

BOTSWANA POWER CORPORATION

Introduction

The overall objectives of the proposed Botswana Morupule B Project are:

- (i) to secure reliable and affordable supply of electricity as soon as possible; and
- (ii) to build institutional capacity for sustainable development of the energy sector.

The first objective will be achieved by adding 600 MW new capacity through 4 units of 150 MW each, adjacent to the existing Morupule A power station, and associated transmission lines and substations. The project has three physical components:

Component 1: The Morupule B Power Station (estimated cost USD 1,106 million) consists of a 600 MW (4 x 150 MW) coal-fired CFB power plant, adjacent to the existing Morupule A Power Station in the township of Palapye, in the eastern part of the country.

Component 2: The transmission system component (estimated cost USD 218 million) includes:

- (i) Isang 400/220 kV substation,
- (ii) Morupule–Phokoje 400 kV line (102 km), includes the 400/220kV Interbus transformer and 2 x 220 kV lines deviations.
- (iii) Isang–Morupule 400 kV line (215 km),
- (iv) Morupule–Isang 220 kV tee in two lines,
- (v) Morupule–Phokoje and Morupule–Isang fiber optic lines,
- (vi) Reactive power compensation equipment, and
- (vii) Control equipment.

Component 3: The water supply component (estimated cost USD [43 million]) includes the cost of dedicated water wells at Mmashoro (new) well field, gathering system, a pipeline to the power plant, and electrical reticulation to the new well fields.

Construction of the **Power Station** will require resettlement of one household for which a separate abbreviated Resettlement Action Plan has been prepared. Construction of the **water supply** may require some minor land acquisition, affecting primarily cultivated areas. Land acquisition and possible resettlement will be required for the construction of the **transmission lines**, but the precise routing has yet to be determined. BPC has already altered the initial proposed routing of part of the transmission line to avoid adverse social impacts, land acquisition and resettlement. The relatively flat topography and the low population density allow for additional adjustments in the routing, and the

final routing is still being adjusted to minimize impact, both in terms of resettlement and in the avoidance of cultivated areas. Therefore, a Resettlement Policy Framework has been prepared based on the World Bank policy on involuntary resettlement, Operational Policy 4.12. Resettlement Action Plans will be prepared for the specific areas along the transmission lines where there is land acquisition and/or resettlement in accordance with this Resettlement Policy Framework.

The Resettlement Policy Framework, presented below, addresses adverse social impacts that may result due to involuntary acquisition of assets and changes in land use and includes provision for compensation and other assistance.

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DRAFT RESETTLEMENT POLICY FRAMEWORK

(This Resettlement Policy Framework has been prepared based on the World Bank policy on involuntary resettlement, Operational Policy 4.12).

1. DEFINITIONS

Compensation means payment in cash or in kind for an asset to be acquired or affected by a project at replacement cost.

Cut-off Date is the date prior to which the occupation or use of the project area makes residents/users of the project area eligible to be categorized as affected persons. The cut-off date coincides with the date of the census of affected persons within the project area boundaries. Persons not covered in the census, because they were not residing, having assets, or deriving an income from the project area, are not eligible for compensation and other entitlements.

Eligible landholders are affected persons who (a) hold title to land; or (b) do not hold title but whose possession of land can be legalized with a title pursuant to the Tribal Land Act.

Entitlement means a range of measures comprising compensation, transfer assistance, income substitution, and relocation support which are due to affected people, depending on the nature of their losses, to restore their economic and social base.

Project Authorities refer to the Botswana Power Corporation..

Project Affected Persons (PAPs) includes any person or persons, households, a firm, or private or public institution who, in the context of acquisition of assets and change in land usage, as of the cut-off date, on account of the execution of the project, or any of its subcomponents or part, would have their:

- (a) Standard of living adversely affected;
- (b) Right, title, or interest in any house, land (including residential, commercial, agricultural and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected; or
- (c) Business, occupation, places of work or residence or habitat adversely affected, with or without displacement.

PAP includes persons and affected household and consists of all members of a household residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components. For resettlement purposes, affected persons will be considered as members of affected households.

Replacement cost. With regard to land and structures, **replacement cost** is defined as follows:

- (a) For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.
- (b) For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.
- (c) For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes.

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Resettlement means all measures taken to mitigate any and all adverse impacts of a project on PAP property and/or livelihoods, including compensation and relocation (where relevant) as needed.

2. **BOTSWANA LAND USE, LEGAL FRAMEWORK AND FINANCING INSTITUTION(S) POLICY**

There are three land tenure systems in Botswana, namely Freehold Land, State Land, and Tribal/Customary Land. The project area largely falls within the last category. The Land Control Act, the State Land Act and the Tribal Land Act are the primary acts dealing with the preparation of development plans, land acquisition and subdivision control. The Tribal Land Act (Cap.32.02) provides for the establishment of Land Boards and Subordinate Land Boards for granting customary land right. The Act also transferred the powers previously vested in the tribal chiefs in relation to customary land tenure to the Land Boards.

The Land Boards are non-political bodies composed of members elected from the local Community. Subordinate Land Boards assist the main Land Boards at the local level to make Land Boards more accessible and closer to the people. All customary land is held by a land board or eligible applicants in the form of grants and/or leases. The main functions of Land Boards include land allocation and registration, land use planning and

monitoring, as well as land acquisition and adjudication (including compensation). Subordinate Land Boards allocate land for customary uses, impose restrictions on use, and recommend cancellation of customary land rights to Land Boards. They also make recommendations to Land Boards in respect of borehole applications. Subordinate Land Boards cannot allocate grazing land, commercial or industrial land and they cannot authorize a change of land use.

The right to land rights is protected under Section 8 of the Constitution of Botswana. Under this provision land and land rights cannot be compulsorily taken except on stipulated grounds and where the law applicable to the compulsory taking makes provision for adequate compensation and further allows access to the High Court in relation to the taking and or the compensation. For rights held other than under customary land tenure the applicable law is the Acquisition of Property Act (Cap.32:10) and the Electricity Act (Cap.73:01). The Acquisition of Property Act makes provision for what the Constitution's Section 8 requires. The Tribal land Act at Section 33 makes provision for what Section 8 of the Constitution requires in respect of customarily held land rights. The Land Boards which are entitled to cancel customary land rights under Section 15, are also empowered to require holders to vacate a land which is intended for acquisition by the State under Section 32. In terms of the Electricity Supply a licensee may place transmission lines above or below or on any land except that land covered by buildings without land right holders being required to vacate and/ or their land being taken. The person who is so required to vacate a land under the Section 32 of the Tribal land Act may be granted the right to use other available land and or be compensated including for resettlement costs. A person who is not satisfied about a decision to compulsorily acquire his land and about the compensation is entitled to approach the High Courts or a Magistrates court.

The Department of Lands "Compensation Guidelines for Tribal Areas" (April 2006) attached as Annexure 1, which was made to facilitate the implementation of the compensation provisions of the Tribal Land Act, forms the base document for compensation in the project area.

Where resettlement is unavoidable, the Tribal land Act and the Compensation Guidelines for Tribal Areas (2006), as regularly amended; will be applied as a minimum standard. The Land Board concerned will appoint an assessment committee to establish eligibility of claimant, nature of compensation, as well as any technical support and assistance required for re-establishment).

Compensation assessment will incorporate all assets, site improvements, equipment, boreholes, crops, loss of access to land and water, other natural resources, and services/facilities. The assessment will be implemented after compiling the necessary surveys, asset inventories and/or land registers in collaboration with affected parties and government departments concerned. Compensation for land under freehold will be at market value, in line with the Acquisition of Property Act, and will be based on the 'willing buyer-willing seller' principle. Where no agreement can be reached, the land may be expropriated in terms of the above Act.

If required a negotiated and comprehensive *Resettlement Action Plan* will be formulated to define principles, policies, procedures and rights regarding resettlement. All parties directly affected by resettlement and compensation actions will have access to grievance mechanisms and legal recourse.

3. OBJECTIVES AND PRINCIPLES OF THE POLICY

3.1 Overall Objectives

This Policy framework seeks to complement the existing legal provisions discussed in the previous section. This policy is based on the philosophy that the project must serve the needs of society and ensure that PAPs are not worse off due to the project. This can be ensured through the following basic objectives:

- (i) Avoid involuntary resettlement where feasible and minimize resettlement where population displacement is unavoidable,
- (ii) Ensure that displaced people receive compensation and assistance so that they would be at least as well off as they would have been in the absence of the project,
- (iii) PAPs will benefit from the project where feasible, and
- (iv) Project stakeholders (which include PAPs) are consulted and given the opportunity to participate, as practicable, in the design, implementation, and operation of the project.
- (v) Appropriate assistance and compensation, in cash or in kind, provided to adversely affected people, who may have usage or customary rights to the land or other resources taken for the project.

Three important elements of involuntary resettlement are:

- (i) compensation for loss of assets, loss of livelihood and income,
- (ii) assistance for relocation that would enable PAPs smooth access to relocation sites with appropriate facilities and services, and
- (iii) assistance to improve or at least restore incomes and living standards to the pre-project level.

3.2 Principles on Compensation and Entitlements

The overriding principle for all development projects is that people unavoidably affected should be compensated and assisted, so that their economic and social future would be at least as favorable as it would have been in the absence of the project. This will be accomplished using the following specific principles.

- (1) Acquisition of land and other assets and shifting of people will be avoided and minimized as much as possible.

- (2) Only PAPs who are found to be living in, doing business, or cultivating land, or having rights over resources within, the project area as at the date of the census (cut-off date) are eligible for compensation for loss of assets and other assistance for social and economic losses. PAPs will be compensated for affected land, either through receiving replacement land or replacement cost for their land.
- (3) All compensation for affected land, structures, and other fixed assets shall be paid at replacement cost.
- (4) The resettlement transition period will be minimized and the acquisition of assets, compensation and resettlement for a segment/section or phase will be completed at least one (1) month prior to the initiation of construction work under the respective segment/section or phase thereof.
- (5) PAPs losing all of their assets (farmland, house or business), or in case of partial loss when the remaining assets are determined as un-viable for continued use, will be entitled for compensation for the entire assets at replacement cost.¹
- (6) In the case of a partial impact on the assets, i.e., partial loss of land or structures and the remaining assets remain viable for continued use; compensation for the affected assets will be paid in cash.
- (7) Other types of landholders who are on a right of way or public land as of the cut-off date will be compensated for affected structures, other fixed assets and other losses but not for land. However, such affected persons shall receive special assistance such that they are not made worse off by the project taking the land on which they were located.
- (8) In case of land for land for arable land, the replacement land should be in the form of land of equivalent productive value and/or characteristics at a location acceptable to PAPs. If replacement land at a location acceptable to PAPs is not available, cash representing replacement cost of land should be compensated.
- (9) In case of land for land for residential and commercial sites, the Project Authority, through the Land Authorities shall provide PAPs the appropriate plot of land with basic services such as electricity, water, drainage, emergency sanitation service, and access at least at the pre-project level.
- (10) For resettlement site land, the plot owner of the proposed relocation site will also be entitled to compensation for his/her land, and depending on his/her choice, the

¹ Where significantly large or entire landholdings are affected by the project or in cases where only partial land is affected but the remaining land becomes economically non-viable, the general mechanism for compensation of lost agricultural land will be through provision of "land for land" arrangements of equivalent productivity and at a location acceptable to the PAP. Where the PAPs stand to lose residential land with structures that exist in a closely located group affecting a significant number of households, the project authorities, in consultation with affected households, may offer a relocation option to fully developed resettlement sites, or alternative facilities to housing projects. If suitable residential / agricultural replacement land is not available, and at the informed request of the PAPs, cash compensation at replacement cost will be provided.

compensation may be in cash or in the form of a replacement land within or outside the relocation site.

- (11) The project authorities will provide resettlement assistance and the following minimum allowances to eligible PAPs:
 - (a) **Disruption allowance** shall be given to PAPs whose business income is temporarily lost due to the project. The independent shops on a right of way that temporarily lose business during construction are eligible for this allowance. The allowance should be provided in cash based on the temporary projected business income lost.
 - (b) **Transportation allowance** (in cash or in kind according to mutual agreement of the PAP and the project authorities) to relocating PAPs. When the allowance is in cash, it shall be an amount equivalent to actual transportation costs.
- (12) Any PAPs' loss due to any acquisition or restriction on access to common resources as a common property will be mitigated by arrangements of such property that will ensure, as a first option, that new access of those PAPs to an equivalent resource will occur on a continuing basis, if feasible. If it is not feasible, then other alternatives shall be identified in consultation with the PAPs.
- (13) Resettlement programs will include adequate institutional arrangements to ensure effective and timely design, planning, consultation and implementation of compensation and resettlement. The project authorities will ensure effective coordination with relevant agencies for the implementation of the Resettlement Plan(RP)
- (14) Adequate arrangements will be made for the timely conduct of social assessments, inventory of affected assets, socioeconomic survey, and the preparation and implementation of RPs, including the timely conduct of internal and external monitoring of RP implementation.

General entitlements for compensation and relocation assistance for different categories of PAPs are shown in the Entitlement Matrix below but the relevant Resettlement Plan may provide for more specific or additional allowances.

The detailed baseline information will identify and assess appropriate compensation packages. The assets of directly project affected persons should be assessed beginning with the following:

- Residential structures: dwelling structures; store rooms; storage huts; multipurpose structures; cooking screens; fencing, toilets; other out-buildings.
- Crop surveys: Valuation of agricultural land according to its productive value
- Assess agricultural fields; existing (standing) crops;

fruit trees and vegetable gardens at official approved replacement valuation rates (, arable, irrigated, fruit trees, orchards and vegetables).

- Natural resources: fuel wood; water; handcraft and building material; medicinal plants; game; fishing; etc.
- Livestock: Numbers; grazing; stock watering; fencing; cattle post; etc.

Entitlement Matrix

	Type of Loss	Application	Entitled Person	Compensation
1	Arable land	Loss of arable land.	Eligible landholder	<ul style="list-style-type: none"> • Land for land or cash compensation for lost land at replacement cost according to AP choice. “Land for land” will be provided in terms of a new parcel of land of equivalent productivity and free of taxes, registration and transfer cost; at a location acceptable to PAP; and with equivalent security of tenure.
			Non-titled but possessory landholder/ Agricultural laborer	<ul style="list-style-type: none"> • No compensation but assistance given so that they are not worse off due to the project and to enable them to replace affected assets. Cash compensation for agricultural laborer equivalent to three months salary.
			Lease holder	<ul style="list-style-type: none"> • Cash compensation equivalent to replacement cost of gross harvest for one year.
		Temporary acquisition or easement	Eligible landholder	<ul style="list-style-type: none"> • Cash compensation based on opportunity lost during the period.
2	Residential land	Loss of residential land	Eligible landholder	<ul style="list-style-type: none"> • Compensation in cash at replacement cost or, at PAP choice, replacement land of minimum plot of acceptable size or a plot of equivalent size, whichever is larger, in a nearby resettlement area with adequate physical and social infrastructure. • Replacement land to be free from taxes, registration and transfer costs. • Eligible for relocation assistance and other allowances as applicable.
			Non-titled but possessory landholder	<ul style="list-style-type: none"> • No compensation but assistance provided so that they are not worse off due to the project and enable them to replace affected assets.

	Type of Loss	Application	Entitled Person	Compensation
3	Commercial land	Plots used for business affected	Eligible landholder	<ul style="list-style-type: none"> • Compensation in cash at replacement cost for the affected portion or, at PAP option, replacement land of sufficient size for business continuation in market area of resettlement area or at location comparable to previous site. When the affected premises are larger than the relocation plot, cash compensation at replacement cost to cover the difference in area. • Eligible for relocation assistance and other allowances, as applicable.
4	Structures	Structures affected	Owner	<ul style="list-style-type: none"> • Compensation in cash for affected portion of the structure and other fixed assets at replacement cost, without depreciation and without deductions for salvaged material. • Assistance in restoration of any remaining structure, if applicable. • Eligible for relocation assistance and other allowance.
5	Loss of business / incomes or employment	Loss of business / incomes / employment	Affected APs	<ul style="list-style-type: none"> • Cash compensation for the loss of business, incomes and wages. • Assistance during the transition period.
6	Standing crops, trees	Crops or trees affected by land acquisition or temporary acquisition/easement	Owner of crops or trees	<ul style="list-style-type: none"> • Compensation in cash calculated on the basis of type, age and productive value of affected crops or trees. • Other allowances as applicable.
7	Electric and/or water connection	Loss of, or damage to, affected assets, partially or entirely.	APs	<ul style="list-style-type: none"> • Replacement or compensation to cover cost of restoring the facilities.
8	Public facilities	Loss of, or damage to, public infrastructure	Concerned agencies	<ul style="list-style-type: none"> • Replacement or compensation in cash at replacement cost to respective agencies.

4. PUBLIC PARTICIPATION AND CONSULTATION

The project authorities would be responsible for public consultation and public information dissemination. Consultations and public participation would be carried out as an ongoing process throughout project planning, design and implementation stages. Preparation of appropriate documents and planning and implementation for the acquisition of land and other assets will be carried out in consultation with the PAPs and the PAPs will receive prior information of the compensation, relocation and other assistance available to them including:

- The relevant details of the project;
- The resettlement plan and various degrees of project impact;
- Details of entitlements under the resettlement plan and what is required of PAPs in order to claim their entitlements;
- Compensation process and compensation rates;
- Relocation and resettlement site development operation in order to obtain agreement and support of affected people in participating in these operations; and
- Implementation schedule with a timetable for the delivery of entitlements.
- Information concerning grievance procedures and how to use them.

The project authorities would also provide a detailed explanation of the grievance process and enlist the help of village leaders and other influential community officials in encouraging the participation of the PAPs in resettlement activities. Finally, the project authorities shall attempt to ensure that all peoples understand the process and that their needs are specifically taken into consideration.

Public participation is performed and information is made available during both preparation and implementation of the Resettlement Plan and should include community meetings and radio reports.

5. GRIEVANCE REDRESS MECHANISM

Grievances related to any aspect of a project will be handled through negotiations and are aimed at achieving consensus. All complaints received in writing (or written when received verbally) from the PAPs will be documented by each level grievance committee, established by the project authorities at varying governance levels, i.e., commune, district and/or provincial levels. Grievance committees would comprise of representatives of PAPs, community leaders and independent assigned NGOs, in addition to the representatives of commune and district officials, and project authorities.

If PAPs do not receive any response from an established grievance redress body (at whatever level within 60 sixty) days from the filing of the complaint, or if the decision of grievance redress body is not satisfactory, the PAP will have the right to submit the complaint to the next higher level of the grievance redress mechanism.

If the matter still remains unresolved after all levels of grievance redress have been utilized, the complainant may then forward his/her case to a court of law.

In addition to the above mechanisms, and at the option of the PAPs, grievances may be taken to other mediating bodies, such as a council of village Chiefs at the local Kgotla, or any other dispute resolution mechanism as may be decided by the PAPs.

6. MONITORING AND EVALUATION

6.1. Internal Monitoring

The Project Unit in BPC would make staff available or organize appropriate resources to monitor the process of resettlement. In order to assist with this monitoring, the authorities shall obtain and maintain appropriate baseline data (under contract currently) prior to the resettlement impacts. The monitoring staff will submit periodic progress reports to the involved authorities for inclusion in the progress report. The main objective of the reports is to determine whether the resettlement is effective and to make the needed recommendations for change. The monitoring staff will be present in the field as well as at every meeting related to resettlement.

6.2. External Monitoring

In the project, sub-project or any component thereof, with significant resettlement, an external agency will be contracted by BPC to monitor the process of resettlement. The external monitoring agency would be provided full access to project documents and database to facilitate monitoring process. The external monitoring agency will prepare periodic monitoring reports for submission to BPC as well as to the Financing Institution(s).

In the event monitoring by either the internal or external monitor shows that PAPs are not receiving entitlements due to them, or there are other problems in implementation in accordance with the Resettlement Plan, then the project authorities will take, on a priority basis, all steps necessary to rectify the situation and ensure compliance with a Resettlement Plan.

6.3 Evaluation

Six months to one year after the completion of resettlement in the project, the project authorities will contract a competent external agency for ex-post evaluation of resettlement implementation to determine whether the objectives of the policy have been achieved and severely affected PAPs have been able to restore their incomes and livelihood to the pre-project levels. Where necessary, and based on the outcome of the evaluation, additional assistance would be provided by the project authorities to achieve the objectives of the policy framework.

7. REPORTING AND DOCUMENTATION

7.1. Resettlement Action Plan Baseline Investigation

The project authorities are in the process of carrying out additional baseline investigation to determine potential social issues and likely adverse impacts along the transmission lines. Based on the initial social assessment decision can be taken on the types of detailed studies and field investigations required and necessary documentation.

7.2 Abbreviated Resettlement Plan

Based on the initial surveys, less than 200 households/premises are likely to be affected due to the loss of assets, incomes, employment or businesses. As the transmission line routing is finalized, the project authorities would carry out field surveys covering full census of affected people and inventory of affected assets, and prepare an abbreviated Resettlement Plan. The abbreviated Resettlement Plan covers the following minimum elements:

- (i) a census survey of displaced persons and valuation of assets;
- (ii) description of compensation and other resettlement assistance to be provided;
- (iii) consultation with displaced people about acceptable alternatives;
- (iv) institutional responsibilities for implementation and procedures for grievance redress;
- (v) arrangements for monitoring and implementation; and
- (vi) a timetable and budget.

The abbreviated Resettlement Plan should be submitted to the Financing Institution(s).

7.3 Resettlement Plan

Should detailed transmission line designs, result in more than 200 households/premises affected, project authorities would be required to conduct detailed field investigations including census, inventory of affected assets and socio-economic baseline surveys of severely affected persons and prepare a Resettlement Plan for submission to the Financing Institution(s). The Resettlement Plan (RP) would include:

- (i) description of the project and potential resettlement impacts;
- (ii) principles and objectives of resettlement;
- (iii) socioeconomic survey and baseline information;
- (iv) legal framework;
- (v) category of PAPs and their eligibility;
- (vi) valuation and compensation for losses and entitlement matrix;
- (vii) resettlement measures;
- (viii) institutional arrangements;
- (ix) community participation and grievance procedures;
- (x) cost and budget;
- (xi) implementation schedule; and
- (xii) monitoring and evaluation.

8. LEGAL AND INSTITUTIONAL REQUIREMENTS

As the project proponent, BPC will be responsible for, at a minimum, the following resettlement activities:

- (a) Carry out all necessary surveys and field investigations and preparation of necessary documents;
- (b) With assistance from other relevant agencies and local authorities, implementation of resettlement activities in accordance with the approved RPs;
- (c) Address all deficiencies identified in resettlement implementation with the assistance from local authorities;
- (d) Ensure timely allocation of resources and budgetary provisions, and process compensation claims of PAPs to ensure that the same are paid in time as planned; and
- (e) Supervise and monitor RP implementation.

9. COSTS AND BUDGET

Necessary funds for planning and implementation of Resettlement Plan will be provided by the project authorities. The project authorities will also provide for all costs related to mitigating adverse social impacts based on budgetary requirements established in the RP. All of these costs are to be a part of the total project cost.

Each RP will detail cost estimates for compensation and relocation (if applicable) of PAPs with a breakdown by category of PAPs and by type of asset affected, such as agricultural, residential, and commercial land; affected house, structures and other fixed assets; and type of assistances, such as transport allowance, disruption allowance, etc. The cost estimates will include adequate provisions for contingencies.

In case of overruns due to unforeseen circumstances or delays, the project authorities will allocate additional funds as necessary.