type: none"> Compensation of all structures at full replacement costs prior to displacement Compensations on crops and trees on real replacement values. Compensation on labour costs based on real replacement values.

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
		<p>take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police officer or officer of the court.</p> <ul style="list-style-type: none"> • The Act states that any person who uses or occupies any public land without title commits an offence • The Act is silent on compensation for alleged trespassers, encroachers, or unlawful users or occupiers 	labour costs prior to displacement.	
Land Owner/Owner	Customary Land Act No.19 of 2016	<ul style="list-style-type: none"> • The Act states that customary land shall be transferred subject to payment of appropriate compensation assessed by a registered valuer and agreed upon by the land committee and the Commissioner or between a person or representative of group of persons under a 	<ul style="list-style-type: none"> • The policy favours land for land compensation in cases of loss of land by project affected persons. • The policy stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including 	<ul style="list-style-type: none"> • Compensation of land for land to project affected persons. • Compensation of structures at full replacement costs prior to displacement

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
		<p>customary estate or those with a derivative right to use the land and the Commissioner</p> <ul style="list-style-type: none"> • The Act favours land for land compensation. It provides that if Government or reserved land is to be exchanged with the customary land which is the subject of the transfer, Government will identify an alternative piece of land to be transferred to the Traditional Land Management Area or the affected persons • 	labour costs prior to displacement.	
PAPs	Environment Management Act No.23 of 1996 and the Environmental Impact Assessment Guidelines	<ul style="list-style-type: none"> • The Act and the Guidelines require a social-economic and environmental assessment to be conducted on the impacts of the proposed project. • This can include determination of eligibility for compensation. • The EIA Guidelines also provide for meaningful consultations to be conducted. 	<ul style="list-style-type: none"> • The Policy advocates identification of persons who will be affected by the project to determine who will be eligible for assistance and to discourage inflow of people who will be ineligible • The Policy also requires meaningful consultations with affected persons and communities, local authorities, and, as appropriate, 	<ul style="list-style-type: none"> • Identification of person who will be affected by the project • Consultations to be conducted with affected persons and communities

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	Provision within piece of legislation in Malawi		
			nongovernmental organizations (NGOs)	

3.6 Addressing Policy Gaps in Implementation

The approach in addressing the discrepancies between policies of the two institutions is to focus on implementation of policy aspects, which positively favour the PAPs, and leave out those that negatively impact on the PAPs. This recommendation is based on the observation of that the common position between the World Bank Policy on Resettlement and the Constitution of Republic of Malawi on resettlement is the guarantee of fair and adequate compensation and adequate resettlement assistance for the PAPs. In this regard, suitable options to be adopted are as follows:

- a. Compensation in the form of land for land lost to acquisition from those who have been displaced must be made as a top priority. The option could be more cost effective as the land acquisition process (which involves the PAPs) may be much cheaper compared to acquisition of the same land by the government.
- b. Compensation related to customary land acquisition should be made on real replacement values as opposed to previous practice of considering customary land as a free commodity. Whenever there is a conflict between the World Bank Policy and laws of Malawi on land tenure; that of the World Bank will prevail.
- c. Compensation should be paid to categories of PAPs so long they are covered within the cut-off date. Some special PAPs to be included are the squatters, pirates, vendors' stalls/hawkers.
- d. Compensation should be paid in relation to labour and other inputs into gardens and maintenance of trees and crops.
- e. Provisions of basic and social services (such as potable water, graded access roads, sanitation facilities, fertilizer, income generating activities) to PAPs within the new area of relocations. Such support would enhance the restoration of standards of living of the PAPs.

CHAPTER 4 SOCIAL ASSESSMENT AND SOCIO-ECONOMIC STATUS OF THE PEOPLE IN MALAWI

A study of the existing socio-economic environment for the farming communities was carried out in some of the sampled districts where the project will be implemented in Malawi. The study has provided the areas where the RAP/ARAP for the different project components will have to provide a measure of the existing state of the socio-economic environment against which future changes imposed by the project activities will be measured and monitored.

4.1 Literacy levels

The average literacy rate for Malawi is 54%. Northern Region has the highest literacy rate of 77% while Central and Southern Regions have literacy rates of 62.5% and 62%, respectively. During the 2008 Population and Housing Census, at national level men had higher literacy rate (69%) than women (59%).

4.2 People and Population dynamics in Malawi

The estimated population of Malawi (2017) is 17.8 million, and the annual growth rate is 2.9%. Children under the age of 18 years constitute about 50% of the population size which indicates high dependency ratio. Females are about 53% of population while males are about 47% of the population. About 85% of the population live in rural areas and depend on small holder farming while only 15% of the population live in towns where as much as 75% of the urban population live in poor peri-urban and informal settlements

National Population density is 148 people per square kilometer. Population densities are among the highest in Malawi, ranging from 160 to Southern Region and Central Region of Malawi have about 88 % of the population in Malawi. The Shire Highlands, Lilongwe Kasungu Plains and Lake Chirwa Plain have among highest population densities in Malawi, ranging from 200 - 350 persons per square kilometre. The rate of population growth, density and distribution in a country have direct effects environment. Intensive and large scale human settlements enhance land degradation, natural resource utilization and depletion in incidences on excessive extraction. Infrastructural developments (water pipes, sewerage pipes, roads) have potential to negatively affect the environment. In this regard, understanding human settlement and socio-economic development is essential in environmental management. Main urban areas in Malawi are: City of Lilongwe (capital city, about 1000,000 people), Blantyre (commercial capital, about 800,000 people), Zomba City (about 200,000 people) and Mzuzu City (estimated population of about 220,000 people). The majority (about 70%) in urban areas live in unplanned settlements, where there are inadequate services. Quality of housing in unplanned settlement is quite poor. Poor quality of housing is also visible in most rural areas. Population and Housing Census (2008) results on Malawi's housing indicates that housing structure in Malawi consists of 43% as traditional housing, 34% semi-permanent housing and 23% as permanent housing. Main building materials for permanent houses are burnt bricks, iron sheets, tiles, concrete or asbestos for roofs. The semi-permanent houses are built of sun dried bricks and grass thatched while traditional house is built of mud walls and thatched roof. Major environmental problem in urban areas in human settlement is the existing of high density slums/squatter settlements. It is estimated that about 70% of urban population live in unplanned settlements where housing conditions are quite poor characterized by poor sanitation, lack of potable water, poor roads among others. Other major environmental problems in urban areas include indiscriminate disposal of solid wastes and liquid wastes.

According to the 2008 Population and Housing Census conducted by National Statistical Office of Malawi, the country had approximately 2,957,683 households, representing 37 percent

increase from 1998 Population and Housing Census. The approximate average number of persons per household in the country is 4.4, with the Northern Region having the highest number of persons per household (4.9 persons) than in Central and Southern Regions at 4.5 and 4.2 persons, respectively.

At district level, Likoma has the highest average household size of 5 persons while among cities, Blantyre has the least number of persons per household (4.2 persons). Overall, the results show an increasing trend in number of persons per household over the three decades.

4.3 Governance and development Planning.

There are a number of social strictures that the project affected persons will report to during the implementation of the project. These social structures and their functions are as follows:

4.3.1 The District Council

District Councils have two structures thus political and secretariat. Political structures are responsible for policy direction and comprises Constituencies and Wards represented by elected Members of Parliament (MPs) and Councillors, respectively. Councils conduct their business through a number of standing committees.

4.3.2 The District Executive Committee

The District Executive Committee (DEC) is the technical advisory body to the District Councils. It appraises and consolidates development projects that originate from the Village Development Committees (VDCs) through the Area Development Committee (ADCs) prior to approval and funding by the District Council. The DEC comprises all the heads of Government Departments, Parastatals, Non-Governmental organizations and the private sector. The District Commissioner (DC) heads the DEC and the Director of Planning and Development (DPD) is the secretary.

4.3.3 The Area Development Committee

The National Decentralization Policy provides for the establishment of Area Development Committees (ADCs) which are responsible for development projects in the areas of jurisdictions under traditional and sub traditional authorities. Assisted by Field Technical staff, ADCs review and consolidate project proposals from the village development committee (VDCs) before submission through DEC for approval and funding by District Councils.

4.3.4 Village Development Committees

Village Development Committees (VDCs) plan and manage development projects. The VDCs are assisted by field staff to prepare project proposals that are forwarded to ADCs for scrutiny prior to onward submission to District Council through the DEC. Upon approval and funding by the Council, the VDCs implement the projects. The VDC cover a group of villages.

4.3.5 Traditional Authorities

Traditional Authorities provide administrative and development linkages between communities and government through VDCs, ADCs and District Councils. Traditional Authorities are custodians of customary laws, traditional customs, beliefs and culture. Each Traditional Authority is responsible for a number of Group Village Heads that in turn are responsible for a number of Village Heads.

4.4 Malawi's Economy

The economy of Malawi is predominantly agricultural, with about 90% of the population living in rural areas. The landlocked country in south central Africa ranks among the world's least developed countries. Agriculture accounts for 29% of GDP and 85% of export revenues. The economy depends on substantial inflows of economic assistance from International Monetary Fund, the World Bank, and individual donor nations. The government faces strong challenges: to spur exports, to improve educational and health facilities, to face up to environmental problems of deforestation and erosion, and to deal with the rapidly growing problem of HIV/AIDS in Africa.

Agriculture represents 37% of GDP, accounts for over 80% of the labor force, and represents about 80% of all exports. Its most important export crop is tobacco, which accounts for about 70% of export revenues. In 2008 the country was the tenth largest producer in the world. The country's heavy reliance on tobacco places a heavy burden on the economy as world prices decline and the international community increases pressure to limit tobacco production. Malawi's dependence on tobacco is growing, with the product jumping from 53% to 70% of export revenues between 2007 and 2008. Rural poverty stands at 56.5% compared to urban poverty at 25%.

Other important exports are tea, sugarcane and coffee. These crops are grown in commercial estates/plantations. Sugarcane is grown and processed by Illovo Sugar Group on its two large irrigated sugarcane estates at Nchalo in Lower Shire Valley and Dwangwa Sugarcane Estates in Nkhotakota District. Exports from sugar, tea and coffee constitute about 20% of Malawi's exports. Most of tea is grown in Mulanje and Thyolo.

Malawi has few exploitable mineral resources. An Australian consortium exploits uranium in at Kayerekera uranium Mine near Karonga. Coal is being extracted at various sites including Mchenga Coal Mine and Eland Coal Mine in Rumphi District. Malawi's economic reliance on the export of agricultural commodities renders it particularly vulnerable to external shocks such as declining terms of trade and drought.

Malawi's manufacturing sector contributes 18.9% to the national GDP. Malawi's manufacturing industries are situated around the city of Blantyre and City of Lilongwe. Main sectors are food processing, construction, consumer goods, cement, fertilizer, ginning, furniture production and cigarette production. According to the post – disaster needs analysis report, the effects of damages and losses are estimated to result in a projected negative impact on GDP growth in 2015, to the tune of 0.6 percent. The economic costs resulting from the negative impact of the floods, other things being equal, may thus lead to GDP growth falling short of the 5.8 percent projection set for 2015. Economic growth is largely premised on expansions in agriculture, manufacturing, wholesale and retail trade, utilities, and transport sectors, most of which have been directly or indirectly adversely affected by the floods.

4.5 Transport Infrastructure.

The transport sector in Malawi is comprised of four sub-sectors, namely roads, rail, water and air. Road transport is the dominant mode of transport on land due to the flexibility allowed to users in reaching remote areas. Road transport handles more than 70 percent of the internal freight traffic and 99 percent of passenger traffic. Accessibility in rural areas has remained a challenge in Malawi due to the condition of the rural roads, which are mainly comprised of secondary, tertiary, district and community roads. The total road network covers 15,451km, of which 28 percent is paved, while the rest constitutes of either earth or gravel roads. The Roads

Authority has the mandate of overseeing the maintenance, rehabilitation and upgrading of main, secondary and tertiary roads in Malawi. District and community roads are administered by district councils but the Roads Authority still assists the districts in providing rehabilitation and maintenance services due to the councils' lack of capacity. The Government of Malawi is currently implementing several programs, including the Agriculture Sector Wide Approach Support Project to address challenges related to the transport sector. The main interventions in the project's roads component is to provide access to areas that have agricultural potential. Existing transport sector challenges have been aggravated by sporadic floods, which have wash away bridges, drainage structure and road sections, thereby isolating people from their socio-economic amenities, including schools, hospitals and others. The majority of the unpaved network lies in rural areas where the flood disaster has had the strongest effect. The Lower Shire has been the most affected.

Government is currently undertaking country wide road upgrading and rehabilitation of several main roads and secondary roads. Some road upgrading works are support by European Development Fund, African Development Fund and World Bank funded project. 53

4.6 Health Situation and HIV & AIDS Prevalence

Available government statistics highlights poor health indicators on infant and material mortality rates in the country. Malawi infant mortality rate in estimated at 92 per 1000 live birth, child mortality rate is 133 per 1000 live births and maternal mortality rate is 684 per 100,000 live births. Leading causes of death include HIV/AIDS related ailments, malaria, pneumonia, anemia, diarrhea and malnutrition. Malaria accounts for about 50% of monthly outpatient visits in Malawi. . Health services in Malawi general are provide by government through Ministry of Health (about 65%) coverage), Christian Health Association (CHAM) which covers about 30% of the country. Government has district hospitals (except Phalombe) and health centres. However, in some rural parts of districts, reliable health facilities are those under Christian Health Association. Currently main challenges facing health facilities are shortage of drugs and health workers. One of main cause is inadequate funds to purchase drugs and low salaries which cannot motivate health workers. The National HIV and AIDS Policy (2012) highlights that HIV/ AIDS impacts on the country is quite significant and affects a range of socio-e-economic activities be it in agriculture, fisheries, public sector, private sector, tourism, urban areas, rural areas among others. HIV and AIDS prevalence in the country varies from one region to the other and from rural to urban areas. Current rates (2014) indicate that highest rate is in the Southern Region at 15.18%, Central Region at 9.42% and lowest in Northern Region at 6.58%. Prevalence rate is 13.1% in urban areas and 10.61% in rural areas National HIV/ AIDS Policy identifies migrant workers (mobile population) and women are among highly vulnerable people to transmission of HIV and AIDS and other sexually transmitted infections. Proposed development of irrigation schemes and rural market infrastructures will bring some workers within project premises. Recruitment of migrant workers is anticipated during both construction phase and during factory operations phase. Single male migrant workers would be at increased likelihood of contracting HIV and AIDS in the project area. The reason is that some migrant workers would approach potential infected female partners in the surrounding local communities or could be approached by sex workers in the area. In addition, increased disposal income from migrant workers may enhance some workers to indulge in extra-marital affairs will either local girls or married women within surrounding villages. Sexual intercourses (involving migrant workers) during construction period may increase the spread of HV/ AIDS and sexually transmitted diseases. This may result into long term negative impact at local level. The impact is of high significance. With mitigation measures, the impacts can be reduced to low significance. Recommended mitigation

measures for adherence by contractors include: (a) prioritize hiring of local workers to migrants, (b) periodic distribution of both female and male condoms, (c) periodic HIV and AIDS sensitization meetings for workers and their spouses (d) development of HIV and AIDS Work Place Policy and disseminating of mitigation measures to workers.

4.7 Social and economic status of the people of Malawi

According to the third Integrated Household Survey conducted by the National Statistical Office (NSO), about 85 percent of households in Malawi are engaged in agricultural activities. Of these households, about 84 percent of households is engaged in crop production whilst 44 percent do rare livestock. Further, 43 percent of households engaged in agricultural activities are engaged in both livestock rearing and crop cultivation.

One of the key factors for high levels of poverty in Malawi is high dependence on subsistence farming. Malawi's Gross National Income (GNI) per capita was estimated at US\$476.8 in 2015. The Human Development Index was estimated at 0.445 in 2014, positioning the country at 173 of the 188 countries.

In 2015 the country recorded GDP growth rate of only 2.8 per cent mainly due to floods that took place some districts in the country especially southern region districts. This was followed by drought which negatively affected agricultural production. Depreciation of Malawi Kwacha due to decrease of agricultural exports and the strengthening US dollar, among other reasons, led to an increase of average annual inflation which stood at 22.6 percent by June 2016. The country has experienced double digit inflation for four straight years from 2013.

4.8 Social Characterization of potential affected persons

The Malawi Agricultural Commercialization Project will be implemented in all the districts in the country and specific sites for the implementation of the interventions under the project are not yet known at the time this Resettlement Policy Framework is being implemented. With these facts, it is difficult to determine the social characterisation of the potential affected persons. However the project will affect some of the 84% of households in Malawi that is engaged in crop production most of which live below the poverty line of less than 1 United States Dollar per day.

The project is likely going to affect people of different social characterisation because of varying differences in culture, ethnicity and religion. In most cases people of the same ethnicity have the same culture. The major ethnic groups in Malawi include Chewa, Nyanja, Yao, Tumbuka, Lomwe, Sena, Tonga, Ngoni and Ngonde and Asian. The Chichewa people form the largest part of the population group and are largely in the central and southern parts of Malawi. The Yao people are predominately found around the southern area of Lake Malawi and the Tumbuka are found mainly in the north of the country. The majority of Malawi's population, despite their ethnicity, live in rural areas Malawians with their extended families in huts that are grouped together in villages. Most Malawians have the culture of sharing resources with members of extended families and also neighbours.

The project specific RAP or ARAP will determine the social characteristics of the potential affected persons.

4.9 Irrigated agriculture development

Over the last ten years, Malawi has made significant strides in irrigated agriculture to complement rain fed agriculture. Promotion of smallholder irrigated agriculture has focused on

production of food crop and cash crops for smallholder farmers across the country. Most of smallholder irrigation schemes use water from perennial streams. The strategy adopts farmer participation in community based schemes in order to enhance sustainable food security and cash crop production. It is anticipated that such agricultural production would contribute to more cash crop production and industrial production which would in turn increase exports for international markets Available government records indicate that by 2014 there were about 101,000 hectares of irrigated smallholder schemes in the country. About 98000 hectares of irrigated schemes were underutilization by 415,205 farmers (225,340 males and 189,865 females). Technology used in smallholder irrigation schemes include gravity fed system, motorised pumps, treadle pumps and watering cans.

The gravity-fed technology accounts for 56% of the total developed area under smallholder farmers. A total 57,000 hectares have been developed under the technology, out of which 54,842.24 ha were being utilized for irrigation. The motorized pump-based irrigation technology covers about 8000 hectares. The treadle pump-based technology accounts for 29% of the total developed area covering 29,000 hectares. Commercial irrigated agriculture is undertaken by private companies and has made considerable achievement in cash crop production as well as food crop production. Irrigated cash crop production focuses on commercial plantation crops such as sugarcane, coffee and tea. Sugar, tea and coffee are among high value cash crops and leading exports from Malawi. Illovo Sugar Estates maintains about 29,000 hectares of sugarcane estates in Chikwawa District and Nkhotakota District. Dwangwa Sugarcane Estates utilizes water from Dwangwa River and Lake Malawi. Illovo Nchalo Sugarcane Estates and Alumeda Sugarcane Estates abstract water from Shire River. Smallholder sugarcane estates constitute about 4000 hectares and these have been developed around Dwangwa Cane Growers Trust and Kasinthula Smallholder Scheme in Chikwawa district. Kasinthula Smallholder Sugarcane Scheme abstracts water from Shire River. Irrigated tea and coffee plantations constitutes about 9,000 hectares and most of these are in Thyolo and Mulanje Districts. Most tea and coffee estates in Thyolo and Mulanje abstract water from Ruo River and Thuchila River.

Irrigation development in Malawi remains a pillar for food security and improved nutrition. Malawi Agriculture Commercialization Project will support development of new irrigation schemes and rehabilitation of damaged irrigation schemes. The activities will be carried out with support of Water Users Associations who own and manage various schemes damaged by 2015 floods. Rehabilitation of irrigation schemes have been taken as a priority in order to restore food security among vulnerable communities.

4.10 Land Uses in Malawi

The country has an estimated population of 16 million people against land size of about 9.5 million hectares. The average population density is 139 persons per square kilometre. About 85% of the population live in rural areas and depend on smallholder farming system while 15% of the population live in towns where as much as 75% of the urban population live in poor peri-urban and informal settlements

Agriculture being the main stay for Malawi's economy, accounts for about 40% of gross domestic product and about 85% of export revenue. Smallholder farming occupies about 4.5 million hectares while estates occupy about 1.2 million hectares of rural land. Studies show that about 55% of the smallholder farmers have land holding size of less than 0.5 ha of cultivable land. As a result of this constraint, most rural households face difficulties in

producing enough crops for both food and cash. Poverty levels are estimated at 60% and 65% of populations in rural and urban areas respectively.

4.10.1 Land Tenure Regimes

Land tenure is the system of legal rights and obligations governing the holding, acquisition, use, and disposal of land. There are five distinct land tenure classes existing in Malawi. The description and extents of the classes of land in Malawi are:

a) Customary Land

This is land held in trust for all people of Malawi by the State President, who delegates his authority to traditional chiefs. This constitutes about 75% of the total 9.5 million hectares of the land. The land is commonly held and distributed to the people by local chiefs. Although each person has recognised ownership to a piece of land, he or she cannot trade on it as the land can be reassigned to other people in case the chiefs deem it fit. A coherent system in the distribution of land exists in both patrilineal and matrilineal societies. This system has allowed smallholder agriculture to survive without access to bank loans.

b) Leasehold Land

This is part of private land that is leased by individuals or other legal residents. The lease period varies according to type of use that someone has applied for. Currently these fall into three groups of 21 years old leases for agricultural uses, 33 to 99 years old for property and infrastructure developments, and over 99 year lease for those who would wish to sublease to tenants of 99 years. About 8% of the land in Malawi is in this category.

c) Registered Land

This is grouped into two classes called customary registered and adjudicated land. The first exists in Lilongwe District only. This land is registered in the family leader name with all family names in that area registered including the size of their land holdings. Their implicit freehold status as the families can trade in its holding by leasing out or selling bits of it with groups consent. Loans can therefore be obtained on strength of their certificates to the land.

The second class is a simplified leasehold system, which allows owners to have certificates for their pieces of land based on survey and registration number. This is common in the urban areas, but has been applied in rural areas for agricultural, commercial and residential uses.

d) Freehold Land

This is land, which has been granted to persons for perpetuity. The government has no specific control on transactions except on planning permission on uses. This lease is now limited to Malawian citizenship only. It is difficult to enforce conservation measures on this land because of the exclusivity, which the persons enjoy, particularly some owners who live overseas.

e) Government Land

The is land which is owned and used by government for public utilities, schools, hospitals, government offices and other properties, markets, government farms and other public goods throughout the country.

f) Public Land

Land managed by agencies of the government and traditional leaders in trusts for the people of Malawi, openly used or accessible to the public at large. This includes catchment areas,

protected forest reserves, national parks, game reserves, dambos, community forests, riverines, flood plains, wetlands, military sites and others.

4.10.2 Land Acquisition Procedures

Upon identification of the specific land area to be acquired, the village development committee will initiate negotiations with the occupier(s) of customary land, registered proprietor or their representatives. Inter-department cooperation will be utilized wherever necessary to tap on the expertise and experiences of the various stakeholder institutions:

- a) The District Commissioner in consultations with the line district sector line officials prepare actions plans for implementation of land acquisition and resettlement that comply with the provisions of the framework; and
- b) Affected persons are then served with a notice with a clear explanation of the purpose of the acquisition, the area of land required and the owners' right to compensation in accordance with the existing law.

In the case of customary land, District Commissioner ascertains from the village head, the land register, or whichever is applicable in order to determine the person or persons who have the right over that land. And in the case of freehold land the Ministry of Lands and Housing shall ascertain the registered owner or owners of the freehold land to be acquired from the land registers.

The District Commissioner commissions a survey on such land to be acquired. Thereafter a plan is prepared and certified to be accurate showing:

- a) Land to be acquired;
- b) Names of the owners and occupiers of that land as far as they can be ascertained; or
- c) In the case of customary land the name of the land owner who is the holder of the right over the land as ascertained by the local chief and other bonafide local residents.

A copy of such plan shall be deposited in the office of the District Commissioner and another at the premises of the local chiefs. It should be highlighted that in case some project affected persons have objections to the proposed land acquisition and resettlement, their objections have to be done in writing to District Commissioner for or Commissioner for Lands and Valuation within 30 working days after the public notice. Alternatively, formal complaint can be lodged via traditional authority.

4.11 Land situation

Both, customary and public land tenure systems exist in Malawi as well as in all the districts where the different project components will be implemented. Land matters in the most districts where smallholder farming communities operate are governed by the principles of customary law and therefore, the land is under the custodian of the affected village headperson. Land conflicts on boundaries of land and inheritance do occur and when they occur they are handled by the village headpersons who sort out the issues and if they fail the matter goes to the Traditional Authority.

4.12 Access to land

Access to land in most of the traditional farming communities is managed by customary law. For customary land, a farmer accesses the land through inheritance from ancestors (the most common), and/or buying/renting from a farmer who inherited it. The traditional authorities

have no power to take the land from the household that owns it to allocate it to a landless person.

4.13 Land ownership, disputes and conflicts

Land conflicts and disputes between villagers are common in some of the Village Development Committees (VDC) in the different districts. The disputes concern mainly the boundaries and land rent arrangements. Normally boundaries are straight and trees are planted along the boundaries as landmarks. Land disputes are resolved using the customary law which empowers the Village Headpersons to resolve the disputes by bringing together the disputing parties, and if they fail, the matter goes to the Group Village Headpersons (GVH) and on rare occasion when this fails the matter goes to the TA as the last resort.

Some of the land in the project areas is used for cattle grazing in the dry season. With the coming of the different components of the project, there will be need for the project to demarcate certain areas for cattle grazing to avoid conflicts.

4.14 Land leasing and borrowing

In the Malawi especially among the rural farming communities, land leasing and borrowing follow the customary law. The farmers who own land are responsible for renting it out or lending it out to some other people who need land. It is no longer the responsibility of the village headperson. According to the findings of the public consultation meetings, it is very common to rent out land. Most of this land is rented out to farmers who have the capacity to cultivate more land.

4.15 Land compensation

Discussions with the traditional leaders and the project affected persons showed that people in most farming communities are willing to give up their land for the sake of the project as long as they will be properly compensated.

4.16 Farming and production systems in Malawi

Most farmers in Malawi grow maize, tobacco, groundnuts, beans, sweet potatoes, cassava and some vegetables. The prevailing farming system is mostly subsistence. The current cropping calendar is determined to a large extent by one rainy season. Field operations for most crops start in November with land preparation such as land clearing, ploughing and ridging. This is to facilitate planting with early rains in December. The vegetative growth is between January and March with harvesting in March to April of most of the crops grown in the wet season with the exception of cassava which as a perennial crop is harvested in September to December. Very few farmers irrigate crops especially tomatoes and green vegetables with water cans and treadle pumps. Very few farmers practice crop rotation and rely on hand hoe farming. Farm mechanization through the use of tractors and animal drawn equipment is not practiced much. Maize is usually consumed by the farmers and not sold. Only tobacco is produced for major cash revenues. Manure and fertilizer are used for improving the soil fertility and increasing agricultural productivity. Manure is made mainly from livestock products such as livestock dung and also crop residues. Herbicides are only used for tobacco in the project area.

4.17 Current cropping pattern, yield and gross margins in the project impact area

Farmers' practice rain fed summer cropping whereby the average cropping intensity amounts to 91 % with fallow amounting to 10 % and 1 % of the area irrigated in the dry season. Livestock production is another important component of land use system in Malawi. This

includes cattle, pigs, chickens, rabbits, goats and ducks. The livestock act as security among the farming families and are mainly sold in times of hardships and purchasing of farm inputs. They also provide meat and milk (cattle) and cattle are also used for transportation purposes. Apart from grazing in the uncultivated areas, they also graze along the river banks. The worry is where these livestock will graze after most areas where they are grazing now are surrendered to different project components.

4.18 Estimated income per farm household

An analysis of the household income show that net farm income per household amounts to K150,000.00 with an average landholding size of 0.5 - 0.8 ha. Through the public consultation meeting, it was observed that off-farm income on average amounts to 20 % of the farm income.

4.19 Organizations supporting agriculture development in Malawi

Very few institutions are providing agriculture support services in the areas of production, financing, processing and marketing. An assessment of the performance of each of the active service providers has also been carried out.

4.19.1 Ministry of Agriculture, Irrigation and Water Development

The Ministry of Agriculture, Irrigation and Water Development's (MoAIWD) mission is to promote broad-based sustainable agricultural development for stimulation of economic growth and contributes to poverty reduction in Malawi. The ministry's instruments for carrying out its mission include policy formulation and regulation, supervision of parastatal agricultural organizations; coordination of training; and collaboration, and facilitating and regulating the activities of stakeholders in the agriculture sector. In line with the decentralization policy of 2000, the ministry's role as noted from its instruments shifted from direct implementation to more of a regulatory role.

In view of the decentralization policy, the MoAIWD is divided into 28 District Agriculture Development Offices (DADOs). The DAOs are the focal points for planning, providing information including technical advice, training and supervision of Extension Planning Area (EPA) staff and farmers. The DADOs are further divided into 154 EPAs. The EPAs are responsible for developing farmers' groups, facilitating farmers' access to credit institutions and farmer training. The EPAs are further divided into sections which are the lowest level of the MoAIWD structure.

In most cases, a section covers one village. The section is the main point of service-delivery to farmers and is also a point of interface for the MoAIWD with farmers. The proposed project falls under the DADOs. The districts have Irrigation Officers and Agribusiness Officers who will backstop implementation of different project activities among other subject matter specialists the Agriculture Extension Development Coordinators (AEDCs) and Agriculture Extension Development Officers (AEDOs) based at the concerned EPAs. It is however important to note that the existing staff capacity at both the district and EPA levels might not be adequate for the implementation of the project components.

The DAOs through the corresponding EPA provide agriculture extension services to different farming communities. The section advises and trains farmers among others on the following:

- a) Manure making, and using crop residues such as maize stock spreading in the garden;
- b) Soil conservation by giving each farm household 5 kg of soil conservation plants seeds; and

- c) Support in identifying farm households (about 20 % of all farms) in being eligible for the targeted inputs subsidy.

The extension workers use bicycle as a means of transport when visiting farmers for agriculture extension delivery. On average, an agricultural extension worker visits the project area twice a month. The area also uses the lead farmers' approach. The approach involves the use of progressive farmers or early adopters of technologies with a view to teaching their fellow farmers in their communities improved agriculture technologies. The agribusiness officer at district level assists farmers in the development of business plans. However, in spite of this training, the knowledge of farmers in agribusiness and in gross margins is very poor. This is partly due to the fact that most farmers don't keep farm records and hence, the data basis is very weak.

4.19.2 Other extension service providers

In Malawi, there are usually two types of non-governmental organizations (NGOs) working in the rural areas i.e. informal and formal organizations. Informal organizations are mostly local community based organizations, usually not registered, while formal NGOs are organizations which are legally registered and they can be either local or international organizations.

4.20 Marketing and agro-processing

As in most of the developing countries, particularly in Africa, marketing of agricultural produce has been always a problem where farmers usually do not have sufficient market information which is (mis)used by traders and vendors by offering low prices to farmers implying that the main margin is with the trader and not with the producer. In spite of the efforts to set up farmer cooperatives, the bargaining power of the farmers, even organized in cooperatives has not become very strong in Malawi and there is significant scope for improvement.

Most of the agricultural products produced by the farmers in Malawi are sold through traders who usually buy the produce at the farm gate or at small markets within the vicinity of the project area. The mode of transport to the market for most crops with the exception of tobacco is carrying the produce on the head when travelling on foot or using bicycles. The most important players in the produce marketing chain for the project are the smallholder farmers and the vendors. Most of the food crops harvested is consumed and only a small percentage is sold to vendors.

4.21 Estimated population, displacement and categories of affected people

At this stage in the project, it may not be possible to estimate the population of people to be negatively impacted by the project as exact locations have not yet been determined. Therefore, this section of the RPF will mainly focus on the approach that will be used in determining the PAPs and their categories; creation of baseline socio-economic database of the PAPs and public consultations.

4.21.1 Approach for identifying Project Affected Persons

The Land legislation considered all titled landowners, customary landowners, encroachers, persons affected by loss of access to sources of income and persons affected by loss of access to natural resources, as PAPs. As such it is clear that all affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land and are likely going to be affected by the project before the entitlement cut-off date. The entitlement cut-off date refers to the time when the census of

persons and their property in the area is carried out, i.e. the time when the project area has been identified and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered. Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

4.21.2 Determining categories of PAPs

PAPs refer to people directly affected, socially and economically, by a project construction, as a result of: **(i)** The appropriation of land and other assets causing relocation or loss of shelter; loss of assets or access to assets; loss of income sources or means of livelihood, whether or not of the affected person; and persons must move to another location; and **(ii)** The restriction or denial of access to legally designated areas that result in adverse impacts on the livelihood of the economically or physically displaced persons.

Until the exact project location sites are determined, it will not be possible to estimate the number of people who may be affected, since the technical details of the project are not yet known. However, the likely displaced persons can be categorized into three groups as individuals; households; and vulnerable groups or people.

a) Individual PAPs

These are individuals who suffer loss of assets or investments, land, property, or access to natural and/or economical resources as a result of the activities and to whom compensation is due.

b) Households

A household is affected if one or more of its members is affected by the program activities, either by loss of property, land or access, or is otherwise affected in any way by program activities. This includes:

- i) Any members in the households (men, women, children, dependent relatives, and friends);
- ii) Vulnerable individuals who may be too old or ill to farm along with the others;
- iii) Members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence;
- iv) Members of households who may not eat together, but provide housekeeping or reproductive services critical to family maintenance; and
- v) Other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.

c) Vulnerable groups

In Malawi, vulnerable households may have different land needs from other households or needs unrelated to the amount of land available to them. They may already be undergoing some form of rehabilitation including training to acquire vocational skills in purpose-built centers and/or other forms of special care. Vulnerable people include:

- i) **Unmarried women:** These women may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom he or she is linked to in dependency as part of the household, resettlement will never sever this link.
- ii) **Elderly:** Elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce, because by

producing even small amounts of food to "exchange" with others, they can subsist on cooked food and generous return gifts of cereal from relatives, friends, and neighbours. Losing land will affect their economic viability.

- iii) **People living with HIV/AIDS:** Relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from government, international organizations, and NGOs.
- iv) **Orphans:** Due to the impacts of the HIV/AIDS crisis that plagues Malawi, there are a considerable number of orphaned children whose parents have died from AIDS. These children today fall into three categories of care: (i) those being looked after by an uncle, aunt, grandparents, or other close relative; (ii) those being looked after by the government, local authorities, or NGOs; and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often "voiceless"; they have no parents to defend or stand up for them and they are considered too young to be heard. Orphaned children engage in any form of economic activity to provide for themselves and their siblings, including selling paraffin or water, artisanal mining, and exploitative employment, among others.
- v) **Exploited children:** Despite Malawi law and the International Labour Organization (ILO) prohibiting the exploitation of children, it is a reality that street children are either in paid employment or are on the streets in some areas in Malawi. They tend to live in close proximity to large towns and cities.
- vi) **Street children:** Should they become impacted by the subproject in a way that means they have to be physically relocated; their compensation cannot be in cash. They would have to be put in a United Nations Children's Fund (UNICEF) program or registered with one of the many children's charities operating in Malawi. Their compensation would take the form of paying for their rehabilitation and vocational training.
- vii) **Female-headed households:** These households may depend on husbands, sons, brothers, or others for support. However, there are also cases where women are the main breadwinner in their household even when the men have remained with the family. Women therefore need relatively easy access to health service facilities. This includes situations where the land being appropriated is used by a woman with no formal rights to it or where a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from these sources of support because the very survival of their households may depend on them. Their compensation must take into account all these factors.
- viii) **Small-scale women farmers:** These women farmers are vulnerable because they may not have men available within the household to carry out male-specific land preparation tasks such as ringing trees or clearing or plugging land. Either male relative in other households help them voluntarily, or they hire men and pay by cash, beer (locally brewed), or food. Land compensation specifically includes the labour costs for preparing new land, so this expense is covered for women farmers.
- ix) **Non-farming women:** These women earn income from other sources and/or depend on relatives for exchanges of staple foods. Because they do not farm they will not be affected by a subproject's need for agricultural land. However, if a building owned by a woman lies

on land needed by a subproject, they will receive replacement cost compensation. If someone on whom they depend is displaced/resettled, they are protected because the displaced/resettled person can name them as part of the household.

x) **Women and the youth Concerns**

Vulnerable groups, especially women-headed households and the youths will obtain benefits equal to men in the project. Further, in some mitigation measures, they will be better placed with a view to enhance their economic and social wellbeing. A number of meetings will be held with the women groups and the youths during the RAP preparation to define the roles of women and the youths and how the project will benefit the two groups. The meetings will also look at the project benefits to women and the youths, raising awareness level among the women and the youths, opportunities for women and the youths during the RAP implementation.

These groups are identified as particularly vulnerable to ensure that they are included in the socioeconomic and baseline study so that: (i) they are individually consulted and given the opportunity to participate in the project activities; (ii) their resettlement/compensation are designed to improve their pre-project livelihood; (iii) they receive special attention to ensure that their pre-project livelihood is indeed improved upon; (iv) they are given technical and financial assistance if they wish to make use of the grievance mechanisms of the project; and (v) decisions concerning them are made in the shortest possible time.

4.22 Creation of Baseline Information on Project Affected Persons

An important aspect of preparing a RAP is to establish appropriate and accurate baseline socio-economic data of the PAPs and carry out census of the PAPs to identify the persons who will be affected by the project. This will assist in determining who is eligible for compensation and assistance, and to discourage inflow of people who are ineligible. Census is important when developing a RAP because it:

- a) Consolidates information that provides initial information on the scale of impacts;
- b) Gives an indication of further socio-economic research needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and
- c) Establishes indicators that can/be measured at a later date during monitoring and evaluation.

4.23 Public Consultation and Participation

Community participation and involvement from the planning to implementation phase contribute to the successful implementation of a project. Hence public consultations through participatory rural appraisal shall be mandatory for all projects requiring land acquisition, impact on assets, compensation and resettlement.

During screening there must be adequate consultation and involvement of the local communities and the affected persons. Specifically, the affected persons must be informed about the intentions to use the earmarked sites for the Malawi Agricultural Commercialisation Project activities, facilities and structures. The affected persons must be made aware of:

- (a) their options and rights pertaining to the project as well as resettlement and compensation;
 - (b) specific technically and economically feasible options and alternatives;
 - (c) process of and proposed dates for compensation;
 - (d) effective compensation rates at full replacement cost for impact on assets and services;
- and

- (e) proposed measures and costs to maintain or improve their living standards.

Public consultations at the screening stage of the project aims at:

- a) Determining the willingness communities to participate in the projects activities including willingness to contribute towards long term maintenance of the project facilities;
- b) Introducing the project concept to community members with an aim of provoking interest among community members to participate in the project ac activities;
- c) Promoting sense of ownership for the project; and
- d) Engaging communities on the selection of project sites.

During the preparation of this RPF some consultations were conducted with District Executive Subcommittee (DESC) members and farming communities in the selected Central Region Districts of Salima, Mchinji and Kasungu. A number of issues were raised and these included:

- a) Possibility of engaging with owners of estates that have remained idle or uncultivated for a number of years on the possibility of using some land for Agricultural Commercialisation Project activities;
- b) The project should critically look at some existing value addition initiatives that are existing in the districts so as to address the existing gaps and build on their strengths;
- c) Consult with traditional leaders and district councils when dealing with land issues;
- d) Procedures on land use or use of project facilities should be clearly laid out to avoid instances where some people may prevent others from using the project facilities or land;
- e) Ensure that ownership of the land is transferred from people willing to donate land for the project activities to the project so as to avoid future land conflicts; and
- f) Farmers should be grouped into cooperatives so that they can easily be linked to markets

Annex 4 provides Minutes of the consultation meetings and a list of people who were consulted.

4.24 Screening of PAPs

After subprojects have been agreed by different stakeholders, a determination will be made as to where land will need to be acquired. This process will lead to the creation of a list of activities for each subproject that may potentially involve resettlement PAPs, as well as any land where access may be restricted. This list will be presented to affected communities through consultations. These consultations will be documented for each site or sub-project including the number and type of participants, record of issues raised and how they have been agreed upon including the timeframe for resolving any contentious issues, photographs of participants, and signed minutes of the meetings.

CHAPTER 5 PRINCIPLES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION

5.1 Basic principles of the resettlement program

The Malawi Agricultural Commercialization Project will seek to minimize displacing people. Where acquisition of land is required, the project will undertake RAP studies for each project component to guide compensation of affected assets. In the case of customary land as defined in the Customary Land Act No.19 of 2016, traditional leaders, customary land committees and respective district councils and the affected communities, including youths and women, will be party to any consensus to acquisition of land and the modalities envisaged.

The impacts due to involuntary resettlement from development projects, may give rise to economic, social and environmental risks resulting in production systems being disturbed, people facing impoverishment when their productive assets or income sources are lost, people being relocated to environments where their productive skills may be less applicable and the competition of resources increases; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help being diminished or lost.

The Resettlement Policy is triggered when a person experiences an impact on assets, a loss of income, or the project requires land acquisition, namely: a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on that land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, people will appropriately be compensated for their loss (of land, property or access, and assets) either in kind or in cash, of which the former is preferred.

The principles of any resettlement programme follow after the World Bank Operational Policies on resettlement as well the Malawi policies and laws on resettlement. Details of the principles are provided in the sections that follow:

Principle 1: Compensation for losses of assets will be provided at full replacement cost

The World Bank OP4.12 states that Replacement Cost as a rate of compensation for lost assets must be calculated as market value plus transaction costs. It further expects the project to compensate affected people for loss of physical assets, revenue and income resulting from economic displacement or physical relocation regardless of whether these losses are temporary or permanent.

Principle 2: Only sites with no or minimal resettlement will be recommended for the project

Suitable sites for funding of the different project components will be those where implementation of project component activities will not result into involuntary resettlement, voluntary or involuntary physical dislocation, eviction of squatters, loss of land.

Principle 3: For projects proposed within a site where resettlement is unavoidable, government will plan and implement resettlement activities well in advance before construction of new infrastructure and implementation of the project component activities. Implementation of resettlement activities by the communities will be on the following principles:

a) Stakeholder consultation and participation

In case government intends to implement some activities of the project component on a piece of land that shall cause resettlement, government will adequately consider the views, rights and interests of the displaced and to – be- resettled people.

b) Establishment of a pre - resettlement baseline data

Government will prepare a Resettlement Action Plan or an Abbreviated Action Plan to guide compensation and relocation processes. The preparation of these action plans will be based on baseline surveys of the project affected persons and the locality of the project.

c) Provision of resettlement assistance to PAPs

PAPs will be provided with necessary support in case of relocation. The support will include provision of transport and basic services on the new sites of settlement.

d) Negotiation for fair compensation options

In case of any resettlement in order to implement some of the project component activities, government will put in place different compensation options for the PAPs to choose based on open market values.

e) Consideration of Vulnerable social groups in a special way

Compensations and resettlement assistance will cover all entitled categories of project affected persons including vulnerable groups such as the squatters, female headed households, widows, unmarried females, the aged, child headed families, orphans, widowers and the disabled.

f) Setting up of accessible grievance redress mechanisms

Government will put in place user friendly and cost effective mechanisms for addressing complaints from project affected persons. The mechanisms will include use of local grievance redress mechanisms administered by a project committee, local village heads, traditional authorities as well use of formal courts under the Judiciary. The use of the Customary Land Tribunal in every Traditional Land Management Area, District Land Tribunal and Central Land Board established under the Customary Land Act No.19 of 2016 will allow project affected people in Traditional Land Management Areas to access such services without going long distance. For non-customary land, the laws of Malawi have established various grievance redress mechanisms.

g) Compliance to relevant policies and laws

Land acquisition and resettlement activities by government will be implementation in compliance with the relevant World Bank Safeguards Policies and Malawi government policies and laws.

5.2 Estimation of displaced persons and Cut – off Date

Cut-off date is the date when the team that is facilitating resettlement/relocation of PAPs finalizes conducting census and compiling an inventory of the PAPs and their property in a particular project area. Information regarding the cut-off date will be well documented and disseminated throughout the project area and in relevant local languages. This will include posted warnings that persons settling in the project area after the cutoff date may be subject to removal.

Census of the PAPs and their property is conducted in order to get pre-resettlement data and information regarding those PAPs that will be re-located in order to plan for their compensation and resettlement. The exercise involves head count of the people and their property in the project area. All heads of households who were not residents in the area prior to the cut-off date are not eligible for resettlement assistance and compensations. The steps which are undertaken to conduct census of the PAPs and their property include the following:

5.2.1 Site visit to the project areas

This will help to appraise the pattern of the structures, scope of activities and density of residential properties on the site.

5.2.2 Identifying boundaries of the proposed project areas

The purpose would be to prepare boundaries of the site within which to work on.

5.2.3 Determining the size of land to be lost

The exercise will involve estimating the size of land the PAPs will lose to the project.

5.2.4 Conducting physical check and count of the houses within project area

The activity will be conducted to find out the number of houses and heads of households who will lose their property to the project.

5.2.5 Establishing number of persons per household

The activity will establish the number of persons living in one house in the project area especially those people who will lose their houses to the project.

5.3 Valuation of the PAPs assets

5.3.1 Basis of Valuation Methods

The basis for valuation of assets will basically be two, namely, the local laws and the World Bank OP4.12.

Local Provisions There are a number of legal provisions in Malawi which govern compensations in the event that one's assets are affected.

- a) Section 28 of the Constitution of Malawi provides that every person shall be able to acquire property and that having acquired that property, no person shall be arbitrarily deprived of the property. Section 44 (4) further states that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.
- b) The principal Act on Land Matters - the Lands Act (Cap 57:01) provides that any person who suffers any disturbance of, or loss or damage to any interest which he had shall be paid compensation for such disturbance, loss or damage as is reasonable.
- c) Additionally, the Land Acquisition Act (58:04) Sections 9 & 10 provides the procedure for the assessment of a fair compensation. It considers three steps as being necessary to arrive at a fair compensation. Namely:
 - i) The consideration which the person entitled to the land paid in acquiring it;

- ii) The value of the unexhausted improvements to the land made at the expense of the person entitled thereto since the date of his acquisition thereof;
- iii) Any other appreciation in the value of the land since the date of such acquisition.
- d) The approved 2002 Malawi National Land Policy (4:12,16) carries the spirit with which valuations have to be conducted especially on customary lands. In part it says that "land values shall be determined by open market procedures for customary lands acquired through compulsory acquisition by the government. It further notes that "the inadequacy of compensation is always the direct result of excluding certain items or qualities from the factors considered when determining value and delays in payment of compensation"

The World Bank OP4.12: The proposed project and its components requires the World Bank OP4.12 to be followed. It "recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons that use this land". The World Bank OP4.12 defines involuntary resettlement as embracing both physical as well as economic displacement arising due to project-related land acquisition and/ or restrictions on land use.

The World Bank OP4.12 further provides that in arriving at the full replacement cost, depreciation of the affected asset and the value of the salvage materials are not to be considered, nor is the value of the benefits derived from the project subtracted from the gross valuation of the asset.

5.3.2 Valuation Practice in Malawi

Valuation in Malawi is undertaken by Real Estate professionals registered under the Land Economy Surveyors, Valuers, Estate Agents and Auctioneers' Act of 1989 (CAP:53.08) of the laws of Malawi who are Members of the Surveyors Institute of Malawi (SIM). SIM subscribes to the International Valuation Standards of the International Valuation Standards Council as a member. As such valuation of assets is done in accordance with Practice Statements and Guidance Notes published by the International Valuation Standards Council (IVSC).

The IVSC (2009) defines Market Value as "Market Value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's- length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion."

5.3.3 Valuation Methods Used

The Method used in valuing the assets affected is dependent on the use, type and market conditions of the asset. Based on the knowledge of the asset impacted by the project, the appropriate method used in the valuation of the affected asset are Cost approach, Investment approach and Comparison approach. The following categories of assets will be affected: loss of structures; loss of land; loss of crops; loss of trees; loss of fruit trees; and loss due to use restriction under the project.

5.3.3.1 Market values of land and properties

The World Bank OP4.12 require that compensation be done at full replacement cost. Full replacement cost has been defined above as including market value. Assessment of market values world over involves the use of Comparable Sales and Capitalization/ Income or Investment approaches.

5.3.3.2 Comparable Sales Approach

In this approach, sales of similar, vacant parcels of land or property are analysed, compared, and adjusted to provide a value indication for the land or property being appraised. It basically relies on market information which must be sought. In the case of land, comparable sales or offers made in the vicinity will be sought, analysed, adjusted to arrive at the market value.

5.3.3.3 Investment Approach

This approach is most applicable to agricultural land and investment properties lost. The income approach is based on the principle that the value of an investment property reflects the quality and quantity of the income it is expected to generate over the life of the property at issue.

In other words, the value of the land derived from this approach is the estimated present value of future benefits, including streams of incomes during the lifetime of the property and proceeds from the sale of the property. The income approach assumes that the owner or potential owner intends to generate income from the land. This valuation approach derives land or property value by annual net income from the land/property divided by an estimated capitalization rate.

To arrive at a full replacement cost of land the value of labour invested in preparing agricultural land will be compensated for using wage for the same period of time. The labour cost will be calculated on what it would cost a farmer to create a replacement land. This value will be determined by adding together the costs of clearing, ploughing, sowing, weeding twice and harvesting the crop plus registration and taxes as the case may be to achieve a full replacement cost.

5.3.3.4 Cost Approach/Contingent Valuation

The cost approach is based on the supposition that no one would pay more for an existing property than the amount it would cost to buy an equivalent site in terms of size and location plus the cost of constructing an equivalent building. To that cost land value is added.

The gross replacement cost (GRC) of the buildings is calculated using current cost figures to which is added the related costs such as site works, architect's fees, building permit costs, and finance interest charges on bank borrowing to cover the costs as the case may be. Costs of materials (both local and manufactured), labour and transport of such materials were obtained from shops and contractors in the area under consideration.

This method is used for structures/buildings and other support facilities in rural areas where market of such properties is scarce. Cost of access to water supply will be considered including sanitary facilities regardless of whether the house has such or not. Incomplete or partly falling dwelling houses will be valued based on the replacement costs only. Partly, this method will be intertwined with contingent valuation. Contingent valuation involves directly asking people, in a survey, how much they will be willing to pay for specific service or how much they will be willing to accept for loss of an existing service. This can work well for the cost of loss of access to water supply and other related services. The method is called 'contingent' valuation because people are asked to state their willingness to pay for obtaining or losing, contingent on a specific hypothetical scenario. The gross replacement cost will not be depreciated.

5.3.4 Assessment of Land Value

The comparable approach or investment approach is used to determine the value of land in view of the implementation of the proposed project, as future use of land by the previous owners will no longer be possible.

5.3.5 Assessment for business loss

Business loss is assessed through Profits Valuation method. The method is applicable on categories of property that are normally bought and sold on the basis of their trading potential. The essential characteristics of these properties is that they are designed, or adapted, for a specific use and that ownership of the property normally passes with the sale of the business as an operational entity

5.3.6 Assessment of Shops

For shops such as those found in trading centres, the same investment method as described above is employed. However, for total extinguishment of business, Profits method is used.

5.3.7 Assessment of fruit trees and perennial crops

The valuation of perennial crops and fruit trees is based on the product of their average yield (kg/tree/year), highest market price/kg and expected life span plus establishment cost. This has been the practice at district and national level. It is also applicable under the World Bank practice.

5.3.8 Assessment of values for trees

Assessment of values for trees has in the past been based on the provision of the Forestry Gazette (2010). Regard was given on the current market prices of trees locally in the absence of better prices. Regard was given on the size of trees being lost. Big trees attracted high rates.

5.3.9 Assessment of annual crop values destroyed

Assessment of values for annual crops for land is based on the highest market unit price of the crop over the period of three years multiplied by the yield /kg and multiplied again by the land size. The yield is the highest yield of that particular crop as determined by Ministry of Agriculture.

5.4 Disturbance Allowance

The local laws provide that disturbance allowance be paid to those affected in the involuntary displacements. Therefore a percentage of a total value for compensation was decided and applied accordingly. Error! Reference source not found. provides a summary of valuation methodology.

5.5. Malawian Legislation

Section 10 of the Lands Acquisition Act No. 21 of 1979 read with the Lands Acquisition (Amendment) Act No. 9 of 2017 provides that an assessment of compensation shall be calculated based on the following grounds; loss of occupation rights, loss of land, loss of structure, loss of businesss, relocation costs, loss of goodwill, cost of professional advice, nuicance, loss or reduction of tenure or disturbances, if it is not too remote and is a natural and reasonable consequence of the disposition of land. Therefore these factors should be taken into consideration in the valuation methodology.

Table 5.1 Summary of Valuation Methodology

Asset	Process
Land	<p>A detailed inventory of all persons and their land holdings; Valuation of land on market basis; Determination of costs to the land including disturbance allowance; and Determination of compensation package according to valuation and costs. (Section 10A of the Lands Acquisition (Amendment) Act No. 9 of 2017 provides for matters to be taken into consideration in assessing compensation for alienated land and they include;</p> <ul style="list-style-type: none"> • Market value of the land or interest therein of the claimant on the valuation date; • The damage, if any, sustained by the person interested, at the valuation date, by reason of the severance of such land from his land; • If in consequence of the matters giving rise to the claim, the claimant is compelled to change his residence, or place of business, reasonable expenses, if any incidental to such change; • Any increase in the value of the land or other benefit likely to accrue at the valuation date from the proposed development to the person interested)
Structures	<p>A detailed inventory of persons affected and their buildings and ancillary structures; Valuation of buildings based on comparable/investment/cost/profits approach; Determination of disturbance allowance; and Determination of compensation package without depreciating the value of the structures.</p>
Loss of business profits	<p>A detailed inventory of persons and their businesses; Establishing business profits for the past 5 years using their accounts details. Determination of disturbance allowance; and Determination of the compensation package.</p>
Crops	<p>Potential annual yield of the crop multiplied by highest market price per kg multiplied by land size.</p>
Trees	<p>No. of trees multiplied by market prices or as per Forestry Gazette prices.</p>
Fruit trees	<p>Value was based on yield per year per hectare, productive lifespan, market price/kg. Establishment will be added.</p>

CHAPTER 6 ENTITLEMENT FOR ELIGIBILITY FOR RESETTLEMENT AND COMPENSATION

The proposed project will require involuntary acquisition of land. This will result in physical relocation, loss of assets or access to assets, and/or loss of income sources or means of livelihood whether or not those affected by the project must move to another location. Such acquisition of land will adversely affect the wellbeing of the people whose assets will be acquired, as well as the communities in which they live and this will give rise to severe social and economic risks.

This Section defines who is eligible for resettlement and compensation, and outlines the types and levels of compensation and other supplementary measures that will assist each category of eligible-affected people, and at the same time achieve the objectives of the Malawian legislation and policies and World Bank Safeguard Policy on Involuntary Resettlement (OP4.12).

6.1 Eligibility

Those who will be affected by asset loss and resettlement and are eligible for compensation and other assistance require definition and identification, with criteria set for determining their eligibility. The types of losses that PAPs may suffer will include temporary loss of access to agricultural land, income, housing, proximity to work, utilities and social amenities. Some of the PAPs may incur losses to a combination of the above.

6.2 Determining Criteria

The key issue is how any project-affected persons (PAPs) will be determined in the project area. For this reason, the RAPs should focus on the identifiable PAPs. The identification of persons eligible for compensation and resettlement will be based on the following criteria:

- a) Persons losing land with or without legal title;
- b) Persons losing temporary or permanent access or rights to services;
- c) Persons losing business or residential property;
- d) Person with homes, farmland, structures or other assets affected by the proposed project;
- e) Vulnerable individuals who may be too old or ill to fend for themselves. These PAPs shall receive additional assistance;
- f) Members of the household who cannot reside together because of cultural rules, but depend on one another for their livelihood;
- g) Members of the household who may not eat together but provide housekeeping or reproductive services, critical to the family's maintenance; and
- h) Persons that incur losses whether partial or total and whether they have their own land or rent land, including those that rent or occupy buildings individually or as a group for business or as households.

6.3 Identifying the Eligible

The land laws consider all titled landowners, customary landowners, encroachers, persons affected by loss of access to sources of income and persons affected by loss of access to natural resources (water, wood, grazing areas etc.), as PAPs. Therefore, PAPs will be entitled to compensation based on the status of their occupation of the affected areas. The survey identified PAPs as being land owners, tenants, squatters and shop owners.

6.4 Relocation and entitlements

Land for land is considered to be appropriate for people whose livelihoods are land based. However, the consultation meetings established that there is no idle land in the project areas which the traditional leaders can allocate to the PAPs, hence cash compensation will be effected. Consultations with the potential PAPs further showed that the PAPs prefer cash compensation. In addition, section 9 of the Lands Acquisition Act No. 21 of 1979 and the Lands Acquisition (Amendment) Act No. 9 of 2017 provides that ‘any compensation payable under this section shall be paid in one lump sum’ which suggests that compensation for land acquisition should be paid in monetary form.

PAPs whose houses may be affected by the Project will be provided with cash compensation reflecting the full replacement value of the structure. This will be in accordance with the cost of the structure as per non-depreciated rates. For fruit trees, it is the value of production lost until replacement seedlings mature. For the loss of business or income, the reported income and employee wages will be taken into consideration. The entitlement matrix covers these dimensions.

6.5 Validation of affected assets

Validation of the affected properties will be conducted based on the provisions in the Malawian legislation for consistence and accountability. All the factors explained in the Malawi land laws will be considered in the valuation process. The properties to be verified shall include:

- a) Physical assets;
- b) Crops and fruit trees; and
- c) Forests (exotic and indigenous).
 - a) Fruit trees;
 - b) Exotic trees;
 - c) Indigenous trees;
 - d) Houses;
 - e) Land; and
 - f) Business.

6.6 Entitlement Matrix

The main determining factor in identifying the PAPs is ownership which is verified by the VH/community/title deeds, the compensation/assistance will be normally paid/ provided to the Owner or Affected person or else to the member within the Household who owns/has valid papers or is recognized to own the affected structure/land and/or based on verification. The Entitlement Matrix in the **Table 6.1 below** provides measures for different categories of impacts and project affected persons.

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
PRE-CONSTRUCTION STAGE					
1. Loss of land					
	Agricultural, commercial, residential Private (freehold/ leasehold) Customary,	Land owner	Owner PAP	a) Land for land, if available. Or, Cash compensation for the land at replacement cost; b) Disturbance allowance of 30% of the value of land lost will be provided, irrespective of the size of land. c) the value of labour invested in preparing agricultural land will be compensated; d) In case of severance of cultivable land by access roads an additional grant of 10% shall be paid over and above the amount paid for acquisition; e) Transaction costs, including transfer or registration of titles and taxes will be paid by the project at full replacement cost prior to displacement; f) Supported in cadastral survey and new titling process for PAPs' changed landholding; g) Cost of clearing and preparing replacement agricultural land	In case of provision of alternative land, <ul style="list-style-type: none"> • cost of registration/ transaction costs will be added; and • support will be provided in identification of alternate land • cost of labor for preparing agricultural land In case of payment of replacement costs <ul style="list-style-type: none"> • To arrive at a full replacement cost of land the value of labour invested in preparing agricultural land will be compensated for using wage for the same period of time. • The labour cost will be calculated on what it would cost a farmer to create a replacement land. This value will be determined by adding together the costs of clearing, ploughing, sowing, weeding twice and harvesting the crop plus

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

Table 6.1 – Entitlement Matrix for Infrastructure Development Project					
S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
					registration and taxes as the case may be to achieve a full replacement cost.
		Tenant farmers	tenants/ renter	Adequate notice would be given before commencement of construction to harvest crops. If not, compensation will be paid at market value	
2. Loss of structure					

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
	Residential	Dwelling owner, Squatter	PAP / Household	a) Full replacement cost of structure without depreciation OR Replacement House Structure as per chosen design along with alternate land for siting the replacement house b) Lumpsum shifting allowance of In Rural areas: <ul style="list-style-type: none"> • MK 10, 000 : Up to 5 km • MK 20,000 : 6 km to 10 km • MK 50,000 : Above 10 km In the urban areas: <ul style="list-style-type: none"> • MK20, 000: up to 5 km • MK40, 000: 6km to 10 km • MK75,000: Above 10KM c) Disturbance Allowance: Lumpsum amount 30% of compensation amount to cover the period of transition d) Right to salvage materials from the existing structure (except those identified as hazardous such as	The option of a replacement structure will be offered only to those losing main residential structure, while cash compensation would be payable for those losing parts of residential structure such as toilet, kitchen, shed, perimeter fences, etc. The relocated squatters would be provided with security of tenure for the identified land.
		Renter	PAP / Household	a) In urban areas, reimbursement for unexpired tenancy/ lease period or the amount of deposit or advance paid by the tenant to the landlord or the remaining amount at the time of expropriation	In urban areas, proof of a formal tenancy agreement has to be provided. In the absence of a formal agreement, a monthly rent will be provided. However, If a formal agreement is not available

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
				b) Rental allowance for 3 months at MK 20000/month would be payable. c) In rural areas, a rental allowance of MK 10,000 for a period of 3 months shall be payable f) Lump sum shifting allowance of In Rural areas: <ul style="list-style-type: none"> • MK 10, 000 : Up to 5 km • MK 20,000 : 6 km to 10 km • MK 50,000 : Above 10 km In the urban areas: MK20, 000: up to 5 km MK40, 000: 6km to 10 km MK75,000: Above 10KM	confirmation through knowledge in the community will be sought and used. The availability of formal agreement will not affect the amount of compensation, including the reimbursement for deposit, rental allowance and shifting allowance.
	Any other structure on affected plot Granaries, Toilets, Kraal, Bathrooms, storages (including any irrigation structure)	Structure Owner/ Unauthorized Occupant, Encroacher or Squatter	PAP/ Affected Entity	a) Replacement cost of structure without depreciation b) Right to salvage materials from the existing structure (except those identified as hazardous e.g. Asbestos, etc.)	
	Commercial (Loss of Business Structure)	Business Owner /Structure Owner	PAP/ Business Entity	a) Replacement cost of structure without depreciation b) Lumpsum shifting allowance of: In Rural areas:	

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
				c) MK 10, 000 : Up to 5 km d) MK 20,000 : 6 km to 10 km e) MK 50,000 : Above 10 km In the urban areas: MK20, 000: up to 5 km MK40, 000: 6km to 10 km MK75,000: Above 10KM f) Allowance for loss of profit per month (between 1-3 months by type of structure and nature of business): <ul style="list-style-type: none"> • MK 90,000: Selling groceries- • MK120,000:Selling farm produce • MK70,000 : Fruit selling • MK80,000 : Fish selling g) full replacement cost, including transaction costs, will be paid prior to displacement; h) Right to salvage materials from the existing structure (except those identified as hazardous e.g. Asbestos, etc.)	
		Tenant/Renter/ business owner	Tenant/Re nter with	a) Reimbursement for unexpired tenancy/ lease period or the amount of deposit or advance paid by the tenant	In urban areas, proof of a formal tenancy agreement has to be provided. In the absence of a

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
			proof of tenancy/ Leasing or in absence of formal agreement ; identificat ion through premises owner	to the landlord or the remaining amount at the time of expropriation b) Allowance: three months’ profit for the transition period g) Lumpsum shifting allowance of In Rural areas: <ul style="list-style-type: none"> • MK 10, 000 : Up to 5 km • MK 20,000 : 6 km to 10 km • MK 50,000 : Above 10 km In the urban areas: MK20, 000: up to 5 km MK40, 000: 6km to 10 km MK75,000: Above 10KM	formal agreement, a monthly rent will be provided. However, If a formal agreement is not available confirmation through knowledge in the community will be sought and used. The availability of formal agreement will not affect the amount of compensation, including the reimbursement for deposit, rental allowance and shifting allowance.
3. Crops and Trees					
	fruit trees and perennial crop	Crop Owner	Owner PAP, Affected Village (in case of natural growing trees)	a) The valuation of perennial crops will be based on the product of their average yield (kg/tree/year) b) The valuation of fruit trees will consider the time between planting and bearing of fruits c) Five seedlings will be provided for each fruit tree lost d) Valuation will be based on the product of yield, period between planting and bearing of fruits and market price e) Input costs	The highest market price/kg and expected life span plus establishment cost will be considered

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

Table 6.1 – Entitlement Matrix for Infrastructure Development Project					
S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
	Other trees			i. compensation will be based on the provision of the Forestry Gazette, Government of Malawi (2015).	<ul style="list-style-type: none"> • size of trees being lost will be considered in the valuation as the bigger trees will attract high rates • Based on discussions with Department of Forestry
	Annual crops			a) compensation will be based on the average market unit price of the crop over a period of the past three years multiplied by the yield /kg and multiplied again by the land size. OR Three months’ notice to harvest standing crops shall be given. However, if notice cannot be given then compensation for these crops shall be paid at market value	The yield shall be the highest yield of that particular crop as determined by Ministry of Agriculture.
4	Graveyards (individual private land or village common graveyard)	Owner	Land owner PAP, Affected Village (in case of common graveyards)	a) Payment of cost of grave removal and relocation based on a Cost approach and cost of additional religious ceremonies in line with existing customary practices b) Individual or Village authority are responsible to allocate alternate burial plots.	The exercise of exhuming bodies and relocation of grave is to be undertaken in close consultation with affected individual or community

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
		<p>holdings within a 25 km radius</p> <p>Or</p> <p>PAPs experiencing cumulative livelihood impacts due to more than one sub-project leading to a total of 10% of permanent loss of land or a total restrictions of 25% of landholdings</p> <p>PAPs losing (permanent loss) majority of their land holdings including tenant farmers</p>	PAP	<p>livelihood support – land or non-land for maximum period of six months and up to a value of MK 150,000</p>	RAP and/or Livelihood Support Agency.
6	Additional support to	PAP	PAP or Head of the	<ul style="list-style-type: none"> ○ An additional financial assistance of 20% on the base compensation amount payable. 	This amount will be in addition to other compensation and assistance

Table 6.1 – Entitlement Matrix for Infrastructure Development Project

S.No	Type of loss	Category of PAP	Eligibility	Entitlement	Entitlement details
	vulnerable groups		Household	<ul style="list-style-type: none"> ○ Provision of livelihood support if eligible as per criteria. Provision of financial literacy training as given to all PAPs	amounts given above per type of loss If Head of the Household is not fit to avail of the entitlement, then some other
7	Loss of Resources serving the community (Churches, Schools, Hand pumps, dug wells, Structures, etc.)	Affected Community or Host Community Location Area	Affected area (town, district)	Replacement/Enhancement of such impacted assets as required	Replacement /Restoration or augmentation of existing infrastructure based on identified need and to reduce pressure on such resources ¹
8	Temporary and unforeseen impacts.	Affected Person or Village	PAP/ Household/ Village Community	mitigation in line with principles in the RPF	Unforeseen and temporary impacts during construction will be documented and dealt with on case by case basis through the Village and District GRMCs in accordance with the principles above

7.1 Land acquisition

The acquisition of land for the project will be guided by the Constitutional provisions and other relevant legislation. After details of the land to be acquired have been identified, the Ministry of Lands will begin negotiations for the land with the affected persons. The affected persons will include the owners of the land as well as the traditional leaders and Customary Land Committees. Since most of the land required for the project is customary land, the Ministry of Lands shall, through the traditional leaders and Customary Land Committees, ascertain the owners of the land. This will ensure that those people who had borrowed land from someone else do not eventually get the compensation. When the land to be acquired has been finally identified, the Ministry of Lands will do the second assessment of the affected land and property. The survey will capture the profile of each PAP and their property. For a household, the PAP is the owner of the land on which the household is built whilst for business the owner of the business and or business premises will be recorded. The record will have the following:-

- a) Size of land to be acquired for the implementation of project activities;
- b) The names of owners and occupiers of that land;
- c) Traditional leaders to assist in the process of land acquisition;
- d) magnitude of impacts relative to the need for resettlement and/or compensation and valuation of assets to be compensated for;
- e) financial records showing the costs of relocation and compensation, the beneficiaries and indicating how these costs were arrived at;
- f) information on households or individuals eligible for relocation to their socioeconomic standing; and
- g) details of resettlement after-care and assistance, where appropriate.

It is important for financial records to be maintained by the Ministry of Lands, District Councils and Ministry of Economic Planning and Development to permit calculation of the final cost of resettlement and compensation per person or household. Each person receiving compensation will have a dossier containing:

- a) The person's detailed identification information, including name, date and place of birth, next of kin, marital status ;
- b) Number of persons she or he claims as household or homestead dependants;
- c) The amount of land available to the person or household when the dossier is opened
- d) Assets - including structures, resources, crops; and
- e) Means of livelihood.

The dossiers will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received and signed for. Additional information will be required for individual's eligibility for resettlement or compensation. This information will include:

- a) Level of income and of production;
- b) Inventory of material assets and any improvements made on the land; and
- c) Debts;

The authority responsible for acquiring land shall also make the following available to all key stakeholders in the land acquisition process:

- a) Proposed compensation offers and draft agreements to be signed by the affected persons

- and the developer;
- b) Details of alternative land (if applicable) inclusive of ancillary support services such as transport for physical resettlement, provision of housing, provision of crop starter packs and food support or any other relevant assistance that may be required;
- c) Details of resettlement after-care and assistance, where appropriate;
- d) Available employment opportunities for the PAPs to participate in the Project activities; and
- e) Mechanisms for monitoring and evaluation.

The land acquisition and compensation procedures shall ensure that persons affected either physically or economically by the Project maintain or improve their livelihood.

7.2 Notification Procedures

Notification procedures are provided for under the various laws.

Section 17 of the Land Act No.16 of 2016 enables the Minister to acquire unallocated customary land for public utility purposes. The section provides that where it appears to the Minister that unallocated customary land is needed for public utility, the Minister shall serve notice upon the Traditional Authority within whose traditional land management area the customary land is situated. Compensation must be paid to any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in such land because of the land being acquired for public utility purposes, under section 17.

Section 17 of the Customary Land Act No.19 of 2016 provides for the procedure to be followed for the transfer of customary land in a Traditional Land Management Area to Government or reserve land for the public interest. A notice is published in a gazette and sent to the relevant land committee. If the land has been allocated to a person or group of person under a customary estate they shall be informed of the notice and may make representations to the Commissioner of Lands on the proposed transfer. If the land is transferred appropriate compensation must be paid after being assessed by a registered valuer. The transfer of customary land to Government must be gazetted and comes into effect 30 days after publication in a gazette.

For land which is not customary land, the Ministry of Lands shall publish its intention to acquire land in a newspaper with wide circulation.. The areas of land to be acquired will be stated in the advert. Personalized notices should also be served to each person who owns and occupies land in the affected areas as long as the addresses of the persons are known to the Ministry. The notice to be published will contain the following:

- a) Government's Proposal to acquire the land;
- b) Public purpose for which the land is required;
- c) Proposal or plan may be inspected at the Department of Lands during working hours;
- d) Any person affected may by written notice object to the transaction with reasons to the Principal Secretary of the Ministry within 30 days of the first publication of the Notice; and
- e) Only objections other than those relating to the amount and method of payment of compensation shall be admissible.

7.3 Voluntary land contributions with compensation

Voluntary Land Contribution with Compensation refers to cases where individuals or land owners agree to provide land for the implementation of the project activities whether for free or for a negotiated compensation sum.

Voluntary land contribution without compensation is however not recommended, because it often affects poor or vulnerable households.

7.4 Involuntary acquisition of land

The project will minimise involuntary acquisition of land to the greatest extent possible. The displaced persons will participate throughout the various stages of the planning and implementation of land acquisition, compensation and development of project specific RAPs. Persons to be displaced will be informed of provisions of this framework and their entitlements at public meetings.

CHAPTER 8 ORGANIZATIONAL ARRANGEMENTS AND PROCEDURES FOR DELIVERY OF ENTITLEMENTS

8.1 Institutional Arrangement

The institutional arrangement for entitlement delivery will follow the implementation arrangement of the Project as described in Section 1.5. The MoAIWD and the PIU will have the overall responsibility delivery of entitlement national level. The Ministry of Lands housing and Urban Development and the Ministry Of Finance will give technical advice where needed. At the local level, the districts Councils will coordinate the implementation of the resettlement process in consultations with local leaders (GVH, VH) and the Customary Land Committee. The World Bank will provide any assistance (technical and policy guidance) when required by the project.

8.2 Responsibilities and roles of key entities

I) The Ministry of Agriculture, Irrigation and Water Development and/or Project Implementation Unit.

The Ministry and the PIU will be responsible for:

- a) Designing screening checklist for identification of social impacts such as loss of assets, land acquisition;
- b) Screening the project activities to check if any activity will result in land acquisition and involuntary resettlement;
- c) Facilitate the hiring of a consultant to prepare RAP/ ARP if needed;
- d) Disclose RAP/ARP in the Country;
- e) Coordinate with the District Councils on any issues related to resettlement process;
- f) Ensuring the interest of PAPs, particularly the vulnerable groups, are well addressed by the RAP/ARP;
- g) Sending RAP/ARP for WB approval;
- h) Facilitating the different consultation activities;
- i) Participating in responding to the grievance and work towards solving related issues;
- j) Monitor the progress in resettlement preparation and implementation through reviewing regular progress reports;
- k) Participating in preparing the external monitoring consultant ToRs according to the WB standards;
- l) Building the capacities of the local resettlement mechanisms on PAPs consultation techniques; and
- m) Reviewing the external monitoring report.

II) District Councils

The District Councils are key in ensuring proper execution of the resettlement program. Their responsibility in resettlement implementations include:

- a) Coordinating with other governmental organizations of relevance to the resettlement program at council level;
- b) Subproject screening for resettlement;
- c) Coordinating the asset valuation process;
- d) Coordinating and following up on the disbursement of compensation and the provision of the development assistance to PAPs;
- e) Monitoring of resettlement programme;
- f) Ensuring that PAPs are consulted and their concerns and interests are considered; and
- g) Facilitate PAPs grievances Management.

III) The World Bank

In meeting the objectives of the Bank’s policy on Involuntary Resettlement, the Bank may at a Borrower’s request support concerned entities by providing:

- a) Provide assistance to assess and strengthen Malawi resettlement policies, strategies, legal frameworks, and specific plans:
- b) Provide technical assistance to strengthen the capacities of the implementing agencies and other entities responsible for resettlement; and
- c) Provide technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities.

Where the Resettlement Action Plan/ Abbreviated Resettlement Plan is required during the subproject implementation, the Bank will be responsible for:

- a) Screening findings and providing advice on the need for RAP/ARP and whether or not other remedial actions need to be taken;
- b) Approving the developed RAP/ARP prior to the execution of sub-projects or expropriation activities; and
- c) Reviewing monitoring reports and sending feedback to the PIU.

Details of specific roles of various institutions in delivery of entitlement process are provided in table 8.1.

Table 8.1 Specific Roles of Various Institutions in Delivery of Entitlement Process

Institutions	Activity	Roles
Ministry of Water Development /PIU, District Councils	Public Participation	Ensure that the PAPS are involved in the participatory approach in the planning and design of the resettlement Processes.
District Councils	Notification of Land Resource Holder	Ensure that the Land Owners are formerly notified in writing and verbally in the presence of Group Village Headman (GVH) or the Village Headman (VH) and Local Land Committees.
District Councils	Documentation of Holdings and assets	Develop and update a compensation database containing, for instance, Number of People Affected, affected assets, emblements etc.
MoAIWD /PIU, District Councils	Agreement of Compensation, resettlement assistance and Preparation of Contract	All types of compensation should be clearly explained to the PAPS. The Ministry, PIU and District Councils should make sure that a compensation contract should be prepared and

		signed by PAPs for any type of compensations in presence of local leaders, Local Land Committees, District Commissioner,
MoAIWD /PIU, District Councils	Compensation Payments	The MoAIWD will coordinate with other Ministries and District councils in disbursement of Compensation All compensation payment will be done in presence of the Affected Person, District Commissioner, Senior Chiefs, GVH, PIU, Local Land Committees, Official from MoAIWD
Ministry of Water Development /PIU, District Councils	Community Compensation Payments	In circumstances that Community facilities are affected, (which is unlikely under this project), the compensation of such facilities will be in-kind. Type of structure to be constructed will be agreed upon by members of community and the project

8.3 Capacity Building for Management of Resettlement Activities

The implementation of the resettlement process under the AGCOM project will involve various key stakeholders both at national and district levels. To ensure efficient implementation of the process, there is a need to put in places a capacity development program under the project to enhance knowledge and skills among key stakeholders. An institutional assessment should be conducted in order to identify the key challenges and the capacity gaps that they need to fill in order to implement the resettlement process under the project. The capacity building needs assessment is expected to show findings which are not merely linked to the need for training on the different subject; a need for institutional support might emerge. The overlapping responsibilities and a lack of coordination channels among the organizations of relevance to resettlement and compensation are key issues of priority. Some of the key capacity building activities which have to be carried out include:

a) Training of key staff responsible for project management and resettlement process at national and council level.

The key topics or areas of training are as follows:

- i) World Bank O.P 4:12 (eligibility criteria, assets valuation, compensation, entitlements); and
- ii) Malawi's laws related to Resettlement;

b) Methods for Engaging and Consulting Key Project Stakeholders (particularly PAPs)

- i) Participatory Community participation tools (PRAs tools, Social Assessment surveys, etc.);
- ii) Identifying and designing social mitigation measures;
- iii) Grievance management;
- iv) Awareness raising techniques;
- v) Monitoring and evaluation (tools and techniques);
- vi) Documentation and report writing

8.4 Disclosure and notification

The MoAIWD will approach the farming communities through the local government authorities and Local Land Committees with the view to arriving at a consensus on possible sites for the different project components to be adopted in different project areas. All eligible PAPs will be informed about the project and the RAP process. A cut-off date will be established as part of determining PAPs eligibility. In special cases where there will be no clearly identifiable owners or users of the land or asset, the RAP team will notify the respective local authorities and leaders and the Local Land Committees.

8.5 Community payments

This will apply where the proposed project site affects and belongs to a community. Examples of community compensation include project expansion into grazing grounds or school land.

CHAPTER 9 PROCEDURES FOR GRIEVANCE REDRESS

Various legislation, including the Constitution of Malawi make provision for grievances to be addressed through the formal court system. This is a constitutional right but practice has shown that this can be a costly and time consuming exercise. The complaints and grievances mechanism as outlined below is readily accessible to deal with complaints expeditiously and cost effectively. However if this fails the aggrieved party can refer the matter to the formal court system.

9.1 Grievance

At the time that the individual resettlement plans are approved and individual compensation contracts are signed, PAPs and households will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and will be administered as far as possible, at local levels to facilitate access by PAPs. Since Government through the Developer will be party to the contract, they will not be the best offices to receive, handle and rule on disputes. Therefore, all grievances concerning non-fulfilment of contracts, levels of compensation, or seizure of assets without compensation will be addressed to a local committee comprising of traditional leaders and the Customary Land Committee of the affected area and representatives of the different district councils where the project will be implemented.

9.2 Grievance and redress principles

The following principles will apply to grievance management:

- a) The procedure to be followed will take into account community and traditional dispute settlement systems. Traditionally people approach traditional leaders to resolve disputes – particularly in issues relating to use and ownership of land, trees and housing structures. Although it may be inevitable that, in the process of grievance management, project-affected people continue to follow customary procedures, they are likely to accept project-related structures if they are consulted on the matter and such leadership is incorporated into the structures.

The Customary Land Act of 2016 establishes Customary Land Tribunals in every Traditional Land Management Area which are supposed to adjudicate on any disputes concerning customary land in that area. A person who is aggrieved by a decision of the Customary Land Tribunal may appeal to the District Land Tribunal which is presided by the District Commissioner and includes 3 T/As, 3 reputable persons residing in the area and the District Land Registrar who are knowledgeable about customary land law. A person who is aggrieved by a decision of this Tribunal can appeal to the Central Land Board which is established under section 38. This Board is presided over by a Resident Magistrate.

- b) Information about all dispute and grievance procedures, including the functions of each structure and the processes to follow, will be widely disseminated to all stakeholders, through project structures, governmental and non-governmental organizations, Community Based Organizations (CBOs), the Project Information Centre, and the media. This will not only fulfil the function of dissemination of information, but also transparency around project-related matters.
- c) Affordable and accessible procedures will be made available for the settlement of disputes arising from resettlement.
- d) Anybody assigned for reviewing grievances will be required to be independent and impartial to foster the trust and confidence of all stakeholders.

- e) A written record of all disputes/grievances raised and dealt with on a project level will be kept by the appropriate body. The entire grievance resolution process will be recorded, and a copy made available to the aggrieved person/s.
- f) All records will be monitored regularly by an independent monitoring team and the Evaluation Panel appointed for the project, as part of an on-going monitoring and evaluation process. The Evaluation Panel's ToR will include the function of reviewing reported grievances and grievance management.

The principle of confidentiality will apply to all processes. Confidentiality of the complainant, if so requested, and to information provided by any of the parties to a complaint.

9.3 Grievance redress process

All attempts shall be made to settle grievances amicably. Those seeking redress and wishing to state grievances will do so by notifying their Local Leaders / Customary Land Committee which will inform and consult with the Resettlement Working Group (RWG) to determine validity of claims. If valid, the Local Leaders will notify the complainant and s/he will be assisted. If the complainant's claim is rejected, the matter shall be brought before the District Councils for settlement. All such decisions must be reached within a full growing season after the complaint is lodged.

It has to be noted that in the local communities, people take time to decide to complain when aggrieved. Therefore, the grievance procedures will give people up to the end of the next full agricultural season, after surrendering their assets, to allow for enough time to present their cases. The grievance procedures will ensure that the PAPs are adequately informed of the procedure, before their assets are taken.

The grievance redress mechanism will be designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore, it implicitly discourages referring such matters to the Tribunal for resolution. Contracts for compensation and resettlement plans will be binding under statute, and will recognize that customary law is the law that governs land administration and tenure in the rural areas. This is the law that most Malawians living in these areas, are used to and understand.

All objections to land acquisition shall be made in writing, in the language that the PAPs understand and are familiar with, to the Local Leader. Channelling complaints through the Local Leader / Customary Land Committee is aimed at addressing the problem of distance and cost the PAPs may have to face. The Local Leaders / Customary Land Committee shall maintain records of grievances and complaints, including minutes of discussions, recommendations and resolutions made. Annex 7 of the report gives Sample Grievance and Resolution Form.

Amongst the fundamental principles of the Malawian Constitution is section 13 (i) which is the national policy of peaceful settlement of disputes, which encourages adoption of mechanisms to peacefully resolve disputes, such as through negotiation, good office, conciliation and arbitration. The procedure for handling grievances will include:

a) Mediation

Mediation is facilitated negotiation in which a skilled, impartial third party seeks to enhance negotiations between parties to a conflict or their representatives by improving communication, identifying interests, and exploring possibilities for a mutually agreeable resolution.

The disputants remain responsible for negotiating a settlement, and the mediator lacks power to impose any solution; the mediator's role is to assist the process in ways acceptable to the parties. Typically, this involves supervising the bargaining, helping the disputants to find areas of common ground and to understand their alternatives, offering possible solutions, and helping parties draft a final settlement agreement.

A skilled, impartial third party can be appointed for purposes of mediation. When mediation fails the matter can be referred to arbitration.

b) Arbitration

The Malawi Constitution sanctions arbitration as one mechanism for resolving disputes Malawi has an Arbitration Act which was passed in 1967. The courts, generally play the supervisory and assistive roles towards arbitration.

In order to use arbitration in the settlement of disputes, the parties ought to make a written agreement to submit a present dispute, or future disputes to arbitration. The parties are at liberty whether or not to name an arbitrator in the agreement. Where an arbitrator is not named in the agreement, the agreement should designate a person who would appoint an arbitrator.

Arbitration only works where the parties to a dispute agree to resolve a difference through arbitration. An Arbitrator can be appointed for purposes of dispute resolution. All attempts should be made to settle grievances amicably. Where there is no consent, then a court of jurisdiction may be used to resolve a dispute.

It has to be noted that in the local communities, people take time to decide to complain when aggrieved. Therefore, the grievance procedures will give people up to the end of the next full agricultural season, after surrendering their assets, to allow for enough time to present their cases. The grievance procedures will ensure that the PAPs are adequately informed of the procedure, before their assets are taken.

The grievance redress mechanism will be designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore, it implicitly discourages referring such matters to the Customary Land Tribunal for resolution. Contracts for compensation and resettlement plans will be binding under statute, and will recognize that customary law is the law that governs land administration and tenure in the rural areas. This is the law that most Malawians living in these areas, are used to and understand.

All objections to land acquisition shall be made in writing, in the language that the PAPs understand and are familiar with, to the Community Leader /Customary Land Committee. Channelling complaints through the Community Leader/ Customary Land Committee is aimed at addressing the problem of distance and cost the PAPs may have to face. The Community Leaders/ Customary Land Committee shall maintain records of grievances and complaints, including minutes of discussions, recommendations and resolutions made. The procedure for handling grievances will be as follows:

- a) The affected person should file her/his grievance in writing (in English or the local language that s/he is conversant with), to the Community Leader/ Customary Land Committee. The grievance note should be signed and dated by the aggrieved person.

Where the PAP is unable to write, he should obtain assistance to write the note and endorse the letter with his thumb print.

- b) The Community Leader/ Customary Land Committee should respond within 14 days during which any meetings and discussions to be held with the aggrieved person should be conducted. If the grievance relates to valuation of assets, experts may be requested to revalue the assets, and this may necessitate a longer period of time. In this case, the aggrieved person must be notified by the Community Leader / Customary Land Committee that his/her complaint is being considered. If the Community leader cannot provide an appropriate solution to the problem, the problem will be referred to the CGW to use established mechanisms of grievance redress, which may include the presence of peers of the PAP and other Community Leaders.
- c) If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time (s)he must lodge his grievance to Customary Land Tribunal which is presided over by the T/A.
- d) The Customary Land Tribunal will then attempt to resolve the problem (through dialogue and negotiation) within 14 days of the complaint being lodged. If no agreement is reached at this stage, then the complaint can appeal to the District Land Tribunal which is presided by the District Commissioner
- e) If a person is aggrieved by a decision of the District Land Tribunal the matter may be referred to the Central Land Board which is presided over by a Resident Magistrate.

Figure 9.1 presents a systematic diagram for addressing grievances.

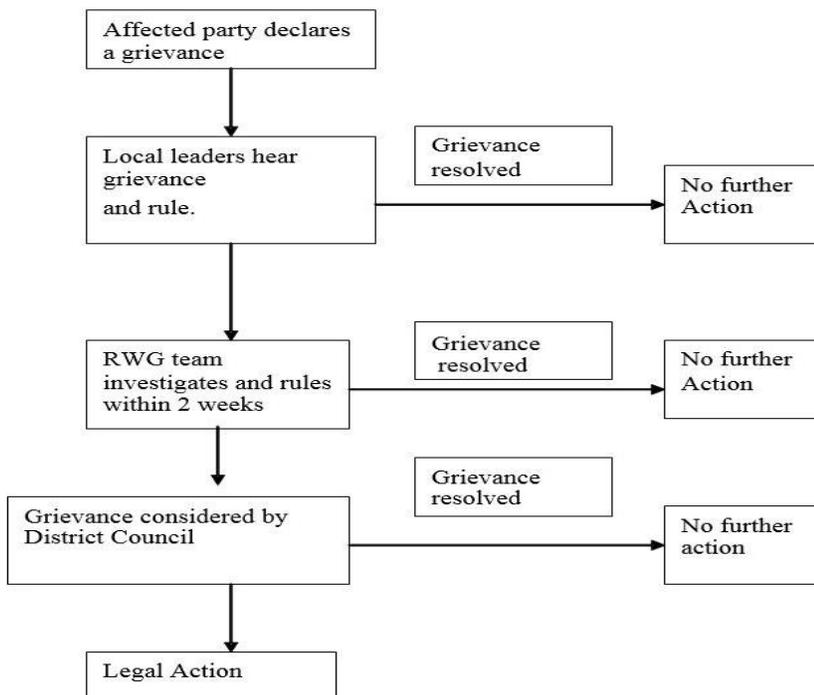


Figure 9.1 Grievance Redress pathways

As can be seen from the figure above, the RWG is central to handling grievances from the PAP. It takes necessary action to address the grievances. Should grievances not be resolved RWG

refers them to the District Council. If the value of compensation is not agreed within two months then the aggrieved party will refer the matter to a Compensation Board which will be made up of the Resident Magistrate and two assessors.

The compensation board will consult the local leaders in case of customary land to verify the existence of the land in question and proceed to determine the amount of compensation to be given. The determination is done after hearing submissions from Government and the affected person. In the event that disagreements will not have been settled then the claimant has the right to take the matter to court as per their constitutional right. However all appeals should be settled within a reasonable period so that people's lives can go on.

CHAPTER 10 RAP PREPARATION

10.1 Principles of this RAP

Computation of compensation and resettlement was based on core principles as follows:-

10.1.1 Minimization of displacement

In line with resettlement policies, displacement under the project, particularly related to infrastructures and constructions works for the support units can be minimized through the following design procedures:

- a) Wherever inhabited dwellings may potentially be affected by the proposed project, the project will be re-sited to avoid any impact on such dwellings and to avoid displacement/relocation accordingly; and
- b) The same applies to structures used for commercial activities and other businesses. Wherever the impact on the land holding of one particular household is such that the household may not be sustainable in the long term, even if there is no need to physically displace this household, the sub-project shall be redesigned to avoid any such impact.

10.1.2 Livelihood restoration

The World Bank OP 4.12 considers it a good practice to implement additional livelihood improvement measures for the PAPs in order to restore their livelihoods at pre-project level as well as to improve their livelihoods in order to reduce their vulnerability and gender inequality. Not all the PAPs benefit directly from different projects being implemented in their areas yet they suffer the impacts that different projects cause on their livelihoods. There will be need therefore for implementation of restoration programs and improvement of the PAPs livelihood security. Some of the strategies that will be used to enhance livelihoods for the PAPs will include: judicious usage of compensation amount by provision of effective counselling; providing PAPs part time temporary construction related work that would enable them to supplement income; and effectively monitoring and evaluating the strategy and actions for the intended outcomes and revise as necessary on a timely basis

a) Judicious use of compensation and assistance amounts

PAPs who are not used to handling large sums of money may squander all their compensation money. Hence judicious usage of compensation money should be effectively planned and carefully implemented through appropriate guidance and counselling on investment options. It would involve the following:

- i) **Provision of Financial Literacy:** All PAPs will be provided with some financial literacy training to assist them handle their compensation money well. The PAPs will also be advised to take advantage of banking services both to safely keep their money and also earn interest.
- ii) **Invest in time deposit schemes:** Following provision of Compensation Agreement, the Agency contracted to provide training on Financial Literacy, the RAP Payment agent and RAP Implementation Agency will advise/guide PAPs to invest in time deposit schemes offered by formal financial institutions as these are secure instruments for investment with guaranteed returns.
- iii) **Purchase Economically productive/income generating asset:** RAP Implementation Agency will advise PAPs to use at least part of their compensation money to buy other

economic assets such as cattle, farm, land, tools or even take land on rent if available. In this manner compensation money will be used to contribute towards livelihood enhancement.

b) Short Term Work Opportunities

The construction of the different infrastructure for the different project components will create some employment opportunities for the community members living closer to proposed project areas

c) Livelihood Restoration Measures

- i) **Eligibility to Livelihood Restoration:** Livelihood restoration support which will be made available to PAPs will commensurate to the magnitude of impact
- ii) **Land and Non-Land Based Livelihood Programs:** As some PAPs will only experience restrictions on land use, livelihood programs will target those households requiring support, as identified using above criteria during implementation. Other PAPs who will lose majority of their land permanently will be compensated fully at replacement value. The PAPs will be in a position to acquire new land. Types of Land based livelihood programs for such PAPs will include.
 - Train PAPs in vegetable production;
 - Train PAPs in livestock production;
 - Train PAPs on crop diversification; and
 - Train PAPs on soil fertility improvement:

Non-Land Based programs will be applicable for those PAPs who will be left with inadequate landholdings. Skills such as: Food processing, Carpentry and Joinery, and Tailoring will be imparted through a three (3) or six (6) months informal apprenticeship. Further linkages to the market will be established by the livelihood support partner.

10.2 Methodology for RAP and ARAP preparation

The RAP and ARAP studies for the project will be carried out in accordance with the Terms of Reference that will be provided by the MoAIWD in conjunction with the Ministry of Lands and Urban Development. The preparation of RAP/ARAP will broadly comprise three stages namely:

- a) Social Screening stage;
- b) Field Activities i.e. Survey and Stakeholder consultations; and
- c) Compensation Agreement Signing and Report preparation stage.

Each of the stages is described below:

10.2.1 Social Screening

Social screening comprises desk review of relevant literature and also the Scoping exercise that involves visits to the project sites to ascertain features in the project areas and hold preliminary consultations with the primary and secondary stakeholders. Details of the social screening are given below:

a) Preliminary Interactions with the client and project staff

The RAP study team will hold project Kick Off meetings with the Client, key stakeholders and project staff. Preliminary interactions with these key stakeholders will enable the RAP

team to get all relevant literature, gain a broad understanding of the project features and define the scope of work.

b) Scoping visits

Scoping visits to the project sites to enable the RAP teams gain understanding on the type of land use, structures, nature and type of impacts likely to be found in the project area. It also helps towards early resettlement planning with respect to gathering rates for lands across different regions, structures, etc.

c) Desk Review

Key documents already prepared on the proposed project and different project components will be reviewed which will include: this Resettlement Policy Framework; Project Appraisal Document; Resettlement Screening Report; Environmental and Social Impact Assessment (ESIA) Study for the project and different project components. In addition, Socio-Economic profiles and District Development plans of concerned districts will be reviewed for appropriate usage in RAP and ARAP preparation.

10.2.2 Field Activities

Field Surveys including Stakeholder Consultation and Sensitization exercises, Census, Asset Inventory Survey, Socio-Economic Surveys and Videography coverage, and valuation of the PAPs assets will be carried out during the RAP/ARAP study.

a) Stakeholder Consultation Process

Community sensitization and consultation meetings will take place in all the project areas during RAP and ARAP preparation process. The Community sensitization and consultation process is usually divided into two principal phases. The first phase includes project area reconnaissance, village identification and creation of awareness among community members. During this phase villages in the project area are identified for community meetings and their Chiefs and other prominent members of society will be identified for key informant interviews, and potential PAPs isolated for Focus Group Discussions. A draft Resettlement Factsheet will be used as a reference document during stakeholder sensitization and consultation.

The second phase of the sensitization and consultation engagement will aim at driving the messages down further, directing it particularly at the people to be identified as PAPs. Focus Group Discussions (FGDs) will be conducted in all project districts, which will aim to:

- i) Gather qualitative information in the local context, from the local communities;
- ii) Inform and provide the local communities with an opportunity to voice their concerns and priority issues early in the project process. As a continuous process of improvement, queries from the community members will be communicated back to the specialists and responses, which will be given to such queries will be formulated and circulated to all field personnel. Prior to and in parallel, consultations will be held with key stakeholders, and core district government officials, such as the District Commissioners and Directors of Planning and Development) for the affected districts.

A participatory approach method will be used to identify PAPs with their various social and economic development activities. The process will involve conducting preliminary and detailed surveys, including a Census and Asset Inventory survey of PAPs, a socio-economic surveys and gender assessments. Preliminary assessments to identify social and gender

aspects will be conducted in line with the scoping exercise. A set of tools i.e. questionnaires and checklists will be designed and administered.

b) Census and Asset Inventory Exercise

A team of experts comprising a Valuation Expert, Mapper/Cartographer/surveyor, Regional Land Officer, District Lands' officer will be formed to conduct census of the PAPs and their asset and prepare an inventory of the same. The Census questionnaire aimed to enumerate all PAPs in respect of household demography for the members aging 14 years and above, their gender, marital status, education, physical conditions (handicap by birth/chronic sickness), occupation, assets (structures both affected and non-affected), land tenure and use, income and expenditure, compensation choices and preference of compensation mode of payments will be prepared and administered. The Asset Inventory form will be used to record details of the PAP with respect to the assets within the project area – trees, crops, structures and land. Information on: i) trees and crops by type and by stage of growth and ii) structures with all specifications for material used for construction will be recorded.

c) Socio-Economic Surveys

The Socio-Economic survey questionnaire will be designed to capture the Social and Economic variables such as: demographic characteristics of the Household members, sex, Education, Age, Children, place of residence, type of marriage and ethnicity, income and ownership of property and the types of property owned, economic activities, types of crops – cash versus food crops, division of labour and control of the agricultural produce, households services, household movable assets (ownership and control), fixed assets ownership and control, Livelihood improvements, social economic services available, social networks, coverage under government or NGO development schemes, level of indebtedness. The questionnaire will be conducted on a stratified sample size of about 30% of the affected households. The selection of Affected Households for the Socio-Economic survey will consider the following criteria

- i) All PAPs losing structures within the project area;
- ii) All PAPs losing land in the project area;
- iii) By type of vulnerability; and
- iv) Some of the PAPs, who would lose crops and trees

The Gender Assessment checklists will be developed to capture aspects such as gender, women-asset-ownership status, division of labour, women's sources of livelihoods, community perceptions on policies and traditional land holdings and lineage systems, anticipated impacts from compensation aftermath and suggested mitigations.

The Household Socio Economic survey instruments will be pre-tested in the project area. During the pre-testing the specialists will assess all the questions for consistency, comfort (ease) of the research assistants to enquire and the respondents' convenience to respond. Data collection tools will be modified to incorporate the feedback that will be obtained from the field testing.

d) Asset valuation and computation of compensation packages

The proposed project will involve displacement of people and loss of livelihoods. Compensation whether in a form of money, replacement of land or structures will arise from:

- a) Land to be acquired for the different project activities;
- b) Structures falling within the proposed project activities; and
- c) Trees and crops falling under the proposed project activities.

10.2.3 Disclosure and Compensation signing and Draft RAP preparation

Disclosure and Compensation Signing and RAP preparation will involve compilation of all data that will be collected and its analysis towards report preparation, as described below:

a) Disclosure and Compensation Agreement Forms Signing

A Disclosure database will be prepared using the database developed for the RAP with valuation data incorporated. Specifically the data base will comprise the following:

- i) Data with Asset valuation – Valuation of different Asset of PAPs will be included like - number of trees, varieties of trees (Indigenous, Fruit, Exotic etc.) with sizes.
- ii) Disclosure Database - Status of Ownership, area of plot, occupation, vulnerability status along with their signature will be included in the database apart from the valuation data for asset.

The exercise of Valuation of impacted assets – land, structures, trees, crops and other CPRs will follow the approval of proposed rates. The details from the asset inventory exercise will be recorded against each PAP and will be grouped by District/TA/GV/VH with PAP ID, PAP name and Vulnerability Status. Approved rates will be inserted against each of the assets to be recorded to help compute the compensation and assistances payable to each PAP. The exercise will help to come up with a Disclosure Sheet for all impacted assets, their applicable rates and amounts payable to each PAP. The details from these Disclosure Sheets will also be copied onto Compensation Agreement Form. The Compensation Agreement will be translated into Chichewa language and will be printed with all cells populated with payable amounts.

Prior to the commencement of the field activities for the above, a half day orientation program will be organized for all those personnel to be involved in the exercise. The exercise will assist to clarify the following:

- i) Types of assets that will be compensated;
- ii) Rates which will be used to compute compensation amounts and their sources;
- iii) Compensation amounts payable to those having land that will be affected by the project activities;
- iv) Allowances payable such as Shifting allowance, Disturbance allowance;
- v) Special grants for those vulnerable PAPs;
- vi) Cut-off dates applicable for each area; and
- vii) Likely date for making of payments and by whom.

Sensitization teams will be deployed to provide prior information to the communities on the exercise and to particularly gather PAPs and VHs for the exercise. Details on the assets, which will be recorded and rates applied will be communicated to the PAPs, besides providing responses to other queries. In case PAPs will want the team to check the site again, one Surveyor and Valuer will accompany the PAP to the site and verify the issue, correct Disclosure Sheet if found genuine and the Compensation Agreement Form as well.

b) Updating Database post-Disclosure

Following the disclosure exercise, any corrections to inventory of trees, types of trees, structures types in terms of materials and dimension, or name of PAPs will be updated in the database. New PAPs will be coming during the disclosure and they will be listed by names and checked in the project area by using GPS to know their real position in the project area. Vaild PAPs will be enlisted in the PAP list and their asset and other Census and Socio-economic information in

the database will be updated. The new PAPs will be attended later in another disclosure meeting and their signatures will be obtained on the agreement form for their asset.

10.2.4 Report Preparation

Data from Census and Socio-economic survey will be analyzed using Statistical Package for the Social Sciences (SPSS Ver.20) software. Also Land Availability Assessment and Videography footage will be analyzed along with minutes of all meetings with communities and institutional stakeholders and will be appropriately documented for usage in the report.

10.2.5 RAP Approval process

The RAPs/ARAPs to be prepared for the different components will be to the Ministry of Lands who will review them for approval. The Ministry, where necessary will deploy its staff to verify certain components of the projects to ascertain details of the RAPs/ARAPs. Once approved, the Ministry of Finance will be informed of the compensation packages required for them to release funds for compensation. Annex 6 of this RPF gives a template of an outline for preparing a RAP.

CHAPTER 11 RESETTLEMENT BUDGET ESTIMATES

11.1 Activities requiring costing during the RAP/ARAP preparation

According to World Bank OP 4:12 compensation and resettlement assistance under the project will be paid by the MoAIWD to all categories of eligible persons. During subproject implementation a RAP/ARAP will be prepared, social surveys will be conducted to establish the number of PAPS, identify their losses and calculate the cost of compensation. Annex 5 provides details of resettlement screening.

11.2 Properties to be Affected and the Estimated Costs

The Project will likely impact on households, business operators, institutions and community members. These impacts, however, manifest at individual and group level. Some of the losses qualify for compensation and resettlement assistance include:

a) Loss of residence

People who will be displaced by having to move from their place of residence to allow for the construction of the proposed project facilities.

b) Loss of business

People who will be displaced by having to move from their places of business to allow for the construction of the project structures and related infrastructure. These can be shops, business shelters, places such as brick ovens, sand collection and selling points etc.

c) Loss of land

People who will lose land over which they have established ownership or rights of usufruct (either in a permanent or temporary fashion) to allow for the construction of the project structures associated infrastructure.

d) Communal resources

Members of communities who will lose access to their communal resource base. These will include boreholes, communal play grounds, grazing sites, market places and other resources.

e) Places of worship

Worshippers who may be affected through having their place of worship having to be relocated.

f) Socio-economy

There will be an increased demand for land, water, food, supplies, labour, sexual activities, medical, entertainment, and educational facilities in the project impact following the coming in of different people seeking employment and to conduct different businesses.

g) Traffic and transport

There will be increased movement of construction plants and vehicles on site and access roads which will result in increased creation of dust through excavation, blasting and increased risks to road safety in the area;

h) Archaeology and cultural heritage

There are no known archaeological remains and structures of historical importance in the area. Places of cultural heritage include the three grave yards identified along the proposed road project.

i) Loss of utilities

The project corridor has a number of utilities such as boreholes, water pipes and electricity poles which will be relocated. Replacement of the utilities will have to be done before the people are resettled.

Since the subproject and the exact sites are not known at this stage, the RPF can only provide an estimated budget for resettlement especially for activities required to undertake a resettlement programme. When the subprojects are identified, locations known, accurate budget for each RAP will be prepared. Final resettlement cost estimates and budget will consider items covered in the following in Table 11.1 below. Table 11.2 present the estimated cost for capacity building. Table 11.3 present budget estimates per component.

Table 11.1 Activities required to be considered for Costing during the Development of RAP/ARAP

Item	Activity
Resettlement and Compensation cost	Cost of census and survey of PAPs and inventory of assets
	Cost of information and consultation
	Compensation for lost assets (land, structures etc)
	Cost of replacement land
	Cost of preparation of replacement farmland
Relocation and transfer	Cost of moving and transporting movable items
	Cost of replacement housing
	Cost of site and infrastructure development and services
	Subsistence allowance during transition
	Cost of replacement businesses and downtime
Income restoration plan	a) Cost estimates for income restoration plans (e.g. training, small business, community enterprise, etc); b) Cost of incremental services (extension, health, education); and c) Environmental enhancement package (forestry, soil conservation, grazing land etc)
Administration costs	a) Physical facilities (office space, staff housing, etc); b) Transport/vehicles, materials;

Item	Activity
	c) Operational staff (managerial, technical) and support staff; d) Training and monitoring; e) Technical assistance; f) Evaluation by independent agency; and g) Grievance Redress Mechanism

Table 11.2. Estimated Cost for Capacity Building

No.	Activity	Unit of budget	Estimated Budget(MK)
1.	Awareness of National Stakeholders on resettlement	Lump sum	15,000,000.00
1	Awareness of District Stakeholders on resettlement	Lump sum	100,000,000.00
2	Monitoring and Evaluation Activities	Lump sum	100,000,000.00
3	Administrative Cost	Lump sum	50,000,000.00
	GRAND TOTAL		265,000,000.00

Table 11.3. Estimated Cost of Resettlement per Component

Activity	Unit of Budget	Estimated Cost(Mk)
Component.1: Support for Agricultural Productivity		
Sub-component 1.3: Irrigation Development and Rehabilitation	Lump sum	335,000,000.00
Component 2: Strengthen the Market Linkages and Value Addition		
Subcomponent 2.1: Support for Market Infrastructure and Value Addition	Lump sum	425,000,000.00
Grand Total		760,000,000.00

11.3. Implementation costs for the RPF

The total estimated cost for the implementation of the various activities of the RPF is the summation of estimated cost for capacity building (Table 11.2) and estimated cost of resettlement per component (Table 11.3). The total estimated cost for implementing the RPF is therefore **Mk 1,025,000,000.00**

CHAPTER 12 RAP IMPLEMENTATION SCHEDULE

Before any project activity is implemented, PAPs will need to be compensated in accordance with the RAP, prepared in accordance with this RPF. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation prior to displacement and preparation of resettlement sites with adequate facilities, where required.

The 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 displaced persons. For project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the individual RAPs.

The schedule for the implementation of activities must be agreed to between the PIU and District Council and the PAPs. These include the target dates for start and completion of civil works, timetables for transfers of completed civil works to PAPs, and dates of possession of land that PAPs are using. The possession dates must be after transfer date for completed civil works to PAPs and payments of all compensation. How these activities are linked to the implementation of the overall project must also be agreed between the parties. The screening process must ensure that RAPs contain acceptable measures that link resettlement activity to civil works in compliance with this policy. The timing mechanism of these measures would ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected. Once the RAP is approved by the local and national authorities, the RAP should be sent to the World Bank for final review, approval and disclosure.

The timing of the resettlement will be coordinated with the implementation of the main investment component of the project requiring resettlement. All RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities. The plan should include a target date when the expected benefits for resettled persons and hosts would be achieved. Table 12.1 provides details of a rough estimate for the RAP implementation schedule.

Table 12.1 Implementation schedule for the RAP

ID	Task Name	Time lines (Months)											
		1	2	3	4	5	6	7	8	9	10	11	12
1	Appointing staff within the Ministry of Agriculture, Irrigation and Water Development and the affected district councils to commence with preparatory activities												
2	Contracting suitable NGOs to assist with the capacity												

ID	Task Name	Time lines (Months)											
		1	2	3	4	5	6	7	8	9	10	11	12
	building and skills enhancement programs.												
3	Conducting sensitisation meetings with PAPs												
4	Updating the socio-economic baseline												
5	Asset valuation and validation												
6	Identification of relocation sites												
7	Land identification												
8	Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates.												
9	Signing compensation agreements with PAPs												
10	Payment of compensation												
11	Land acquisition												
12	Update database												
13	Provision of assistance to PAPs on grievances												
14	Termination of assistance to PAPs												

In order to facilitate the resettlement process given the proposed construction timing, the following key activities will be initiated immediately upon commencement of the Project:

- a) Finalizing the detailed configurations of the various project components (borrow areas, spoil disposal areas etc.) so that land acquisition requirements and recording exercises can be undertaken;
- b) Appointing staff within MoAIWD and the affected district councils to commence with preparatory activities, including ongoing consultation with affected communities;
- c) Updating the socio-economic baseline, including completing socio-economic questionnaires for all affected households not surveyed during the preparation of the RAP;
- d) Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates; and

- e) Contracting suitable NGOs to assist with the preparation of the social environment, including preparation of capacity building and skills enhancement programs.

13.1 Arrangements of Monitoring by implementing Agency

Monitoring and evaluation will form an integral part of the Agricultural Commercialization Project and will be executed by MoAIWD. The Monitoring and Evaluation will provide the necessary information about the involuntary resettlement aspects of the project; and will measure the extent to which the goals of the resettlement plan have been achieved and the effectiveness of mitigation measures. Problems and successes will be identified as early as possible so that timely adjustment in the implementation arrangements are made. The process needs to be undertaken for a reasonable period after all resettlement and related development activities have been completed. Ministry of Agriculture, Irrigation and Water Development may delegate respective District Councils to conduct the Monitoring and Evaluation of activities related to compensation/resettlement. As such respective District Councils should be provided with required resources to conduct the exercise. In addition, the Project Management Unit will also conduct monitoring and evaluation as part of internal monitoring and evaluation.

13.2 Monitoring Indicators

Indicators and targets will be established for the project as a whole, in consultation with representatives of the affected communities and other key stakeholders. Indicators will be grouped into the following categories:

- a) **Input indicators** – will measure the resources (financial, physical and human) allocated for the attainment of the resettlement objectives, such as livelihood restoration goals;
- b) **Output indicators** – will measure the services/goods and activities produced by the inputs. Examples will include compensation disbursements for acquired assets;
- c) **Outcome indicators** – will measure the extent to which the outputs will be accessible and used, as well as how they will be used. They will also measure levels of satisfaction with services and activities produced by the inputs. Examples will include the ways in which recipients used compensation. Although they are not measures of livelihood restoration in themselves, they will key determinants of well-being;
- d) **Impact indicators** – will measure the key dimensions of impacts to establish whether the goals of the Resettlement Plan will be achieved. Examples will include restoration and diversification of income levels and the sustainability of income-generating activities, as dimensions of livelihood restoration and well-being; and
- e) **Process indicators** – will measure and assess implementation processes. Examples will be the functioning of liaison/participation structures, the levels of representation of different social categories/interest groups, and the processes by which conflicts and disputes are resolved.

Indicators will also be disaggregated to ensure that social variables are properly accounted for.

Table 13.1 provides details of different indicators and variables to be monitored.

Table 13.1 Indicators and Variables to be monitored

Aspect	Indicator	Variable
Land	Affected land	a) Area of cultivable land acquired for dam development b) Area of communal land acquired for dam developments c) Area of private land acquired d) Area of Government land acquired
Buildings/Structures	Affected Buildings	a) Number, type and size of private buildings affected b) Number, type and size of community buildings affected c) Number, type and size of government buildings affected
	Other Structures affected	a) Number, type and size of other private structures affected b) Number, type and size of other community structures affected
Trees	Affected trees	Number and type of trees affected
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	a) Number of homesteads affected (buildings, land, trees, crops) b) Number of owners compensated by type of loss c) Amount compensated by type and owner d) Number of replacement houses constructed e) Size, construction, durability and environmental suitability of replacement houses f) Possession of latrines g) Water supply access h) Number of replacement businesses constructed
	Re-establishment of owned resources	a) Number of community buildings replaced b) Number, type of plants lost c) Number of seedlings supplied by type d) Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	Number of homesteads affected by hazards and disturbances from construction(noise levels, blasting, increased traffic levels)

Aspect	Indicator	Variable
Social/ Demographic	Changes to homestead Structure	a) Homestead size b) Gender distribution c) Marital status d) Relationship to homestead head e) Status of “vulnerable” homesteads
	Population migration	a) Residential status of homestead members b) Movement in and out of the homestead (place and residence of homestead members)
	Changes to access	Distance/travel time to nearest water source, communication facility, school, energy source, church, shop, village
	Changes to health Status	a) Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, immunizable disease) b) Mortality rates c) Access to health care services (distance to nearest facility, cost of services, quality of services) d) Utilization of health care services e) Disease prevention strategies f) Extent of educational programs g) Latrine provision at schools (school child population per VIP on site)
	Changes to educational status	a) Literacy and educational attainment of homestead members b) School attendance rates (age, gender) c) Number, type of educational establishments
	Changes to status of Women	a) Participation in training programs b) Use of credit facilities c) Landholding status d) Participation in jobs and other activities resulting from the project
	Homestead earning Capacity	a) Ownership of capital assets b) Landholding size, area cultivated and production volume/value, by crop c) Landholding status (tenure) d) Employment status of economically active members e) Earnings/income by source, separating compensation payments f) Changes to income-earning activities (agriculture) – pre and post disturbance g) Access to income-generating natural resource base (wood, grass, sand, stones)
	Changes in social Organization	a) Organizational membership of homestead members b) Leadership positions held by homestead members

Aspect	Indicator	Variable
	Population influx	a) Growth in number and size of settlements, formal and informal b) Growth in market areas
Consultation	Consultation program operation	a) Number of local committees established b) Number and dates of local committee meetings c) Type of issues raised at local committees meetings a) Involvement of local committees in the Developers development planning b) Number of participating NGOs
	Information Dissemination	a) Number, position, staffing of Information Centres b) Staffing, equipment, documentation of Information Centres c) Activities of Information Centres d) Number of people accessing Information Centres e) Information requests, issues raised at Information Centres
	Grievances resolved	a) Number of grievances registered, by type b) Number of grievances resolved c) Number of cases referred to court
Training	Operation of training Program	a) Number of local committee members trained b) Number of affected population trained in Project-related training courses
Management	Staffing	a) Number of implementing agencies by function b) Number of GOM ministry officials available by function c) Number of office and field equipment, by type
	Procedures in Operation	a) Census and asset verification/quantification procedures in place b) Effectiveness of compensation delivery system c) Number of land transfers effected

At the end of the compensation and resettlement period the RAP shall be evaluated on its performance. The evaluation will assess the number of people who were to be resettled, issued to be addressed versus what will have been achieved in the agreed period. The evaluation will be done by an independent NGO which will be decided and will determine modifications to be done on future similar projects in the District.

13.3 Monitoring

The monitoring program will involve the following:

- a) Establishment of required institutional structures;
- b) Operation of compensation, grievance and other necessary procedures;
- c) Disbursement of compensation payments;
- d) Development of livelihood restoration programs; and
- e) Preparation and submission of monitoring and evaluation report.

13.3.1 Internal and External Monitoring

a) Internal Monitoring

The Project Management Unit will be responsible for conducting internal monitoring on implementation of Resettlement Action Plan. The project management unit will be responsible for:

- i) Coordinating with various stakeholder the implementation of the RAP;
- ii) Data collection and production of RAP implementation progress reports for internal monitoring purpose;
- iii) Identify any pending issues/non-compliance issues during RAP implementation;
- iv) Overseeing implementation of RAP;
- v) Providing information which may be required by external monitoring team;
- vi) Receive and report complaint of affected people to competent authorities for resolving.

Depending on the nature and complexity of the RAP and RAP implementation stages, the internal monitoring can be done on weekly, monthly or quarterly basis. At each stage reports are required to ensure that members of the project management unit are aware of the progress and issues that require action.

Internal monitoring indicators

Issues to consider when developing internal monitoring indicators should include:

- i) Number of project affected persons according to types of impacts;
- ii) Number of grievances and status in addressing them;
- iii) Progress on compensation payment, resettlement, and income restoration;
- iv) Final results on solving complaints and any outstanding issues that demand management agencies at all levels to solve;
- v) Issues that arise during the implementation process; and
- vi) RAP schedule updated.

b) External Monitoring

In addition to internal monitoring, external monitoring need to be periodically conducted to independently assess the implementation of the approved RAP so as to ensure that the implementation is in compliance with regulations and policies stipulated in the RAP. External monitoring can also be conducted by an independent consultant who can also conduct a final monitoring and evaluation of resettlement implementation when all resettlement activities have been completed for 6 months. Periodical and final reports should include all findings from monitoring and evaluation and corrective action plan (if needed) to submit to project management unit and the World Bank.

External Monitoring Indicators

An external monitoring consultant is expected to monitor and evaluate the results of the RAP

implementation with regards to the following three key aspects:

- a) Performance (Process, including compliance),
- b) Impact (Outcome); and
- c) Sustainability (upon Completion of the RAP implementation).

The project management unit will prepare terms of reference for external monitoring and these will be reviewed by the bank prior advertisement. While monitoring of RAP implementation process should be maintained quarterly, or even monthly, depending on the nature and the complexity of the RAP, evaluation should be conducted at two important milestones: These milestones are:

- a) when compensation payment is completed for most affected households (to evaluate the compensation payment), and
- b) six months following the completion of resettlement (to evaluate the livelihood restoration process).

Monitoring report must be submitted to project management unit for each monitoring exercise to keep project management unit abreast of issues different developments and issues that require immediate attention. Bi-annually the consultant must prepare a bi-annual report, consolidating all the findings from quarterly reports and submit to project management unit which will in turn submit to the World Bank. The reporting requirements will be detailed in the Terms of Reference for external monitoring.

13.4 Methods for Measuring Impacts

Different methods will be used for measuring impacts. These include use of questionnaires where comparative analysis will be done i.e. situation before implementation of the RAP and after implementation of the RAP. Other methods will include documentation and recording of PAPs situation, including subsequent uses of assets/improvements; consultations; and review compensation reports.

The project management unit will review these statistics to determine whether the RAP implementation arrangements, as defined in this RPF, are effective in addressing RAP related issues. Financial records will be maintained by the sub-projects and the management unit, to determine the final cost of RAP implementation.

13.5 Annual Audit

The annual audit of the RAP implementation will have information on:

- a) Summary of RAP performance of each sub-project;
- b) a compliance review of RAP implementation process; and
- c) a progress report on the quality of RAP implementation in terms of application of guidelines as provided in this RPF.

The annual audit report will verify results of monitoring of RAP implementation indicators, and assess whether the project achieved the resettlement objectives. In addition, the audit

report determine whether livelihood and living standards have been restored or enhanced after RAP implementation. Further, the audit will assess the efficiency, effectiveness, impact, and sustainability of RAP sub-project activities so that lessons learnt can be applied for related projects in future.

13.6. Socio-Economic Assessment

Socio-economic assessment will be conducted as part of the evaluation process to ensure that PAPs livelihood and wellbeing have improved, and have not worsened as a result of the subproject. An assessment will be undertaken on payment of compensation, restoration of income and livelihoods, and provision of sufficient community development activities.

The socio-economic assessments will use surveys, focus group discussions, and participatory appraisal tools for measuring impacts. An assessment will be made for each sub-project. This assessment will also measure changes from the base line information. Baseline information will have been gathered before RAP implementation.

13.7 Reporting

Reporting on the activities around involuntary resettlement forms an integral part of monitoring and evaluation, to:

- a) Ensure early detection of conditions that necessitate particular mitigation measures, and
- b) Provide information on the progress and results of mitigation. Reporting methods of any resettlement activities on the project to date seem to have been limited to reports from consultants working on different aspects of the project. It is recommended that in the future all consultation and disclosure activities be reported in detail, internally and externally.

CHAPTER 14 CONCLUSION AND RECOMMENDATIONS

Following the RPF study conducted for the proposed Malawi Agriculture Commercialization Project, it was clear that the project will generate significant socio-economic benefits to the country as a whole, and in the different project impact areas. However, the study also established a number of potential negative environmental and social impacts in the project impact areas and beyond. It is anticipated that these potential negative impacts would be contained or reduced so long as the recommended mitigation measures the will be developed in the RAPs will be implemented.

Among the potential negative impacts, the most relevant ones to the project and its subcomponents include Loss of property, Loss of cultivable land, Loss of grazing sites, Risk of Increased incidences of Sexually Transmitted Diseases (STIs) and HIV/AIDS, Social disruption and family instability due to influx of people to the area, Disruption of livelihoods and social cohesion, Disruption of existing cultural practices, Loss of residence, Permanent or temporary loss of business, Disruption of public service utilities, Loss of Places of worship, Loss of cultural resources including graveyards, Risk of social conflict, Construction related accidents, Increased risk of illicit behavior and crime, Influx of additional population (“followers”), Impacts on community dynamics, Increased burden on and competition for public service provision, Increased risk of communicable diseases and burden on local health services,

To minimize these negative impacts, it will be necessary for the project to ensure that resettlement / compensation of affected people should be properly planned for in the RAPs/ARAPs for the project in accordance with World Bank Policies and Malawian legislation.

As observed, the Project’s potential disadvantage is displacement and relocation of both people and businesses. However if the site specific RAPs/ARAPs will be developed and implemented, the people to be displaced will suffer minimum inconveniences. It is therefore recommended that the RAPs/ARAPs should:

- a) Suggest setting up as soon the approval of the project is given the institutions that will be responsible for negotiations and RAP/ARAPs implementation. These should include the RWG, and DC Team;
- b) Identify the alternative land close to the proposed project areas where those households which cannot continue to live in their current locations can be resettled to; and
- c) Ensure that the RAPs/ARAPs that will be prepared should be flexible enough to be modified in line with situations experienced when the actual resettlement begins. In particular the monitored indicators are discussed at least quarterly so that appropriate measures and readjustments can be made.

With all the suggested procedures for resettlement and compensation in this RPF, it is recommended that the project should be undertaken. It will be constituted in such a manner as

to be regarded as the primary representative voice of the affected persons. The composition of the RWG will be as follows:

- a) Representatives of the affected communities/villages. This will be made up of two members from each of the Traditional Authorities areas defined as affected. At least one of the two members will be a woman. The PAP will elect these members;
- b) Representatives of the Traditional Authorities in each of the areas affected;
- c) Representatives of Developer; and
- d) One representative from each of the districts where the project will be implemented. These will be the DC or his designated representative.

References

1. Government of Malawi (2016) **The Constitution of the Republic of Malawi**, Office of President and Cabinet
2. Government of Malawi (2002), **Malawi National Land Policy**, Ministry of Lands, Housing and Urban Development
3. Government of Malawi (1998) **National Decentralization Policy**, Ministry of Local Government and Rural Development
4. Government of Malawi (2004), **National Environment Policy**, Ministry of Natural Resources, Energy and Mining
5. Government of Malawi (2016), **Land Act**, Ministry of Lands, Housing and Urban Development
6. Government of Malawi (2016), **Customary Lands Act**, Ministry of Lands, Housing and Urban Development
7. Government of Malawi (1970), **Lands Acquisition Act**, Ministry of Lands, Housing and Urban Development
8. Government of Malawi (2017), **Lands Acquisition (Amendment) Act**, Ministry of Lands, Housing and Urban Development
9. Government of Malawi (2016), **Physical Planning Act**, Ministry of Lands, Housing and Urban Development
10. Government of Malawi (1962), **Public Roads Act**, Ministry of Lands, Housing and Urban Development
11. Government of Malawi (2017), **Public Roads (Amendment) Act**, Ministry of Lands, Housing and Urban Development
12. Government of Malawi (2017), **Land Survey Act**, Ministry of Lands, Housing and Urban Development
13. Government of Malawi (1967), **Registered Land Act**, Ministry of Lands, Housing and Urban Development
14. Government of Malawi (2017), **Registered Land (Amendment) Act**, Ministry of Lands, Housing and Urban Development

15. Government of Malawi (2007), **Forestry Act**, Ministry of Natural Resources, Energy and Mining
16. Government of Malawi (2017), **Forestry (Amendment) Act**, Ministry of Natural Resources, Energy and Mining
17. Government of Malawi (1996), **Environment Management Act**, Ministry of Natural Resources, Energy and Mining
18. Government of Malawi (1998), **Local Government Act**, Ministry of Local Government, Lilongwe.
19. Government of Malawi (2017), **Local Government (Amendment) Act**, Ministry of Local Government, Lilongwe.
20. Government of Malawi (1948), **Public Health Act**, Ministry of Health
21. Government of Malawi (1997), **Occupational Safety, Health and Welfare Act**, Ministry of Labour, Youth, Sports and Manpower Development
22. Government of Malawi (2012), **Gender Equality Act**, Ministry of Gender, Children, Disability and Social Welfare
23. World Bank Operational Policies, OP 4.12 **Involuntary Resettlement Policies**

MALAWI AGRICULTURAL COMMERCIALIZATION PROJECT

Country:	Malawi
Project:	Malawi Agricultural Commercialization Project
Implementing Agencies:	Ministry of Agriculture, Irrigation, and Water Development and Ministry of Industry, Trade and Tourism
Consulting service for:	Preparation of the project's RPF
Time Commitment:	100% Accountable to Project Manager

The project seeks to procure consultancy services to prepare Resettlement Policy Framework (RPF) under the Project Preparation Team in the Ministry of Agriculture, Irrigation, and Water Development in Lilongwe, Malawi.

1.0 INTRODUCTION

The Government of the Republic of Malawi is seeking the financial support of US\$120.00 million from the International Development Association (IDA) of the World Bank Group for The Malawi Agricultural Commercialization Project. The Malawi Agricultural Commercialization Project will seek to increase the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promote vertical integration through the support to business – oriented farmers' organizations, around targeted value chains. The Project will also invest towards making land more available to resources – constrained smallholders.

1.1 Component 1: Support for Agricultural Productivity and competitiveness

The Component will address the underlying causes of low agricultural productivity in the targeted value chains. These include the following:

- i) low adoption of technologies;
- ii) low access to improved inputs (seeds and fertilizer) and low mechanization;
low labour skills;
- iii) weak linkages to markets; and
- iv) limited irrigation.

This component will aim to increase production and improve the competitiveness of these value chains in the domestic and export markets. Broad activity areas under this component will include:

- i) farmer organization and capacity building for commercially oriented production and linkages to input, output and service markets;

- ii) investments in strengthening market-oriented development of inputs supply and extension systems for improved adoption of productivity enhancing technologies and practices; and
- iii) irrigation development.

1.2 Component 2: Support for Market Development and Value Addition

This component will address challenges associated with public infrastructure underinvestment and market failures affecting smallholder producers and other value chains especially those residing in rural areas. A focus will be placed on investments in post-harvest handling, value addition technologies and storage infrastructure, ideally owned and operated by the most successful members of formal groups (e.g. cooperatives, associations, farmer organizations) based on a careful stocktaking and mapping of existing storage capacity in Malawi.

1.3 Component 3: Access to Investment Enabling Services

The component will address key challenges of access to agriculture financing. It will also in other circumstances address key challenges to enterprises such as on land management and administration. It will support trade facilitation to identify and remove non-tariff barriers, and address regulatory and administration reforms in order to remove barriers to private sector activities in agribusiness. The project will also support Public Private Dialogue in order to improve dialogue on key challenges facing agriculture private sector, support the bridging of existing gap in Government strategy for commercial agriculture.

1.4 Component 4: Project Coordination and Management

This component will finance activities related to the coordination and actual implementation of project's activities. This includes both costs for:

- i) project management/coordination including procurement, financial management, monitoring and evaluation (M&E), mitigation of potential negative social and environmental impacts, and communication about project implementation and results;
 - ii) sector and cross-sector coordination with the agriculture, water, industry, trade, lands plans and frameworks; and
 - iii) facilitating inter-ministerial collaboration on tackling implementation challenges.
- Given the multi-sectoral nature of the Project, a Project Implementation Unit (PIU) will be established to handle day to day activities of the Project.

2.0 ENVIRONMENTAL AND SOCIAL SAFEGUARDS TRIGGERED.

Components of the project which would trigger environmental and social safeguards polices are rehabilitation and reconstruction of public infrastructure – irrigation schemes, market centres and the various agro enterprises to be implemented. Initial appraisal of the project highlights that the project activities would trigger three environmental and social safeguards policies, and these are: Environmental Assessment (OP 4:01), Pest Management (OP 4:09), and Involuntary Resettlement (OP 4:12). Initial evaluation of scope of activities and potential scale of impacts have rated the impacts moderate and assigned the environmental assessment

risk category B. This category requires partial assessment of impacts, and in line with safeguard requirements, an Environmental and Social Management Framework, Integrated Pesticide Management Plan and Resettlement Plan will be prepared to provide guidance on mainstreaming environmental considerations in the project activities

3.0 POLICY AND LEGAL REQUIREMENTS ON RESETTLEMENT.

3.1 Review of Policies and Laws on Resettlement in Malawi

Policy and legal framework on resettlement in Malawi is drawn from various government policies and pieces of legislation. In addition to a review of the Constitution of Republic of Malawi, other key government policies and pieces of legislation considered here include: Malawi National Policy, Land Act, Land Acquisition Act, The Public Roads Act, The Town and Country Planning Act, and the Forestry Act..

3.2 World Bank Environmental Safeguards: OP 4.12 (Involuntary Resettlement)

World Bank Policy on resettlement is outlined in Operational Policy (OP 4.12), and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy encourages community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to displaced persons.

In addition the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

4.0 TERMS OF REFERENCE FOR THE STUDY

4.1 Specific features of this assignment

A Project Steering Committee (PSC) will provide overall guidance and will involve the ministries of Agriculture, Irrigation and Water Development (MoAIWD), Industry, Trade and Tourism (MoITT), and Lands, Housing and Urban Development (MoLHUD). Private sector representatives (producer organizations and investors) will also be part of the PSC. Implementers will include various government agencies including district councils across the country. However, at this stage, the specific sites/locations and specific interventions have not been identified. Given the multi-sectoral nature of the Project, a Project Implementation Unit (PIU) will be established to handle day to day activities of the Project.

In view of these circumstances, and for practicality purposes, the appropriate resettlement instrument for this project would be a Resettlement Policy Framework (RPF). Overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. It provides principles and guidance on how to prepare a Resettlement Action Plan (RAP), what specific mitigation measures should be in the RAP, and how to conduct actual consultations at the time of preparation of the RAP

4.2 Objectives of the Resettlement Policy Framework

The main objectives of RPF are to set out policies, principles, institutional arrangements, schedules and indicative budgets that will take care of anticipated resettlements. It addresses any potential land acquisition and/or physical relocation, loss of livelihood or restriction of access to natural resources. These arrangements are also to ensure that there is a systematic process (as opposed to an adhoc one) for the different stages of the implementation of the framework that assures participation of affected persons, involvement of relevant institutions and stakeholders, adherence to both World Bank and Malawi Government procedures and requirements, and outline compensation for affected persons.

The consultant is to develop the RPF taking into consideration the outlined objective and principles. This RPF will serve as the framework within which a Resettlement Action Plan

(RAP) will be developed when the project is certain of the locations and specific impacts of the project.

5.0 MAIN AREAS OF FOCUS OF THE STUDY

The assignment by the Consultant shall cover the following areas as described in this ToR. Other areas considered relevant may be considered by the consultant so far as they add value to the outlined areas below.

5.1 Description of background and scope of the project

The consultant(s) shall provide the pertinent background of the project to place the RPF in the relevant context. They should briefly describe in a logical order the major components of the proposed project, a statement of the need for it and the objectives it is intended to meet. Most importantly, the consultant shall identify the possible resettlement issues that each component and subcomponents are likely to generate and for which reason the RPF is being developed.

5.2 Policy, Legislative and Administrative Framework

Describe all the pertinent policies, laws and necessary licenses and approvals to be obtained for the proposed project to ensure that the implementation of the subprojects are in line with sound environmental management practices and are in compliance with relevant pieces of legislation. Description should include those governing water resources, forests resources, health, protection of sensitive areas including forest reserves and game reserves, land use control. Also describe in general terms an institutional setup which supports the regulatory framework.

The consultant shall review and assess any existing laws governing land acquisition and other assets. It shall also look at the various land tenure and ownership systems in Malawi, the different legal instruments regarding individual and government acquisitions and resettlement and compensation policies. The consultant shall describe any discrepancies identified in the legal instruments.

The RPF shall also identify the legally mandated institutions associated with these legal instruments and their respective roles. This should be at all levels where implementation of project activities is likely to take place. Particular attention should be given to local-based institutions and structures at the project site(s). The institutional arrangements will include implementation and monitoring mechanisms that ensure inclusiveness and participation of all affected people, groups and communities.

5.3 World Bank Safeguards Policies

The consultant shall spell out the World Bank's policy on Involuntary Resettlement OP 4.12 and assess how this applies in the specific case of the Malawi Agricultural Commercialization Project. Attention should be paid to and documented on the difference(s) between the Bank's policy and Malawi's policy on involuntary resettlement if applicable, noting that where the differences are significant whichever policy is considered to be of a comparatively higher standard shall apply.

5.4 Social Assessment and Socio-Economic Surveys

The consultant shall conduct an initial social and economic survey at the various proposed sites for the project activities required under the different components and subcomponents that trigger the involuntary resettlement policy. The survey shall cover issues on the social structure, economic activities, social characterization of potential affected persons, and the numbers likely to be involved, the different social institutions, social capital and mechanism for social cohesion. The RPF shall also explore and describe existing conflict resolution mechanisms and potential for conflict situations arising as a result of the potential conflicts inherent in dealing with natural resources in general, and oil and gas in particular. This information will serve as critical baseline data for a future Resettlement Action Plan (RAP).

5.5 Estimated Population, Displacement and Categories of Affected People

This requires a record of the number of estimated people likely to be affected or displaced by the project activities (Project Affected Persons – PAP) as noted in the project component description above. The different categories of affected persons may include those who may be losing legal title to land and those without legal title but who use the land for economic activities or for residential purposes. There may be those who may be losing temporary access to property or business sites. These are only examples of those who are likely to be affected through displacement. The RPF shall identify the right categories based on the impacts noted or expected.

5.6 Eligibility Criteria for various Categories of Affected People

The consultant shall determine the method for setting a cut-off date for eligibility for compensation and also as a means for making this information (on cut-off date) reach the wider public. In addition, the consultant shall determine the compensation type for the different categories, losses and affected persons. These may include persons affected by land take, rights of access to resources or properties like housing, and water sources, loss of livelihood, and loss of cultural properties. The RPF shall take particular note of the multidimensional impact of the project and factor that into the analysis especially with regard to different sites and different forms of social impacts. The RPF shall pay particular attention to the different forms of impacts as a result of the nature of the project and explore the relevant issues appropriately. The criteria for compensation should be in line with national legal requirements and provisions, World Bank OP 4.12, social sustainability and poverty reduction factors and fairness to avoid conflict and dissatisfaction.

5.6 Entitlement Matrix for proposed Resettlement and Compensation Policy

Following from the above, the RPF shall develop a matrix that detail the type of compensation that each identified PAP will be entitled to and a rationale as part of the matrix explaining the reasoning behind the entitlement as will be proposed in the Matrix.

5.7 Methods for Valuing Affected Assets

This section shall describe in detail the methods used in valuing those assets that will be eligible for compensation either as per national or World Bank policy on involuntary

resettlement (OP4.12). This method shall be consistent with both national policy requirements and regulations and OP4.12. This process should capture the methodology for taking of inventory of assets, values assigned and agreement reached with each identified PAP and consider inflationary realities in the final determination of values. The RPF shall include a clear statement alluding to the possibility of revised values should there be major discrepancies between dates for value determination and actual date for payments. The PAPs should have an opportunity to do their own valuation if they have doubts or misgivings through the facilitation of the project for further negotiations between the PAP(s) and the client. Valuing of assets should be a process of engagement with PAPs and not an imposition. The RPF shall demonstrate that the methods used for the exercise in its entirety were fully participatory and acceptable to all stakeholders.

5.8 Organizational Arrangements and Procedures for Delivery of Entitlements

The RPF shall describe the process for organizational arrangements, responsibilities and roles. The RPF shall describe the approval processes for the various stages of the compensation work including the various actors and their roles and responsibilities. This section will also spell out the actual process for delivering the entitlement including the roles for the different agencies and reporting formats.

5.9 Methods for Consultation with and participation of Affected People

The consultant should as a matter of importance, describe in clear terms the methodology for consultation and participation by the PAPs in the process until they have received their entitlements. This process should be elaborate and clear to avoid and minimize confusion and suspicion. This could be done according to the different levels of consultations, the expected outcome from the different stages of the consultation and participation approach that would be adopted. The consultation process includes that for the development of the RPF and subsequent RAPs. The RPF should categorically emphasize the importance of documentation and other evidential indication for the consultation and participation process for this RPF and for subsequent RAPs. The record of consultation and participation for this RPF should be attached as an annex to the final RPF report for the client. As part of this, the consultant will develop a program for the disclosure of the RPF to facilitate the work of the client on this matter.

5.10 Grievance Redress Mechanisms

Under the grievance redress mechanism, the consultant shall describe the options available to PAPs for grievance redress they may have about the process, the identification of eligible people for compensation, the valuing and compensation and any other complaints they may have with the entire process. The RPF shall indicate how these would be disseminated and accessible to them in a way that is clear and comprehensible to the PAPs. The grievance redress mechanism should also have an in-built monitoring mechanism to check on responsiveness to complaints or grievances lodged. The different forms of receiving the complaints should be clearly described together with the different stages of going through the process. In addition, the redress mechanism shall indicate alternatives, in case the proposed mechanism, for any reason, does not respond to all grievances and complaints.

5.11 Budget and Funding Arrangements

The RPF should clearly state the sources of funding for subsequent RAPs, an overall cost estimates for resettlement including for monitoring of the resettlement activities. If there are multiple sites, the RPF should give an indicative budget for resettlement for each of the sites or communities. The financial responsibility of the relevant stakeholders, where applicable, should be categorically stated to avoid ambiguity of source of funds for resettlement activities. These budgets should take into consideration inflationary tendencies

5.12 Monitoring Arrangements

The RPF shall provide appropriate mechanism for monitoring the implementation of the resettlement activities. The consultant shall propose current and participatory monitoring methodologies that would involve the PAPs themselves. The roles of different players like the PAPs, civil society, traditional authorities, and local government authorities among others, in the implementation and monitoring process will need to be clarified. The RPF shall develop, as part of this, a template for monitoring with indicators based on the main issues identified and spelt out in the RPF.

5.13 Implementation Schedule

To avoid confusion with cut-off dates and other time lines especially because compensation will have to be paid prior to commencement of any civil works, it is important for the RPF to set out implementation schedule for the resettlement. Due to the fast track nature of this project, the RPF shall in addition to the implementation schedule identify potential risks that could militate against the smooth implementation of the resettlement actions and suggest plausible mitigation measures to serve as a guide to the client and the team who will be working on the implementation.

5.14 Template for the Design of Resettlement Action Plan

The RPF shall develop a template for the design of a RAP based on the details of the RPF and informed by World Bank framework for RAPs. This template will spell out the main subsections of the RAP and any other relevant annexes that should be included.

6.0 DELIVERABLES OF THE ASSIGNMENT

The deliverables from the consultant will include:

- i) An inception report clearly detailing the methodology for undertaking the assignment;
- ii) Draft RPF for the Project;
- iii) Final RPF for the Project that incorporate comments from the validation workshop;

The consultant will work closely with the Project preparation team who will provide technical backstopping for the assignment.

7.0 TIME FRAME

The consultancy will be delivered within a period of 30 man days. This includes preparation time, field work, report writing, disclosure, public consultations validation and submission of final documents.

8.0 COMPETENCIES AND EXPERIENCE

The consultant must have at least a Master's Degree in a relevant field e.g. environmental/social/ development studies. He/she must have at least 8 years of relevant working experience in conducting Environmental and Social Assessments in Malawi (with 8 years experience and must have held similar positions in at least 4 assignments of similar nature). He/She will establish the social economic environment of the proposed project area, including land use; assess likely impact of the project and proposed mitigation measures. Must have competence and skills and experience in undertaking property valuation, preparation of compensation costs and schedules as well as identification and appropriate handling of resettlement issues. He/she will ensure that consultations with interested and affected parties is conducted in accordance with procedures and regulation of Malawi. Knowledge and experience in World Bank safeguard policy on involuntary resettlement, OP4.12, will be an added advantage.

9.0 LANGUAGES

The consultant must be thoroughly proficient in written and spoken English.

10.0 COMPENSATION

A competitive Salary will be offered as per Government of Malawi norms for office and World Bank's consultancy guidelines.

- 1) An individual consultant will be selected in accordance with the procedures set out in the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers", published by the World Bank in May 2004 and revised in October 2006.
- 2) Interested and suitability qualified candidates should forward their applications indicating the position on the subject line of together with detailed Curriculum Vitae indicating work experience and copies of testimonials/certificates, email address, telephone contacts, names and telephone contacts of 3 referees to reach the Project Preparation Team not later than 7th December, 2016 to the following email address: zafaniyamoyo@gmail.com with a copy to jokanyangalazi@gmail.com.

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 projects,⁶ 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 4.12, 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](#), 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).¹⁶

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,¹⁷ 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 fraction¹⁸ 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 Benefits¹⁹

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](#), 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](#), para. 7(f)); and²⁰
- (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 assistance²¹ 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.²² 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](#));
- (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](#); 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.²³ 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 resettlers (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.²⁴

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 4.12](#), para. 16).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A](#), para. 2-21) for projects referred to in para. 17(a) above.²⁵ However, where impacts on the entire displaced population are minor,²⁶ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A](#), 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 A](#), 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 A](#), 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 subborrowers 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 subprojects²⁷ 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 A](#), 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 para. 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.

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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) PPFs advances and Institutional Development Fund (IDF) grants, if they include investment activities; (b) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (c) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs supported by Development Policy Lending (for which the environmental provisions are set out in [OP/BP 8.60, *Development Policy Lending*](#)), or by Program-for-Results Financing (for which environmental provisions are set out in [OP/BP 9.00, *Program-for-Results Financing*](#)). "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 4.10, *Indigenous Peoples*](#), and [OP 4.11, *Physical Cultural Resources*](#).
 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 8.00, Rapid Response to Crises and Emergencies](#)).
 7. For the 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).
- 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 A](#), 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 4.10, Indigenous Peoples](#).
 16. Where the borrower 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 and related assets may only proceed if the borrower has deposited funds equal to the offered amount plus 10 percent in a secure form of escrow or other interest-bearing deposit acceptable to the Bank, and has provided a means satisfactory to the Bank for resolving the dispute concerning said offer of compensation in a timely and equitable manner.
 17. See [OP 4.04, Natural Habitats](#).
 18. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.
 19. 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).
 20. 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.
 21. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.
 22. 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.
 23. 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.
 24. See [The World Bank Policy on Access to Information, para. 34](#) (Washington, D.C.: World Bank, 2002).
 25. An exception to this requirement may be made in highly unusual circumstances (such as emergency 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.
 26. Impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost.
 27. For the purpose of this paragraph, the term "subprojects" includes components and subcomponents.
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Annex 4 Report of the meetings held with Stakeholders

1.0	Opening Remarks 1.1. The District Agriculture Development Officers opened the meetings with a word of prayer and welcomed the consultation team and members of District Executive Committee (DEC) to the meetings; 1.2. The DADOs requested the consulting team to introduce itself and to brief the gathering why they had requested for the meeting.
2.0	Objectives of the meetings Mr. L. Kampira, the RPF Expert on behalf of the Consulting team informed the people gathered at the meetings that the meetings were organized in order to: a) Inform them about the project; b) Provide an opportunity for them to discuss their opinions and concerns; c) Manage their expectations and misconceptions regarding the project; d) verify the significance of some of the potential social impacts the project might cause; e) get inputs on compensation issues; f) disseminate concepts of the proposed Project activities with a view to provoking Project interest amongst the communities; g) promote sense of ownership for the Project; and informing the process of developing appropriate mitigation measures. 2.2 During the meetings, general information about the project was discussed and a number of issues were raised pertaining to how the project will affect the PAPs. Question and answers were used to guide the discussions.
3.0	Briefing on the project 3.1 Mr. Kampira briefed the DEC members that Malawi Government, through the Ministry of Agriculture, Irrigation, and Water Development; and the Ministry of Industry, Trade and Tourism would like to implement the Malawi Agriculture Commercialization project in all districts of the country. The will be implemented for a period of 6 years starting from 2017 – 2023. The Project seeks to increase the commercialization of diversified, high value commodities for domestic and export markets by establishing inclusive ventures between agribusiness and emerging commercial smallholder farmers, and promoting vertical integration through the support to business oriented farmers’ organizations, around targeted value chains. The Project will also invest towards making land more available to resources constrained smallholder farmers. He informed the gathering that the project will require some land in order to implement the different project components and this will lead to loss of land and property in the different project impact areas. He further informed the gathering that where the PAPs will lose land and their property, the developer shall compensate the affected persons for all the losses that they will suffer. He further clarified that compensation will only be paid where construction and project component activities will result into loss of land and property, disturb businesses and where structure belonging to PAPs will be destroyed. He informed the Meeting that at this stage the project is preparing the Resettlement Policy Framework which will guide the preparation of the RAP that shall guide compensation activities for the PAPs. Thereafter, the floor was opened for the potential PAPs to comment or seek clarifications relating to the briefing or the project in general.

4.0	ISSUE RAISED DURING THE PLENARY DISCUSSION	RESPONSE
a	DEC members wanted to know the project duration and start dates	The members were informed that the project will start in July 2017 and will be concluded in June 2023
b	DEC members wanted to know the categories of farmers that will participate in the project	<ul style="list-style-type: none"> • The members were informed that the project is targeting more the smallholder farmers who can organize themselves to produce agriculture products targeting big markets. • The members were also informed that medium scale farmers would also be accommodated if they organized themselves produce more agriculture commodities for bigger markets.
c	DEC members wanted to know, apart from high value crops, what other area can the farmers work on	The DEC members were informed that apart from high value crops, the farmers can also work on livestock, poultry and fisheries.
d	DEC members advised that it would be difficult in most places to find large pieces of land for the different component. The Consultants were advised that the project must be prepared to procure some land for the different project components	The Consultants informed the DEC members that the project will be prepared to compensate the PAPs who will lose their land and other property for the project.
e	The consultant and the project proponent were advised to conduct more sensitization and public consultation meetings at national, regional, district and community levels to ensure that all stakeholders understand and support the project. Furthermore, the consultant was advised to ensure that councillors, MPs and Area Development committees in the project impact areas are properly briefed about the project.	The consultant and the project proponent noted the advice and assured the participants that more consultation meetings will be organized especially during the RAP/ARAP studies itself.
f	The participants advised the consultant and the project proponent on the need to plan for community compensation in accordance with the law.	The consultants and the project proponent assured the participants that community compensation will be conducted according to existing policies and laws of the land. They further assured that the district councils will be involved fully when planning for community compensation.
g	The participants were worried that since the contractor may be coming from somewhere with a large number of workforce, the community members in the project impact area may be at risk of HIV/AIDS and other sexually transmitted diseases and TB.	The consultant and the project proponent informed the participants that there will be a comprehensive HIV/AIDS and other sexually transmitted diseases and TB programme during project implementation phase. Consultant further highlighted that it is each individual person's duty to behave responsibly.

h	The participants wanted to know the type of irrigation that will be practiced in the project impact area once power plant construction is over.	The consultant and the project proponent informed the participants that the type of irrigation will be determined by themselves
i	DEC members observed that with the project in the area there will be an increase in pressure over social services such as schools, medical facilities, water resources etc	The consultant and the project proponent informed the participants that infrastructure development will be an important component of the project.
j	The DEC members observed that with the mobilization of a large workforce for the contractor, cases of robbery and crime will be on the rise.	The consultant and the project proponent informed the participants that community policing will be initiated in the project impact area to work hand in hand with the local police force and this will assist to reduce cases of robbery and increased crime.
k	Employment opportunities to members of host community	The participants were informed that a Community Relations and Engagement Plan will be developed prior to project commencement that will cover all terms and modalities of engagement to ensure that project affected communities are equitably represented.
l	On Compensation, three ways of compensating the PAPs were discussed: a) Monetary compensation to the PAPs who will experience temporary disturbance/loss of business for the whole period that they will lose business; b) Monetary compensations to the PAPs who will experience permanent loss of land, property and businesses; and c) “In-kind” compensation where the Ministry through a Contractor, where the damaged infrastructure for the PAPs will be replaced	PAPs preferred cash compensation as opposed to in kind compensation
m	The DEC members informed the meeting that in the absence of any land for the project, the Council will negotiate with estate owners especially those estates that have been idle for a long time if some of the land can be transferred to the council for the project	The Consultants advised that this option should be carried out while following the national laws on land
n	DEC members requested if the project can have components which will aim at rehabilitating river banks	The consultants advised the DEC members that they are free to design their irrigation projects in such a way that they include river bank management

REGISTRATION FORM

FOR THE CONSULTATION MEETING FOR THE FORMULATION OF THE RPF FOR PROPOSED AGRICULTURE COMMERCIALIZATION PROJECT

MCHINJI DEC, 13 FEBRUARY 2017

Harold Kanthenga	DFO	Forestry	0993122762
Joseph K Ngwira	DIO OPC Mc	OPC	0997276890
Pickford Munyungwa	CAO Council	District Council	0999371774
Ephraim Gausi	EDO	Environmental Affairs MDC	0999308922
Kazembe Matola	DEO	MEC	0996057820
Jossam Dzoole Mwale	DLO	Labor	0993545700
Martin M Panyanja	DSO	Sports	0999361463
Mike Chilimadzi	DWDO	Water	0993812020
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Sarah Munthali	DIO	Information	0999305329
Peterkims Tiyes	DTO	Tourism	0884507207
C Chamasowa	DIO	Irrigation	0999315835
Jim Matechi	ASWO	Social Welfare	0999624871
Rita Makwakwa	EMO	Irrigation	0997774312
N.P.T Hlongo	DADO	Agriculture	0999310507
S. Magombo	ABO	Agriculture	0999398420
A. Mwabumba	ADR	NRB	0999492121
L. kanyangalazi	Driver	M.D.C	0999868977
L.K Mjumira	DPP	Mchinji District Council	0993086385
G. Khola	PJO	Primary Justice	0999228299

REGISTRATION FORM

FOR THE CONSULTATION MEETING FOR THE FORMULATION OF THE RPF FOR PROPOSED AGRICULTURE COMMERCIALIZATION PROJECT

SALIMA DEC, 14 FEBRUARY 2017

Name	Designation	Institution	Phone Number
Cheyo Michael	ADADO	Agriculture	0995428530
John Namalomba	CBO	COOPI	0997557801
Cosino Tendi	PM	COOPI	
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Owen Wisikes	WMA	Water Office	0882785474
Pius Khozi	DF (WASH)	World Vision	0886842631
Geoffrey Yotamu	RMFI	Salima District Council	0995402660
Brireo Kamavega	Aclo	Trade	0888377323
Yesaya Mwenda	ADFO	Forestry	0999433510
Faith Kudzala	Sec	SDC	0884325342
Blandina Nkhoma	District Coordinator	MLBP	0999866425
Felix R Benera	Ext. Agent	ARET	0888208613
Omar Kangulu	A.G Care	Assemblies of God Care	0881802040
Henry Musama	Zone Manager	FEED	0888333528
Fred S Gama	MUFIS	National Auditor	0993122372
Mayamiko Kombi	DIO	Irrigation- SADC	0999380163
Lyton Chinoko	EHO	SDC Environment	0999365015
Earnst Kaphuka	DRD	SCD	0999003247

REGISTRATION FORM

FOR CONSULTATION MEETING FOR THE FORMULATION OF THE RPF FOR PROPOSED AGRICULTURE COMMERCIALIZATION PROJECT

KASUNGU DEC, 15 FEBRUARY 2017

Clifford Kachazi	ADM Manager	ESSD	0888835099
Thomas Madisiasi	Magistrate	Judiciary	0991216370
Rocky Housi	DEM	Education	0888340591
Linda Lungu	DEO	MEC	0997931665
Aubrey HARawa	DC	United Purpose	0882603010
Amra simwela	PC	CADECOM-LL	0884181754
Vincent Khonje	DIO	Information	0999947168
Phoebe Alfazema	AIE	Irrigation	0999034678
Noxius Chiwanda	Water DEV.	Water	0999276139
Oscar Nkhoma	SCIO	Police	0995448054
Annania Chimbeye	Prison G/DO	Prison	0999924893
Felister Mazonge	s/o	Police	0999936288
Ignatius Lipato	Fisheries Officer	Fisheries	0993326166
Madalitso M. Uledi	ALRCO	Agriculture	0999736755
Evaista Bisai	Comm. DEV Ass	Comm. DEV	0999657075
John Washali	D/Social Welfare	Gender	0995891783
Jeremiah Zawandi	Project Officer	Ifac	0999645388
Rev M.O Chumphepo	DC	KU DC	0888319852
A. Msukwa	DADD	KU Agriculture	0888869607
Clara Nanchinga	MA	WFP	0996087435
Mercy Mkinga	Lands Officer	KU DC	0999966039
Fortune Mwafuliwa	Forestry	KU	0888135997
Sydney C. Banda	MEC	KU	0999209770
Nandase Ng'oma	ADR	NRB	0999039209
D.A Saudi	DIO	ORC (NIB)	0999610285
Harry Chalira	ADFO	Forestry	0999452722
Limited Mwango	D Manager	FPAM	0999295751
Wilson Ching'ani	Program Manager	CSCD	0991185700
Dango Nyirenda	DRC	Plan Malawi	0993255803
Johnus Thom	Lands Officer	KU DC	0999359844
Rex Kanjedza	Consultant	Environment and Natural Resource	0888876595
Olive Panyayu	DLO	Labor	0999285554

Annex 5: Sample Resettlement Screening Form

Project Location (Village, Traditional Authority, District):

Land tenure status:

Name of the Evaluator:

Date:

1. Site Selection:

When considering the location of a subproject, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.

Site Sensitivity				
Issues	Low (L)	Medium (M)	High (H)	Rating (L, M or H)
Natural habitats	No natural habitats present of any kind	No critical natural habitats; other natural habitats occur	Critical natural habitats present	
Water quality and water resource availability and use	Water flows exceed any existing demand; low intensity of water use; potential water use conflicts expected to be low; no potential water quality issues	Medium intensity of water use; multiple water users; water quality issues are important	Intensive water use; multiple water users; potential for conflicts is high; water quality issues are important	
Natural hazards vulnerability, floods, soil stability/ erosion	Flat terrain; no potential stability/erosion problems; no known volcanic/seismic/ flood risks	Medium slopes; some erosion potential; medium risks from volcanic/seismic/ flood/ hurricanes	Mountainous terrain; steep slopes; unstable soils; high erosion potential; volcanic, seismic or flood risks	
Cultural property	No known or suspected cultural heritage sites	Suspected cultural heritage sites; known heritage sites in broader area of influence	Known heritage sites in project area	
Involuntary resettlement	Low population density; dispersed population; legal tenure is well-defined; well-defined water rights	Medium population density; mixed ownership and land tenure; well-defined water rights	High population density; major towns and villages; low income families and/or illegal ownership of land; communal properties; unclear water rights	
Indigenous peoples or ethnic minority	No indigenous population or ethnic minority	Dispersed and mixed ethnic minorities; highly acculturated ethnic minority	Indigenous territories, reserves and/or lands; vulnerable ethnic minority populations	
Loss of assets or access to resources	No impact to assets and/or access to resources	Minimal impact to assets and/or access to resources	Significant impact to assets and/or access to resources	

1. Checklist questions:

Physical data:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
-----------------------	--

Site area in ha	
Extension of or changes to existing alignment	
Any existing property to transfer to sub-project	
Any plans for new construction	

Refer to project application for this information.

Preliminary Environmental and Social Information:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
State the source of information available at this stage (proponents report, EIA or other environmental study).	
Has there been litigation or complaints of any environmental or social nature directed against the proponent or sub-project	

Identify type of activities and likely environmental and social impacts:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
What are the likely environmental and social impacts, opportunities, risks and liabilities associated with the sub-project?	

Determine environmental screening category:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
After compiling the above, determine which category the subproject falls under based on the environmental categories A, B and C.	

Mitigation of Potential Pollution:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Does the sub-project have the potential to pollute the environment, or contravene any environmental and social laws and regulations?	
Will the subproject require pesticide use?	
If so, then the proposal must detail the methodology and equipment incorporated in the design to constrain pollution within the laws and regulations and to address pesticide use, storage and handling.	
Does the design adequately detail mitigating measures?	

Environmental Assessment Report or environmental studies required:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
If Screening identifies environmental issues that require an EIA or a study, does the proposal include the EIA or study?	
Indicate the scope and time frame of any outstanding environmental study.	
Required Environmental Monitoring Plan:	
If the screening identifies environmental or social issues that require long term or intermittent monitoring, does the proposal detail adequate monitoring requirements?	

Public participation/information requirements:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Does the proposal require, under national or local laws, the public to be informed, consulted or involved?	
Has consultation been completed?	
Indicate the time frame of any outstanding consultation process.	

Land and resettlement:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
What is the likelihood of land acquisition for the sub-project?	If yes, prepare a RAP
How will the proponent go about land acquisition?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

Actions:	
List outstanding actions to be cleared before sub-project appraisal.	
Approval/rejection	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
If proposal is rejected for environmental or social reasons, should the sub-project be reconsidered, and what additional data would be required for re-consideration?	

Recommendations:

- Requires an EIA and/or RAP, to be submitted on date:
- Requires EMP, to be submitted on date:
- Does not require further environmental studies

Reviewer:

Name:

Reviewer:

Signature: Date:

Annex 6: Annotated Outline for Preparing a Resettlement Action Plan

This template is extracted from World Bank OP 4.12 Annex A. Its full description can be found in the World Bank external website [web.worldbank.org].

The scope and level of detail of the RAP will vary depending on the magnitude and complexity of resettlement or displacement. The RAP is prepared based on the most recent and accurate Information on the:

- i. proposed resettlement and its impacts on displaced persons and other adversely affected groups; and
- ii. legal issues affecting resettlement. The RAP covers elements that are specific to the project context. A broad outline of the RAP, as applied to sub-projects covered under a RPF includes, but is not limited to, the following:

Description of the sub-project: General description of the sub-project and identification of sub-project area or areas.

Potential Impacts: Identification of the:

- i. the sub-project components or activities that require resettlement or restriction of access;
- ii. zone of impact of components or activities;
- iii. alternatives considered to avoid or minimize resettlement or restricted access; and
- iv. mechanisms established to minimize resettlement, displacement, and restricted access, to the extent possible, during project implementation.

Objectives: The main objectives of the resettlement program as these apply to the sub-projects.

Socio-economic studies: The findings of socio-economic studies to be conducted in the early stages of project preparation, and with the involvement of potentially affected people will be needed. These generally include the results of a census of the affected populations covering:

- i. Current occupants of the affected area as a basis for design of the RAP and to clearly set a cut-off date, the purpose of which is 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. 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, 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, and to measure impacts (or changes) in their livelihood and living conditions.

There may be other studies that the RAP can draw upon, such as those describing the following:

- i. Land tenure, property, 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 sub project area;
- ii. Patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the sub-project; iii. Public infrastructure and social services that will be affected; and
- iii. Social and cultural characteristics of displaced communities, and their host communities, including a description of formal and informal institutions. These may cover, for example, community organizations; cultural, social or ritual groups; and non-governmental organizations (NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal Framework: The analysis of the legal and institutional framework should cover the following:

- i. Scope of existing land and property laws governing resources, including state-owned lands under eminent domain and the nature of compensation associated with valuation methodologies; land market; mode and timing of payments, etc;
- ii. Applicable legal and administrative procedures, including a description of the grievance procedures and remedies available to PAPs in the judicial process and the execution of these procedures, including any available alternative dispute resolution mechanisms that may be relevant to implementation of the RAP for the sub-project;
- iii. Relevant laws (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law; communal laws, etc related to displacement and resettlement, and environmental laws and social welfare legislation;
- iv. Laws and regulations relating to the agencies responsible for implementing resettlement activities in the sub-projects;
- v. Gaps, if any, between local laws covering resettlement and the Bank's resettlement policy, and the mechanisms for addressing such gaps; and
- vi. Legal steps necessary to ensure the effective implementation of RAP activities in the subprojects, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage, etc. and which are specific to the sub-projects.

The institutional framework governing RAP implementation. The institutional framework generally covers:

- i. Agencies and offices responsible for resettlement activities and civil society groups like NGOs that may have a role in RAP implementation;

- ii. Institutional capacities of these agencies, offices, and civil society groups in carrying out RAP implementation, monitoring, and evaluation; and
- iii. Activities for enhancing the institutional capacities of agencies, offices, and civil society groups, especially in the consultation and monitoring processes.

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

Valuation of and compensation for losses: The methodology to be used for valuing losses, or damages, for the purpose of determining their replacement costs; and a description of the proposed types and levels of compensation consistent with national and local laws and measures, as necessary, to ensure that these are based on acceptable values (e.g. market rates).

Resettlement Measures: A description of the compensation and other resettlement measures that will assist each category of eligible PAPs to achieve the objectives of OP 4.12. Aside from compensation, these measures should include programs for livelihood restoration, grievance mechanisms, consultations, and disclosure of information.

Site selection, site preparation, and relocation: Alternative relocation sites should be described and cover the following:

- i. Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, location 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;
- ii. Any measures necessary to prevent land speculation or influx of eligible persons at the selected sites;
- iii. Procedures for physical relocation under the project, including timetables for site preparation and transfer; and
- iv. Legal arrangements for recognizing (or regularizing) tenure and transferring titles to those being resettled.

Housing, infrastructure, and social services: Plans to provide (or to finance provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services to host populations; and any other necessary site development, engineering, and architectural designs for these facilities should be described.

Environmental protection and management: A description of the boundaries of the relocation area is needed. This description includes an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

Community Participation: Consistent with the World Bank’s policy on consultation and disclosure, a strategy for consultation with, and participation of, PAPs and host communities, should include:

- i. Description of the strategy for consultation with and participation of PAPs and hosts in the design and implementation of resettlement activities;
- ii. Summary of the consultations and how PAPs’ views were taken into account in preparing the resettlement plan; and
- iii. Review of resettlement alternatives presented and the choices made by PAPs regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing 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); and
- iv. Arrangements on how PAPs can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups (including indigenous peoples, ethnic minorities, landless, children and youth, and women) are adequately represented.

The consultations should cover measures to mitigate the impact of resettlement on any host communities, including:

- i. Consultations with host communities and local governments;
- ii. Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to PAPs;
- iii. Conflict resolution involving PAPs and host communities; and
- iv. Additional services (e.g. education, water, health, and production services) in host communities to make them at least comparable to services available to PAPs.

Grievance procedures: The RAP should provide mechanisms for ensuring that an affordable and accessible procedure is in place for third-party settlement of disputes arising from resettlement. These mechanisms should take into account the availability of judicial and legal services, as well as community and traditional dispute settlement mechanisms.

RAP implementation and responsibilities:

The RAP should be clear about the implementation responsibilities of various agencies, offices, and local representatives. These responsibilities should cover:

- i. delivery of RAP compensation and rehabilitation measures and provision of services;
- ii. appropriate coordination between agencies and jurisdictions involved in RAP implementation; and
- iii. measures (including technical assistance) needed to strengthen the implementing agencies’ capacities of responsibility for managing facilities and services provided under the project and for transferring to PAPs some responsibilities related to RAP components (e.g. community-based livelihood restoration; participatory monitoring; etc).

Implementation Schedule: An implementation schedule covering all RAP activities from preparation, implementation, and monitoring and evaluation should be included. These should identify the target dates for delivery of benefits to the resettled population and the hosts, as well as clearly defining a closing date. The schedule should indicate how the RAP activities are linked to the implementation of the overall project.

Costs and budget: The RAP for the specific sub-projects should provide detailed (itemized) cost estimates for all RAP activities, including allowances for inflation, population growth, and other contingencies; timetable for expenditures; sources of funds; and arrangements for timely flow of funds. These should include other fiduciary arrangements consistent with the rest of the project governing financial management and procurement.

Monitoring and Evaluation: Arrangements for monitoring of RAP activities by the implementing agency, and the independent monitoring of these activities, should be included in the RAP section on monitoring and evaluation. The final evaluation should be done by an independent monitor or agency to measure RAP outcomes and impacts on PAPS' livelihood and living conditions. The World Bank has examples of performance monitoring indicators to measure inputs, outputs, and outcomes for RAP activities; involvement of PAPS in the monitoring process; evaluation of the impact of RAP activities over a reasonable period after resettlement and compensation, and using the results of RAP impact monitoring to guide subsequent implementation.

Annex 7: Sample Grievance and Resolution Form

Name _____ (Filer _____ of _____ Complaint):

ID Number (PAPs ID number): _____ **Contact Information:** _____ (Village; mobile phone) Nature of Grievance or Complaint: _____

Date Discussion _____ Individuals Contacted _____ Summary of _____

Signature _____ Date: _____

Signed (Filer of Complaint): _____ Name of Person Filing Complaint : _____ (if different from Filer)

Position _____ or _____ Relationship _____ to _____ Filer: _____

Review/Resolution

Date of Conciliation Session: _____ Was Filer Present?: (Yes/No) _____

Was field verification of complaint conducted?: (Yes/No) _____

Findings of field investigation: _____

Summary of Conciliation Session Discussion: _____

_____ Issues _____

Was agreement reached on the issues?

(Yes/No) _____ If agreement was reached,
detail the agreement

below: _____

If agreement was not reached, specify the points of disagreement below:

Signed (Conciliator): _____ Signed (Filer): _____

Signed: _____ Independent Observer

Date: _____