



# **RESETTLEMENT POLICY FRAMEWORK**

**Georgia IQ Project - Inclusion, Innovation, and Quality**

**February 2019**

## PREFACE

Resettlement Policy Framework (RPF), covering **involuntary resettlement and land acquisition issues** has been prepared by the Municipal Development Fund of Georgia and Ministry of Education, Science, Culture and Sport of Georgia. It is one of key safeguard documents for the Georgia IQ Project – Inclusion, Innovation, and Quality supported by the World Bank. Other environmental and social safeguards measures under the project are reflected in Environmental and Social Management Framework, and Project Operational Manual (POM).

The present document takes into account the approaches and policies for land acquisition and resettlement required by the Government of Georgia and the World Bank, and best international practices. The document provides the framework for ensuring compliance with the requirements of all parties, with the understanding that the most stringent requirements of any party would be applied.

This Resettlement Policy Framework is elaborated for the Georgia IQ Project – Inclusion, Innovation, and Quality financed by the WB. The Georgia IQ Project has five components: Component I: Improving Quality and Access to Early Childhood Education and Care; Component II: Fostering Quality Teaching and Learning in General Education; Component III: Strengthening Financing Options and Accreditation in Higher Education; Component IV: Boosting Behavioral Change towards Quality and Innovation in Learning and Teaching; and Component V: Supporting Project Management, Monitoring, and Evaluations. Civil works – rehabilitation and new construction of pre-school and school buildings – are expected to occur under Components I and II respectively. This RPF will apply to any project activity that may have an impact on land, assets, or livelihoods.

The project is implemented by the Ministry of Education, Science, Culture and Sports (MESCS) and the Municipal Development Fund of Georgia (MDF). All civil works, including school and pre-school rehabilitation and construction, will be implemented by the Municipal Development Fund of Georgia.

The Municipal Development Fund of Georgia is a Legal entity of public law with the aim to promote the institutional and financial strengthening of the local self-governing bodies, investments in the local infrastructure and services, sustainable progress of the principal economic and social services for the local population. The MDF implements projects in cooperation with different multilateral donor organizations, including EBRD, ADB as well as bilateral donors such as USAID, SIDA, the Netherlands, etc.

The Fund is responsible for managing the finances received from the central and local budgets, international financial institutions and other donors and proceeds gained through the Fund loans as principal and interest amounts used to finance local and regional infrastructure and investment projects and appropriate technical assistance in the field of service.

The Municipal Development Fund of Georgia, within the limits of the programs accomplished by it, is responsible for purchasing the projects/plans and Environmental screening, EIA research if required, as well as construction and rehabilitation works of municipal infrastructure. During

purchases, the Fund is obliged to follow the legislation of Georgia under the established rule and by observing the environmental and social requirements of donor organizations. The Municipal Development Fund of Georgia is responsible for proper application of the environmental and social safeguards of donor organizations. The present Resettlement Policy Framework builds on the Frameworks elaborated for ongoing projects financed by the WB such as the Second and Third Regional Development Projects.

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## ABBREVIATIONS

ADB	Asian Development Bank
ACHP	Agency for Culture Heritage Preservation of Georgia
AF	Affected Family
AH	Affected Household
AP	Affected Person
A-RAP	Abbreviated Resettlement Action Plan
BP	Bank Procedure
DP	Displaced Person
EA	Executing Agency
EBRD	European Bank for Reconstruction and Development
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESSU	Environmental and Social Safeguards Unit
GEC	Grievance Examination Commission
GIZ	German Technical Cooperation
IFI	International Financial Institutions
IMA	Independent Monitoring Agency
IPSA	Initial Poverty and Social Assessment
LAR	Land Acquisition and Resettlement
LSG	Local Self Government
MCC	Millennium Challenge Corporation
MCG	Millennium Challenge for Georgia
MDF	Municipal Development Fund
MESCS	Ministry of Education, Science, Culture and Sports
MoEPA	Ministry of Environment Protection and Agriculture of Georgia
MLARO	Municipal Land Acquisition and Resettlement Office
NAPR	National Agency for Public Registration
NGO	Non-Governmental Organization
OD	Operational Directive
OP	Operational Policy
PAB	Project Affected Businesses
PAP	Project Affected Person
PIC	Public Information Center
PRRC	Property Rights Recognition Commission
RAP	Resettlement Action Plan
ROW	Right of Way
RPF	Resettlement Policy Framework
WB	World Bank

## Glossary

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



12. **Involuntary** - means actions that may be taken without the displaced person's informed consent or power of choice.
13. **Involuntary resettlement** - Development project results in unavoidable resettlement losses that people affected have no option but to rebuild their lives, income and/or assets bases elsewhere.
14. **Land** - includes anything growing on or permanently affixed to land, such as buildings and crops.
15. **Land Acquisition** - The process of acquiring land under the legally mandated procedures of eminent domain.
16. **Land parcels under road impact** - When only privately owned land parcels are physically affected by the Motor Road rehabilitation activities
17. **Land parcel with residential house attached under road impact** - When privately owned land parcels as well as residential houses are physically affected by the Motor Road rehabilitation activities and require demolition of the house
18. **Land parcel with supplementary structure under road impact** - When privately owned land parcels as well as any non-residential and non-commercial structures are physically affected by the Motor Road rehabilitation activities and may require demolition of the residential house as well
19. **Population Census** - A complete and accurate count of the population that will be affected by land acquisition and related impacts. When properly conducted, the population census provides the basic information necessary for determining eligibility for compensation.
20. **Project Cycle** - the cycle of project development from initial phases of identification and assessment of feasibility, until its final implementation. From standpoint of the project implementing agency, it is convenient to represent the project cycle as consisting of following phases: Pre-feasibility Assessment, Feasibility Studies, Project Design and Appraisal, Project Implementation.
21. **Rehabilitation** - Re-establishing incomes, livelihoods, living, and social systems
22. **Relocation** - Rebuilding housing, assets, including productive land, and public infrastructure in another location
23. **Replacement rates** - Cost of replacing lost assets and incomes, including cost of transactions
24. **Resettlement** - Term – “Resettlement” in accordance to the World Bank Involuntary Resettlement Operational Policy Document 4.12 considers alienation of land parcels and/or physical relocation (moving to other place) of households being appeared within the project affected area

25. **Resettlement Entitlements** - Resettlement entitlements with respect to a particular eligibility category are the sum total of compensation and other forms of assistance provided to displaced persons in the respective eligibility category.
26. **Resettlement effects** - Loss of physical and non-physical assets, including homes, communities, productive land, income-earning assets and sources, subsistence, resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms
27. **Resettlement plan** - A time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, action, responsibilities, monitoring and evaluation *Resettlement (Action) Plan* - A resettlement action plan [RAP] is the planning document that describes what will be done to address the direct social and economic impacts associated with involuntary taking of land.
28. **Resettlement Strategy (Rehabilitation Strategy)** - The approaches used to assist people in their efforts to improve (or at least to restore) their incomes, livelihoods, and standards of living in real terms after resettlement. The resettlement strategy typically consists of payment of compensation at replacement cost, transition support arrangements, relocation to new sites (if applicable), provision of alternative income-generating assets (if applicable), and assistance to help convert income-generating assets into income streams.
29. **Socioeconomic Survey (SES)** - A complete and accurate survey of the project-affected population. The survey focuses on income-earning activities and other socioeconomic indicators.
30. **Stakeholders** - A broad term that covers all parties affected by or interested in a project or a specific issue—in other words, all parties who have a stake in a particular issue or initiative. Primary stakeholders are those most directly affected—in resettlement situations, the population that loses property or income because of the project and host communities. Other people who have an interest in the project—such as the project authority itself, the beneficiaries of the project (e.g., urban consumers for a hydro-power project), and interested NGOs are termed secondary stakeholders.
31. **Task Manager or Task Team Leader** - In Bank parlance, the officer in charge of a Bank-supported project or activity.
32. **User** - Physical person not registered as the owner at the Public Register, or holding the right to use the land
33. **Usufruct** - The right to use and profit from land belonging to other person, or group of persons but in difference with the owner he/she will have no right to alienate, mortgage or bequeath of the land parcel
34. **Vulnerable groups - Vulnerable people** – Project affected people, especially these below the poverty line, families led by single parent, refugees and IDPs, the disabled.

## **I. Project Objective and Anticipated Project Impacts**

### **1.1. Project Development Objective**

The Project Development Objective is to build a new foundation and culture of learning for human capital development in Georgia by: (i) expanding access to preschool education; (ii) improving quality and student-centered learning in general education through the whole school approach; and (iv) changing the culture of learning at all levels.

#### **Result indicators include:**

- Percentage of 5-6-year-old children enrolled in School Readiness Programs (preschool level), including percentage of 5-6 year-old girls;
- Percentage of project supported schools that have achieved their whole school improvement targets;
- Number of project supported schools in general education with increased learning outcomes;
- Percentage of female students participating in Innovation Clubs and STEM-related gifted programs in general education;
- Percentage of higher education grants established under Competitive Innovation Fund achieving at least 80 percent of their proposed objectives;
- Communications and reform strategy to change culture of learning inside and outside the education system, including benefits of girls' education, prepared by GoG.

### **1.2. Project Design**

The IQ Project comprises of five components briefly described below with the emphasis on the delivery of civil works and support to the Project administration.

- **Component 1 – Improving Quality of and Access to Early Childhood Education and Care (USD 16,890,000 million equivalent)**

The objective of this component is to facilitate expanded access to quality preschool education in selected schools.

#### ***Sub-Component 1.1 – Increasing equitable access to preschool education***

Among other investments, this would include much-needed rehabilitation of classrooms in selected schools to accommodate preschool provision.

*Sub-Component 1.2 – Improving the quality and standardization of preschool education programs across the country*

- **Component 2 – Fostering Quality Teaching and Learning in General Education (USD 65,750,000 equivalent)**

The objective of this component is to provide a learning environment that is conducive to quality education in selected general education schools.

*Sub-Component 2.1 – Strengthening diagnostics to inform reform design and governance*

*Sub-Component 2.2 – Supporting the capacity-building of teachers and school leaders to adapt, develop, and implement school-based curriculum*

*Sub-Component 2.3 – Assisting the development of a national assessment framework*

*Sub-Component 2.4 – Improving educational infrastructure to support high-quality learning environments*

This sub-component will concentrate on the partial or full rehabilitation of selected public general education schools.

- **Component 3 – Strengthening Financing Options and Accreditation in Higher Education (USD 11,560,000 equivalent)**

The objective of this component is to improve the quality and international competitiveness of higher education.

*Sub-Component 3.1 – Developing new options for higher education performance-based financing taking into consideration the accreditation and quality assurance frameworks*

*Sub-Component 3.2 – Strengthening policy development and capacity-building for internationalization in higher education*

- **Component 4 – Boosting Behavioral Change towards Quality and Innovation in Learning and Teaching (USD 2,800,000 equivalent)**

The objective of this component is to facilitate a shift in the culture of learning to one that is more pro-active, innovative, and evidence-based.

*Sub-Component 4.1 – Strengthening policy development for data-driven decision-making*

*Sub-Component 4.2 – Supporting the development of communication strategy to boost positive behavior change towards quality learning*

*Sub-Component 4.3 – Aiding creation and facilitation of Fund for Good Ideas*

- **Component 5 – Supporting Project Management, Monitoring, and Evaluations (USD 3,000,000 equivalent)**

The objective of this component is to support the day-to-day management and monitoring of the IQ Project through the establishment and maintenance of a Project Management Units (PMU) within the MESCS and MDF, as well as enhancing capacity MDF and covering its operating costs related to IQ Project implementation. The PMU will manage delivery of technical assistance and supply of goods under the IQ Project, as well as along MDF it will manage application of World Bank’s safeguard policies under all components of the Project throughout its cycle. This Component will finance salaries of PMU and MDF staff, training activities, and operating costs. It will provide targeted technical assistance on Bank-specific procurement processes. Under this component, assistance will be provided for the evaluation and monitoring of the Project-supported activities.

### 1.3. Project Cost

The GoG has requested the financing of \$100 million from the World Bank for implementing the Georgia IQ Project. The Ministry of Education of Georgia and Municipal Development Fund under the Ministry of Regional Development and Infrastructure (MoRDI) are the implementing entities of the IQ Project.

### 1.4. Anticipated Project Impacts

The project will be implemented nation-wide. Construction and/or rehabilitation of pre-schools and schools under the project may occur in any of Georgia’s nine regions (including the autonomous Republic of Adjara), and 76 municipalities<sup>1</sup>. The methodology for selecting schools and pre-schools for rehabilitation, and municipalities for new school construction, is being developed by the Ministry of Education in collaboration with the Millennium Challenge Account. The selection of targeted schools under the Project will be discussed and agreed with the World Bank prior to the start of civil works.

The table below summarizes the likelihood and scale of possible resettlement impacts that may occur under the Project, the likelihood of such impacts, and actions to be taken in the event of their occurrence.

**Table 1. Anticipated Resettlement Impacts under the Project**

<b>Resettlement Situational Scenarios</b>	<b>Probability</b>	<b>Status/Action</b>
Temporary impact on the visual quality of private land; disturbance during construction works without any losses of income or property	Moderate	Allowed/ impact mitigation measures within ESMP
Temporary disturbance associated with the loss of income (Temporary losses of income for small businesses, such as commercial activities (the school cafeteria, clubs, sports, salaries of employees, etc.	Moderate	Allowed/ Abbreviated RAP, compensation of losses

<sup>1</sup> Municipalities include 12 self-governing cities and 64 communities.

Land take; (less than 10 affected households) Acquisition of certain part of private land parcels without or with associated loss of assets; change in use of public land under use by informal settlers	Low	Allowed/ Abbreviated RAP, compensation of losses
Temporary Impact on private land. Losses of productive assets (trees; ancillary buildings); Temporary disturbance associated with the loss of income (Temporary losses of income for small businesses outside school, such as vendors in the very close vicinity and associated with school.)	Low	Allowed/ Assistance and/or Abbreviated RAP, compensation of losses
Land take; (more than 10 affected households) Acquisition of certain part of private land parcels without or with associated loss of assets; change in use of public land under use by informal settlers	Very low	Allowed/ RAP, compensation of losses
Structural demolition resulting in physical relocation of households or businesses	Very low	Allowed/ RAP, compensation of losses
Loss of livelihood for reduction in income (less than 10 affected individuals)	Low	Allowed/ Abbreviated RAP (that includes livelihood restoration plan when needed), compensation of losses.
Loss of livelihoods or reduction in income (more than 10 affected individuals)	Very low	Allowed/ RAP (that includes livelihood restoration plan when needed), compensation of losses.
Restriction of access to land or natural resources, including informal users	Low	Allowed/ RAP, compensation of losses

It is anticipated that all rehabilitation activities will occur within the boundaries of publicly-owned buildings and areas, such as pre-schools or general education school premises owned by the Ministry of Education. New construction is also expected to occur on publicly owned lands, which have been designated for this purpose and either owned by or transferred to the Ministry of Education or respective municipality. As such, no permanent land acquisition impacts are anticipated under the construction works. Resettlement impacts will be avoided and minimized to the extent possible.

As the exact location of civil works under the project is not known at the time of project Appraisal, the present Resettlement Policy Framework in line with World Bank's BP/OP 4.12 sets out the principles and procedures that will govern any resettlement and land acquisition activities that may occur under the project. The RPF identifies categories of affected persons and their respective entitlements, and describes the analytical work and documentation to be prepared before, during and after implementation of the a-RAPs/RAPs.

In addition to issues directly concerning land acquisition, the RPF also covers issues related to informal use of public land and restriction of access to resources.

## **II. Administrative and Legal Framework**

### **2.1. Institutional Responsibilities**

The responsibility to avoid and minimize, screening for, mitigate and compensate for any social and resettlement-related impacts will be shared by the Ministry of Education and MDF as follows:

The Ministry of Education will screen for and implement relocation and accommodation activities to mitigate any impacts that are related to core school operations and within the core mandate of the Ministry of Education. Such impacts include, but are not limited to, accommodation and transportation for students, teachers, and school personnel, continuous payment of teacher and staff salaries, continuous operation of school-related activities such as food, sports, clubs, etc., honoring contractual obligations to such vendors and providing them with timely information on project-related activities. Mitigation activities related to continuous school operation, as described above, will not require preparation of Resettlement Action plan, but will be recorded and described in Environmental and Social Management Plans. Should any impacts to private businesses, incomes, or livelihoods occur in direct relation to school operations MESCS will be responsible for preparing RAP/a-RAP and delivering the related compensation to project affected persons as per the provisions in this RPF.

MDF will screen for and organize resettlement mitigation activities for any impacts related to construction or rehabilitation outside of core school operations and beyond the mandate of the MESCS. These may include, but are not limited to, permanent or temporary loss of land or assets (such as trees, fences, ancillary buildings), losses of income or livelihood for stakeholders beyond school-related personnel (e.g., vendors outside or in immediate proximity to schools), temporary damage to private assets or incomes. Should such impacts occur, MDF will be responsible for preparing ARP/a-RAP and delivering the related compensations to project affected persons as per the provisions in this RPF.

MDF and MESCS will be assisted by a number of other government departments and private agencies in the design, construction and operation of the Project. Pursuant to the active legislation, the National Agency of Public Registry (NAPR) within the Ministry of Justice is in charge of the recognition of ownership rights of rightful owners, registration of land ownership, based on verification and certification from village communities, notaries, property rights recognition commissions at local administration/municipalities. The local/district NAPRs are also responsible for registering the

transfer of acquired land from landowners to the Agency for Culture Heritage Preservation of Georgia (ACHP), the local governments at district and village levels are involved in the legalization of land parcels, land acquisition and resettlement. Ministry of Environment Protection and Agriculture of Georgia (MoEPA) is responsible for environmental issues.

The Sakrebulo, Gamgeoba, Registration Offices and Property Rights Recognition Commissions of each respective municipality and community will be involved in RAP process. Local Sakrebulo and representatives of Mayor in particular villages will be involved in local level land acquisition and resettlement (LAR) activities.

The World Bank (WB) will be financing the Project and will provide advice and supervision on safeguards related acquisition activities.

### **2.1.1. Land Registration Organizations**

Government agencies active at various levels in the process of legalization of privately owned land parcels are described hereunder.

#### *Rtsmunebuli and Gamgeoba at Village (Community) Level*

The community level Gamgeoba is the executive branch of self-government headed by Rtsmunebuli. Rtsmunebuli has the primary role in the process of legalization and registration of land parcels. Rtsmunebuli confirms the ownership of affected land plots, the parameters of land plots and endorses the cadastral maps and related data prepared in cases of legalization<sup>2</sup>. Mayor plays an important role in the legalization of non-rightful owners (owners in possession before the enactment of current law on privatization of land in Georgia without prior permission of the government). Gamgeoba has the power to authorize<sup>3</sup> details of the occupied land parcel and verify its usage pattern as the first hand verification and authorization for further consideration in the Property Rights Registration Commission (PRRC) as a basic step for registration with the Public Registry. Neighbors of applicants for legalization have roles in the authorization process. Rtsmunebuli of the villages will be involved in RAP process of implementation.

#### *Sakrebulo*

Sakrebulo is the representative branch of self-government at rayon and village level. The village/rayon level Sakrebulo has now less involvement in the process of legalization of legalizable land plots. However, the Rayon Sakrebulo assists the PRRC in the process of authorization of application of non-rightful owners.

#### *Property Rights Recognition Commission*

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<sup>2</sup> Owners for legalization of their unregistered land parcels, in normal procedure, use the services of private mapping agencies and experts on payment for preparation of land details (maps and plot parameters). In case of this project, the consultants have been assisting in preparing basic documents like maps and plot details.

<sup>3</sup> This is not mandatory but one of the possible procedures for legalization of the non-rightful owners. Witnesses' signature confirmed notarially is also legally acceptable for confirmation of non-rightful ownership of land plot.



Under the Law of Georgia on Recognition of the Property Ownership Rights Regarding the Land Plots Owned/Used by Physical Persons or Legal Entities (2007), the Government of Georgia has established the PRRC at the Rayon level for recognition of ownership rights of non-rightful owners for registration. The PRRC verifies and authorizes the application of ownership for registration with the NAPR. The PRRC authorizes the application of only those PAPs who are not registered but have residential land or agricultural plots adjacent to the project affected area (“non-rightful land owners”, according to definition of Georgian regulations).

### Rayon Registration Office

NAPR is in charge of the registration of land ownership and its transfer through purchase agreement from landowners to the GSE. Rayon Archives are now transferred in the possession of the Rayon Registration Offices of the NAPR. Rayon Archive is used for cross verification of ownership document and validity of physical possession of land by persons seeking registration as legalizable owner, in the case, owner does not have available documentation proving ownership rights on the adjacent land plot or in case there is any doubt regarding the plot.

Rayon Registration Office of the NAPR is the Rayon level authority for executing registration of land parcels in the name of the applicants based on package of application documents provided by rightful owners (PAPs possessing ownership documents but with title formalization pending) or by non-rightful owners after receiving appropriate certificate from PRRC as the case may be. The owners submit both soft copy and hard copy of plot maps with geometric details for record in the Rayon and Central NAPR.

### **2.1.2 Relocation Organizations**

As noted above, the responsibility to avoid and minimize, screening for, mitigate and compensate for any social and resettlement-related impacts will be shared by the Ministry of Education and MDF as follows:

The Ministry of Education will screen for and implement relocation and accommodation activities to mitigate any impacts that are related to core school operations and within the core mandate of the Ministry of Education. Such impacts include, but are not limited to, accommodation and transportation for students, teachers, and school personnel, continuous payment of teacher and staff salaries, continuous operation of school-related activities such as food, sports, clubs, etc., honoring contractual obligations to such vendors and providing them with timely information on project-related activities. Mitigation activities related to continuous school operation, as described above, will not require preparation of Resettlement Action plan, but will be recorded and described in Environmental and Social Management Plans. Should any impacts to private businesses, incomes, or livelihoods occur in direct relation to school operations MESCS will be responsible for preparing RAP/a-RAP and delivering the related compensation to project affected persons as per the provisions in this RPF.

MDF will screen for and organize resettlement mitigation activities for any impacts related to construction or rehabilitation outside of core school operations and beyond the mandate of the MESCS. These may include, but are not limited to, permanent or temporary loss of land or assets (such as trees, fences, ancillary buildings), losses of income or livelihood for stakeholders beyond school-related personnel (e.g., vendors outside or in immediate proximity to schools), temporary

damage to private assets or incomes. Should such impacts occur, MDF will be responsible for preparing RAP/a-RAP and delivering the related compensations to project affected persons as per the provisions in this RPF.

If preparation of RAP/aRAP is required, the respective Executing Agency shall ensure that an independent consultant/company for RAP preparation is engaged to conduct any survey and documentation, including cadastral survey, PAPs census, inventory of losses, and valuation of land and assets for replacement value. RAP will be prepared based on findings of the surveys following the final detailed engineering design for each sub-project. Additionally, EAs shall ensure proper consultations with PAPs regarding all necessary safeguards and other activities in accordance with OP 4.12. including informing PAPs regarding the grievance redress mechanism that is described in this RPF.

### **2.1.3. Other Organizations and Agencies**

#### Civil Works Contractor

A Civil Works Contractor to be selected by the MDF to undertake the construction will be responsible for mitigating impacts resulting from the construction activities in accordance with ESMP. The construction activities shall be monitored closely by the MDF to ensure the compliance with ESMP.

#### Court of Georgia

The Court of Georgia shall be the last resort for issues and concerns regarding the implementation of the aspects of the RAP relating to Georgian Law. In the case that there is no agreement between the EA and the PAPs concerning the acquisition of private properties, the MDF with the mandate for expropriation based on existing legislations will submit to the Court a request for expropriation. Upon its approval and following prescribed procedure, MDF will then take over the concerned property after having been given by the Court the right of the Expropriator. Furthermore, in cases where complaints and grievances regarding RAP implementation and compensation are not solved at the various levels as prescribed in the agreed Grievance Redress Mechanism, the PAPs will have the right to appeal the case to the Court. According the constitution of Georgia: “Acts of courts shall be obligatory for all state bodies and persons throughout the whole territory of the country<sup>4</sup>.”

#### Ministry of Finance

The budgets for the implementation of RAP will be provided the Ministry of Finance following its official approval. The RAP budget will be allocated accordingly.

#### Ministry of Justice

The Ministry of Justice is responsible for legal matters regarding land ownership, and National Agency of Public Registry (NAPR) within the Ministry of Justice is in charge of the registration of land ownership and its transfer through purchase agreement from landowners.

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<sup>4</sup> “Constitution of Georgia” Article 82 point 2

In addition to regular supervision of the Project, the WB will review environmental and social safeguard documents (ESMPs, RAPs), approve them for public disclosure and consultation, provide clearance to contract awards signing and initiation of civil works based on satisfactory completion of RAP activities.

#### **2.1.4. Capacity Building on LAR**

In the scope of the project, training will be conducted regarding the following subjects:

- (i) Principles and procedures of land acquisition (WB and GOG) including key elements of the World Bank's new Environmental and Social Framework;
- (ii) Stakeholders of the project;
- (iii) Organizations involved in the process of land acquisition and resettlement and their roles;
- (iv) Public consultation and participation process;
- (v) Entitlements, compensation and disbursement mechanisms;
- (vi) Grievance redress; and
- (vii) Monitoring of resettlement operations.

**Table 2. State Institutions that may be involved in the land acquisition process**

<b>Ministries and Departments</b>	<b>Responsibilities</b>
<b>1.</b> Ministry of Economic Development	Matters pertaining to the project site approval, for the projects of Specific Importance (approval within the Construction Permit).
<b>2.</b> Ministry of Justice - National Agency of Public Registry	Identifies the land plots and ownership rights and their registration into the Public Registry.
<b>3.</b> Ministry of Environment Protection and Agriculture of Georgia	Resolves the issues related to the changes of the designation of land. Site approval within the Construction Permit. Information regarding the yield capacity of given agricultural lands
<b>4.</b> Tourism Department	Site approval within the Construction Permit. Certain restrictions on construction in a sanitaire protection zones of resorts. <sup>5</sup>

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<sup>5</sup> Under Georgian Law No. 1286 "On the Sanitary Protection Zones of the Resorts and Resort Sites" of 20/03/1998, the areas adjacent to a number of resort zones were declared as buffer zones. The said zones are divided into three categories and sometimes, no construction works are permitted in the said buffer zones.

<p>5. Ministry of Culture, Monuments Protection and Sports</p>	<p>Site approval within the Construction Permit. Certain restrictions on construction in archaeologically valuable sites.</p>
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## 2.2. Resettlement Related Legislation of Georgia

This section provides a brief summary of the normative and legislative acts in Georgia regulating the issues of land acquisition and resettlement, obtaining State ownership rights to privately owned land parcels based on the public needs, social issues caused due to road constructions activities:

- Constitution of Georgia, 1995 □ Law of Georgia on Motor Roads, 1994
- Organic Law of Georgia, Local Self-Government Code, 2014
- Civil Code of Georgia, 1997
  
- Law of Georgia on Cultural Heritage, 2007
- Law of Georgia on Notary, 2009 □ Law of Georgia on State Property, 2010
- Law of Georgia on Ownership Rights to Agricultural Land, 1996
- Law of Georgia on Legalization of Property, 2007
- Law of Georgia on Public Register, 2008
- Law of Georgia on Recognition of the Property Ownership Rights Regarding the Land Plots Owned (Used) by Physical Persons or Legal entities, 2007
- Law of Georgia on Rules for Expropriation of Ownership for Necessary Public Need, 1999
- Civil Procedural Code of Georgia, 1997
- Law of Georgia on Social Assistance, 2006
- Law of Georgia on Social Protection of Disabled Persons, 1995
- Law of Georgia on Internally Displaced Persons from Occupied Territories – Refugees, 2014

A more expanded review of the Georgian legislation pertinent to the resettlement issues is provided in the Annex 1 of this RPF.

The above laws/regulations provide that the principle of replacement cost compensating at market value is reasonable and legally acceptable. The laws also identify the types of damages eligible to compensation and indicate that compensation is to be given for loss of physical assets. Georgian legislation makes no provision for income/livelihood rehabilitation, allowances for severely affected or vulnerable APs, or resettlement expenses. Finally, these laws place strong emphasis on consultation and notification to ensure that the Project Affected People (PAP) participate in the process.

### **III. World Bank Policy and Georgian Legislation: Gap Analysis and Corrective Actions**

#### **3.1. The World Bank Safeguards and Involuntary Resettlement Policy**

All projects funded by WB must comply with the WB social and environmental safeguards.

The WB financed projects, in their turn, require compliance with the WB safeguards and guidelines. The WB policy BP/OP 4.12 on Involuntary Resettlement guides land acquisition and related resettlement impacts and compensation issues during project implementation. In line with the principles of host-country responsibility, Georgia is committed to implementing the WB financed projects in compliance with the requirements of WB BP/OP 4.12. This project will also be guided by good practices introduced under the World Bank's Environmental and Social Management Framework (ESMF) and ESS5 on Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement even though the ESF does not formally apply to the Project.

Overall, Georgian legislation is compatible with the major provisions of the WB Involuntary Resettlement Policy. A few important differences are to be noted:

- (i) The WB resettlement policy is directed at improving (or at least restoring) incomes and living standards, rather than merely compensating people for their expropriated assets. This improvement of incomes and living standards broadens the objective of the policy to include the restoration of income streams and retraining of people unable to continue their old income-generating activities after displacement. The emphasis on incomes and livelihoods, in contrast to the conventional emphasis on expropriated property, expands the range and number of people recognized as adversely affected and affects the kind of compensation and other assistance that must be provided. Recognition of this broader range of adverse impacts leads to a greater appreciation of the issues to be considered as 'resettlement impacts' and consequently requires careful delineation of responsibilities, elaborate risk management and explicit and distinct resettlement planning.
- (ii) The WB policy complements the Georgian legislation in mandating that appropriate planning/management instruments must be developed prior to project appraisal such as Resettlement Policy Framework (RPF) and Resettlement Action Plan (RAP).

Resettlement Policy Framework (RPF). A policy framework needs to be prepared if the extent and location of resettlement cannot be known at appraisal because the project has multiple components, as typically happens in projects with financial intermediaries or multiple subprojects. The policy framework establishes resettlement objectives and principles, organizational arrangements, and funding mechanisms for any resettlement operation that may be necessary during project implementation. The framework also assesses the institutional capability to design, implement, and oversee resettlement operations. Resettlement Action Plan (RAP). All projects that entail involuntary resettlement require a RAP. "The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement" (OP 4.12, Annex A, para. 2). RAP is location-specific and comprehensive action plan including preliminary studies (socio-economic assessment, sociological survey, census, valuation of impacts, and consultation with affected persons), a set of compensation/mitigation measures for each affected person/household, and detailed implementation plan with indication of responsible parties and schedule.

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

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

(iv) Under Georgian legislation/regulation, legal and legalizable<sup>6</sup> owners are eligible for compensation, whereas under OP 4.12 non-registered and non-legalizable land users are also eligible to receive compensation for resettlement, lost assets or livelihoods. World Bank’s policy on Involuntary Resettlement covers: (i) the economic rehabilitation of all affected persons and households (AP/AH) including those who do not have legal/formal rights on assets acquired by a project; (ii) the provision of indemnities for loss of business and income, (iii) and the provision of special allowances covering AP/AH expenses during the resettlement process or covering the special needs of severely affected or vulnerable AP/AHs. In addition, Georgian legislation does not require any specific measure regarding the need to prepare RAPs based on extensive public consultations.

The differences between Georgia laws and WB Involuntary Resettlement policy are outlined in Table 3 below:

**Table 3: Comparison of Georgia Laws and WB OP 4.12 Policy**

Georgia Laws and Regulations	WB OP 4.12	Corrective Action
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<sup>6</sup> Legalizable owners are ones who possess legitimate evidence of ownership but have not formally completed land or property registration.

<p>Land compensation only for titled and legalizable landowners.</p>	<p>Lack of title should not be a bar to compensation and/or rehabilitation. Non-titled landowners receive rehabilitation.</p>	<p>In practice legalizable land owners are also compensated after they are issued with the necessary papers. Those without legal titles will be supported so they can be titled.</p> <p>In the event that land users cannot receive title, EA will seek the Government's approval for rehabilitation/compensation of such non-titled land users for loss of dwelling, assets, or livelihood as relevant.</p>
<p>Only registered houses/buildings are compensated for damages/demolition caused by project-related land acquisition</p>	<p>All affected houses/buildings, regardless of legal status, are compensated for damages/demolition caused project-related land acquisition</p>	<p>It is assumed, that majority of properties will be registered to actual user, with support of the project (legal and registration support). Accordingly the compensation will be paid to all affected households. In case of damages during construction period, the construction contractor will be responsible for compensation.</p>
<p>Crop and trees losses compensation provided only to registered landowners.</p>	<p>Crop losses compensation provided to landowners and sharecrop/lease tenants whether registered or not.</p>	<p>Practically all croplands are registered in Georgia either in Public register or in the villages. In case of leased land plots, the compensation will be paid to renters for their actual losses and be given assistance to access some other land to continue activities.</p>
<p>Compensation for loss of assets is based on market value without taking into account depreciation.</p>	<p>Compensation for loss of assets is based on market value without taking into account depreciation and should also include transaction costs such as taxes and registration fees. It should also include other resettlement costs such as cost of preparing land for cultivation.</p>	<p>Compensation will be paid based on market value without taking into account depreciation. The asset evaluation criteria will be based on replacement value as per OP 4.12.</p>

<p>Administrative body implementing the Project is the only pre-litigation final authority to decide disputes and address complaints regarding quantification and assessment of compensation for the affected assets. Complaints are reviewed in compliance with the formal procedures (rules) established by the Administrative Code of Georgia. There is no informal grievance redress mechanism through community participation at the local level.</p>	<p>Complaints &amp; grievances can also be resolved informally through a project-level grievance redress mechanism which in some cases can have community participation through a Grievance Redress Committees (GRC), Local governments, and NGO and/or local-level community based organizations (CBOs).</p>	<p>The EA team will have in place a mechanism to receive, register and process grievances from PAPs.</p> <p>Representatives of municipalities, local authorities and villages will be involved in the process from early stages. This will ensure solution of disputes and claims (if it is possible) at community level, however if solution could not be found, the case will be processed in accordance to local legislation.</p>
<p>Decisions regarding land acquisition and resettlement are discussed only between the landowners and the agency in charge of land acquisition.</p>	<p>The RPF and RAPs including information on criteria for valuation of affected assets, entitlements, and compensation/financial assistance are to be publicly disclosed during the planning process.</p>	<p>The preparation of the RPF and RAP will be done through engagement with relevant stakeholders and the RPF and RAPs will be publicly disclosed. No personal information of the AP or amounts they each individual will receive will be disclosed to other parties without the consent of the PAP.</p>
<p>No provision for income/livelihood rehabilitation, allowances for severely affected or vulnerable APS, or resettlement expenses.</p>	<p>WB policy requires rehabilitation for income/livelihood, severe losses, and for expenses incurred by the PAPs during the relocation process.</p>	<p>EA will have in place clear legal procedures to allow for additional assistance for severely affected and vulnerable households in accordance to the RAP.</p>
<p>No specific plan for public consultation is provided under the Georgian laws</p>	<p>Public consultation and participation is the integral part of WB's policy which is a continuous process at conception, preparation, implementation and finally at post implementation period</p>	<p>The public consultation process will be accomplished in accordance to WB requirements and guidelines prior to RAP implementation</p>

As summarized in the table above, in the event of gaps between Georgian legislation and World Bank's OP 4.12 policy, the stricter requirement (in this case requirements under OP 4.12) will prevail.

In accordance with the Georgian Constitution signing a legal agreement with an international organization such as the World Bank implies that covenants of that agreement will prevail:

“The legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement of Georgia unless it contradicts the



Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts.”<sup>7</sup>

#### **IV. Principles of Resettlement and Land Acquisition Adopted for the Georgia IQ Project**

The overarching objective of the Project in relation to land and asset acquisition is to assist the project affected populations (PAPs) in restoring their livelihoods at least to the level equal to the pre-project level. Therefore, during implementation of the project the EA ensures that:

1. For each subproject that involves acquisition of private land, temporary or permanent income loss, physical displacement of households or businesses, or other impact that triggers the OP 4.12, a Resettlement Action Plan (RAP) will be developed in compliance with policies and procedures set out in this RPF, the WB OP 4.12 and Georgian legislation.
2. Beneficiary municipalities will be responsible for supporting the implementation of the relevant RAP and in the preparation of the RAP.
3. No civil works can start at the section where impacts that trigger OP 4.12 occur before a RAP is implemented in a manner satisfactory to the World Bank and compensation is paid to all affected persons.
4. PAPs will receive compensation or support of various kinds in accordance with the entitlement matrix included in this RPF and in compliance with the active legislation of Georgia and the World Bank safeguard policy.
5. PAPs will be informed about their rights and existing alternatives;
6. PAPs will be consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives;
7. PAPs will be offered effective compensation at full replacement cost for losses of assets relying of the information received from the Independent authorized valuation company hired by EA
8. PAPs will be offered additional support (see section 7.3) to support their livelihood during the transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;
9. PAPs with livelihood impacts will be provided with development assistance in addition to compensation measures described, such as land preparation, credit facilities, training, or job opportunities;
10. Special attention will be paid to the needs of the most vulnerable groups of the population – children, women, the elderly, those below the poverty line, people with disabilities, IDPs, refugees, etc.;
11. A fair and accessible grievance redress mechanism will be developed;
12. Compensation measures are completed prior to start-up of the particular construction activities that trigger OP 4.12.

Abbreviated Resettlement Action Plan (aRAP)/ Resettlement Action Plan (RAP) will be developed as per this RPF and Bank OP 4.12 as well as Georgian legislation for each sub-project of the Georgia IQ

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<sup>7</sup> “Constitution of Georgia”, Article 6 point 2.

Project If required based on the screenings. As discussed above, there are gaps between OP 4.12 and Georgian legislation if any other discrepancy is observed between this RPF and OP 4.12 and Georgian legislation the principles and procedures laid out in OP 4.12 will be followed.

A market survey will be conducted to assess the prevailing market prices of land, construction materials for affected structures, crops and other relevant items, which will be used to find adequate replacements when necessary. After this is done, each individual PAP's property will be valued by an independent valuation company. This will additionally ensure that the market prices will allow PAPs to purchase replacement land.

Loss of income and assets will be compensated on a net basis without tax, depreciation or any other deduction.

The final RAP should be submitted to, cleared by the Bank, and it should be implemented. PAPs should be fully compensated prior to the start of civil works and before any impacts on land, assets, or livelihoods have occurred.

The details of land acquisition procedure will be spelled out in RAP(s), but they will include:

- Initial consultation with PAPs to notify them about the project and the boundaries of the sub-project sites;
- Census, geographic survey and socioeconomic survey of PAP;
- Determination of PAP and types/ scale of impact;
- Development of compensation package and drafting of RAP;
- Consultation with PAP;
- Negotiation with PAP and payment of compensation;
- Expropriation process will be initiated where negotiation fails;
- Construction contract will be or signed only after all PAPs receive compensation.

## **V. Eligibility and Entitlements**

### **5.1. Eligibility**

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

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

Compensation eligibility will be limited by a cut-off date to be set for each subproject on the day of the beginning of the Census. Persons who settle in the affected areas after a locally publicized cutoff date will not be considered project-affected, and persons initiating improvements to land or structures after a locally publicized cut-off date will not be eligible for additional compensation.

They, however, will be given sufficient advance notice, requested to vacate premises or dismantle affected structures prior to project implementation. Their dismantled structures materials will not be confiscated and they will not pay any fine or suffer any sanction.

In the event that PAPs cannot be located, or for any other legitimate reason cannot receive the compensation due to them, the compensation amount due will be deposited in a designated escrow account and be readily available to be accessed by the PAP.

## **5.2. Entitlements**

As described above, the project does not anticipate causing physical resettlement, nor any permanent land acquisition or loss to assets or livelihood. However, as the location of sub-projects (rehabilitation or construction of pre-schools and schools) is unknown, the RPF considers the following categories of people as potentially affected by the project:

- Private landowners (with or without an established legal title to the land) whose land will be purchased to implement subprojects.<sup>8</sup>
- Private owners (with or without an established legal title to the property) whose assets such as residence, stables, workshops, fences, barns, warehouses, trees, standing crops, and other valuable assets need to be damaged, purchased.
- Project affected businesses (including formal and informal businesses) who experience temporary loss of income or asset as a result of restriction of access to land or assets during civil works.
- Project affected businesses (including formal and informal businesses) who experience permanent loss of income or asset as a result of purchase of land for implementation of subprojects.
- Leaseholders (individual and enterprise) who have lease agreements with the Municipalities or other owners in existing and alternative alignments and sites.
- Informal/illegal occupants and land users on existing public educational premises or new sites allocated for construction under the project.

Affected persons will be compensated for land purchased for permanent structures. Affected persons (i.e. owners, informal users and leaseholders) will also be compensated for damages and structures, standing crops, trees and other economic assets that are affected. If permanent relocation is involved, whenever possible, and when acceptable to EA, the affected persons will be relocated to new

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<sup>8</sup> Landowners without legal documentation for land and whose land ownership cannot be legalized are considered informal/illegal occupants.

properties of equal quality identified by the Project. Affected persons will be compensated for transportation costs if relocation is involved.

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

### **5.3. Assessment of Compensation Unit Values**

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

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

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

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

Annual crops will be valued at net market rates at the farm gate for the first year crop. In the event that more than one-year compensation is due to PAPs, the crops after the first year will be compensated at market value (total farm gate sales value minus input costs). PAPs will not have to pay taxes on this amount.

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

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

The unit compensation rates will be assessed by Project consultant or by the independent evaluator on clear and transparent methodologies acceptable to WB.

**Table 4. Compensation Entitlement Matrix**

Type of Loss	Application	Definition of APs	Compensation Entitlements
<b>Land</b>			
Permanent loss of agricultural land	AF losing agricultural land regardless of impact severity	Owner with full registration	Cash compensation in cash at full replacement cost or replacement land of same value of land lost and at location acceptable to APs where feasible. If residual plots become unusable the project will acquire it in full if so the PAP desires. Technical or/and financial or/and material assistance provided to ensure full restoration of livelihoods according individual plan as per RAP if required
		Legalizable Owner <sup>9</sup>	These AP will be legalized and provided with cash compensation at full replacement cost and if needed assistance acquiring replacement land at location acceptable to AP if feasible. Measures provided to ensure full restoration of livelihoods according individual plans per RAP if required
		Renter/Leaseholder	Rental allowances in cash for 3 months and measures provided to ensure full restoration of livelihoods according individual plan as per RAP. If rental/lease duration differs from actual period of disturbance, then it needs to be revised during preparation of aRAP/RAP accordingly.
		Informal Settlers/ APs with no registration/valid documentation/ non-legalizable owner	One time self-relocation allowance in cash equal to 12 months at minimum subsistence income as defined by Geostat, measures provided to ensure full restoration of livelihoods according individual plan as per RAP if required
		PAP's occupied or using land that is owned by private investors.	One time self-relocation allowance in cash equal to 12 months at minimum subsistence income as defined by Geostat.measures provided to ensure full restoration of livelihoods according individual plan as per RAP. All above mentioned costs will be covered by private investor if required
Non-Agricultural Land	AH losing their commercial/ residential land	Owner with full registration	Cash compensation at full replacement cost or replacement land of same value of land lost and at location acceptable to APs where feasible measures provided to ensure full restoration of livelihoods according individual plan as per RAP.
		Legalizable Owner	APs will be legalized and provided with cash compensation at full replacement cost. Measures provided to ensure full restoration of livelihoods according individual plan as per RAP.

Type of Loss	Application	Definition of APs	Compensation Entitlements
		Renter/Leaseholder	Rental allowances in cash for 3 months Measures provided to ensure full restoration of livelihoods according individual plans per RAP if required. If rental/lease duration differs from actual period of disturbance, then it needs to be revised during preparation of a-RAP/RAP accordingly.
		Informal Settlers/ APs with no registration/valid documentation/ non legalizable owner	One time self-relocation allowance in cash equal to 1 year at minimum subsistence income. Measures provided to ensure full restoration of livelihoods according individual plans as per RAP.
<b>Buildings and Structures</b>			
Residential and nonresidential structures/assets		All AHs regardless of legal ownership/ registration status (including legalizable and Informal Settlers/non legalizable owner)	All impacts will be considered as full impacts disregarding the actual impact percentage. Impacts will be compensated in cash at full replacement costs free of depreciation and transaction costs.
Residential and nonresidential structures	AF losing incomes or residential buildings	PAP's occupied or using land that is owned by private investors.	One time self-relocation allowance in cash equal to 1 year at minimum subsistence income. Measures provided to ensure full restoration of livelihoods according individual plans per RAP. All above mentioned costs will be spend by private investor.
<b>Loss of Community Infrastructure/Common Property Resources</b>			
Loss of common property resources	Community/Public Assets	Community/Government	Reconstruction of the lost structure in consultation with community and restoration of their functions
<b>Loss of Income and Livelihood</b>			
Crops	Standing crops affected or loss of planned crop incomes**	All AHs regardless of legal status (including legalizable and Informal Settlers/non legalizable owner)	Crop compensation in cash at gross market value of actual or expected harvest. Compensation for this item will be provided In any case, despite the fact whether the crops was harvested or harvest time has not yet come.
Trees	Trees affected	All AHs regardless of legal status (including legalizable and Informal Settlers/non legalizable owner)	Cash compensation at market rate on the basis of type, age and productive value of the trees.
Business/Employment	Business/employment loss	All AFs regardless of legal status (including legalizable and Informal Settlers/non legalizable owner)	Owner: (i). (permanent impact) cash indemnity of 1 year net income; (ii) (temporary impact) cash indemnity of net income for months of business stoppage. Assessment to be based on tax declaration or, in its absence, minimum subsistence income for a five person household (if the family is five persons or less, and adjusted accordingly for larger households). Permanent worker/employees: indemnity for lost wages equal to 3 months of regular salaries or three months of the minimum subsistence income (if the salary is higher than minimum subsistence income) for a five

Type of Loss	Application	Definition of APs	Compensation Entitlements
			person household (if the family is five persons or less, and adjusted accordingly for larger households).measures provided to ensure full restoration of livelihoods according individual plan as per RAP. Workers losing salaries temporarily will be compensated With actual period of disturbance; it needs to be revised during preparation of a-RAP/RAP accordingly.
Restriction to public space	The involuntary restriction of access to legally designated parks and protected areas Resulting in adverse impacts on the livelihoods of the displaced persons.	All PAPs regardless of legal status (including legalizable and Informal Settlers/non legalizable owner)	a) Measures to assist the displaced persons in their efforts to improve their livelihoods according individual matrix created based on the assessment of each PAPs loss aimed at restoring the livelihood in real terms, while maintaining the sustainability of the park or protected area, will be identified <sup>9</sup> ; and (d) Potential conflicts involving displaced persons will be resolved.
<b>Allowances</b>			
Severe Impacts	>10% income loss	All severely affected AHs including informal settlers/non legalizable owner (severe impact means over 10 percent of agricultural land lost.)	Agricultural income: 2 additional crop compensation covering 1 year yield from affected land. Other income: 1 additional compensation for 3 months of minimum subsistence income.
Relocation/Shifting	Transport/transition costs	All AHs to be relocated	Provision of allowance covering transport expenses
Vulnerable People Allowances	PAPs below the poverty line, families lead by single women, refuges, disabled belongs I and II groups and elderly	AHs below poverty line, headed by Women, disabled or elderly	Allowance equivalent to 3 months of minimum subsistence income for a family of five as determined by Geostat and employment priority in project related jobs. This is additional allowance for vulnerability status on top of that of other entitlements in this matrix.
<b>Temporary Loss</b>			
Unforeseen resettlement impacts, if any			Unforeseen resettlement impacts, if any will be addressed and mitigated/compensated.

#### **5.4. Allowances for Vulnerable Groups**

According to the WB and IFC guidelines and the baseline socio-economic survey, vulnerable groups could include: Families below the poverty line<sup>10</sup>, families lead by single women, refugees, disabled belongs I and II groups and elderly. Among the vulnerable groups, as compared to non-vulnerable groups, the following issues might arise:

- Heads of household might not be as able to negotiate fair replacement value compensation for their affected immovable assets.
- Women could experience greater difficulties in keeping or saving compensation payments. Because poverty is more prominent among women-headed households, women might feel pressured to spend the compensation they receive for food or for the care of the sick.
- Should any of the affected customary land belong to vulnerable households, these might face discrimination in replacement land allocations.
- Women and children could face severe time constraints in building replacement dwellings because of other economic and household responsibilities.
- Vulnerable households could be at a disadvantage in making contractual arrangements with local builders.

Impacts related to gender and other sources of vulnerability require the development of appropriate approaches that include locally appropriate replacement cost values, careful research of title or customary ownership of assets to be displaced, and offer in-kind replacement as a realistic alternative to cash compensation. RAP preparers shall collaborate with external facilitators in identifying needs and potential solutions. RAP preparers shall be responsible for meeting the needs of vulnerable individuals and groups that might emerge in the process of preparing the census/inventory, assessing affected assets, or conducting the socioeconomic surveys, and for considering these in the implementation schedule.

#### **5.5. Expropriation and Legalization**

Acquisition of land through expropriation proceedings entails lengthy procedures. Such an approach will thus be pursued under the Program only in extreme cases when negotiations between PAPs and EA fail and no alternative land is available to implement a subproject. In these cases, however EA will not occupy the needed plots until: (i) the proper judicial process as defined by the law is initiated; (ii) a court injunction has been obtained and properly communicated to the APs.

APs, who do not have proper registration or titles but are legitimate occupants legalizable owners of the plots they lose, will be legalized and registered in the land records. After this is done they will receive full compensation as the legal APs.



## 5.6. Gender Impact and Mitigation Measures

Women have important economic roles in project areas and engage in a very wide range of income generation activities in the agricultural and marketing sector. The project will pay particular attention to ensure that women are the recipients of the compensation pertaining to their activities and to ensure that women who are de-facto household heads are clearly listed as beneficiaries of compensation and rehabilitation proceedings under the loan. In order to ensure the above the following actions will be considered:

- provide adequate and accurate information to women in a language and format that is user friendly to them;
- ensure that women are able to access information and that there is enough staff available to answer any questions women may have;
- ensure that the process of land acquisition and resettlement does not disadvantage women;
- special needs and requirements of women must be considered and addressed in the new site and housing design, access to services and payment of compensation;
- ensure that women leaders and women's groups are involved in planning and implementing the income restoration programs for better income generation;
- indicators for monitoring and evaluation should include gender-specific questions and indicators. Appropriate mechanisms should be developed for participatory monitoring and ensure that women are included.

## VI. Methods for Valuating Affected Assets

Determination of compensation value for loss or assets and other impacts associated to land acquisition and easement will be calculated by an independent valuation expert to be contracted by the Implementing Agency (MESCS) in line with the requirements of OP 4.12 and the methodologies described below:

**Replacement value:** The calculation of replacement costs of land and structures will be based on (i) fair market value at the time of dispossession, (ii) transaction/legalization costs, other taxes and fees (iii) transitional and restoration (land preparation and reconstruction) costs, and (v) other applicable payments. In order to ensure compensation at replacement cost, good practice examples in compliance with WB OP 4.12 will be followed for determining the replacement cost of acquired assets.

As part of the valuation process, the Implementation Agency (EA) will ask local/village administrations to identify replacement land that meets these requirements and to determine the costs for PAPs or the project to obtain this land. Where replacement land cannot be found locally, a value for monetary compensation shall be developed. Regardless of whether land is replaced in kind or with monetary compensation, valuation shall include the cost to prepare the land to a level similar to that of the affected land, plus the cost of land registration, including any applicable taxes. Valuation of

structures shall consider size and construction materials used. In determining replacement cost or design of replacement structures, depreciation of the asset and the value of salvageable materials shall not be taken into account.

## **6.1. Valuation Principles**

Valuation of land and assets shall consider the following:

- Applicable current regional schedules for land values obtained from municipal land commissions, if available
- Applicable current schedules for valuing structures, crops, and trees from local municipalities, if available
- Applicable current market prices

The calculation of unit value will be done keeping in consideration the current market rate so as to meet with the replacement cost of the land and lost assets etc. An experienced and registered independent authorized auditing company shall be employed to do the valuation of land, structures, buildings, trees, and crops. The PAP has an option to choose the valuation company at his or her own expense. The approach of the evaluator will consider the assessment for each type of land and assets by location. The valuation should be done when the census and DMS (detailed measurement survey) are conducted by the surveying company who prepares the map of affected plots with demarcation of cut-off areas. The valuation company will engage experts for respective areas who will undertake site visits for physical verification of each category of the losses. The expert team will also consider the reference of previous valuation if available and use latest release of market survey.

The methodology for assessing compensation values of different items is described below.

## **6.2. Structures**

Value of residential dwellings, commercial structures, and other affected structures (such as barns, fences, and outdoor cooking facilities) will be valued at replacement value based on construction type, cost of materials, type of construction, labor, transport and other construction costs. No deduction for depreciation and transaction costs will be applied. Valuation of replacement dwellings shall include the cost of sanitation facilities. Valuation also shall include the cost of access to water supply if the displaced structure had access or if the replacement location does not provide access. Estimated costs shall be sought from PAPs and other local residents and from contractors and suppliers in the affected areas. These estimates do not include the cost of land. Incomplete dwelling units or units that have collapsed shall be valued based on replacement cost of materials. Monetary compensation only, not in-kind replacement, shall be offered for such units.

Houses and buildings: independent valuation expert will be contracted to asset market value.

Replacement cost will be identified considering market valuation as well as cost of materials, type of construction, labor, transport and other construction costs. No deductions will be applied for depreciation, salvaged materials and transaction costs.

### 6.3. Land

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

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

Land valuation for easement agreements shall use market value or net present value as explained above. In cases where easement agreements would allow future use of land for cultivation of low crops, the compensation shall be reduced by the value estimated during land valuation process, when determining the monetary compensation to be offered. Easement agreements would be negotiated in the same way as land acquisition.

This compensation value is distinct from compensation for any trees or other crops that would be destroyed by initial use of an easement for construction. These crops would be compensated at full value.

For **land in urban and per-urban areas**, valuation shall consider 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. Values are expected to vary by region and specific aspects of the land.

Replacement cost of land will consider additional applicable transaction cost like registration with the NAPR at the rayon level Registration Office and the rayon PRRC.

### 6.4. Annual Crops

Crops will be valued at gross market rates at the farm gate for the first year crop. In the eventuality that more than one year of compensation is due to the AP, the crops after the first will be compensated at net market value. An independent and impartial third-party specialist will be contracted in agricultural land values to identify market rates and value.

### 6.5. Trees

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

- a. Wood trees will be valued based on age category (a. seedling; b. medium growth and c. full growth) and timber value and volume.
- b. Fruit/productive trees will be valued based on age (a. seedling; b. adult-not fruit bearing; and c. fruit bearing). Stage (a) and (b) trees will be compensated based on the value of the

investment made; stage (c) trees will be compensated at net market value of 1 year income x number of years needed to grow a new fully productive tree.

The unit compensation rates will be assessed by Project consultants or by the authorized independent evaluator based on clear and transparent methodologies acceptable to WB.

## **6.6. Vulnerable Affected Households**

Vulnerable Affected Households (AH) are entitled to an allowance equivalent to 3 months of minimum subsistence income and employment priority in project-related jobs. AHs are considered as vulnerable in case they are registered as poor in the local social services or are women-headed households with members with disabilities or people in pension age will receive the allowance only if they are registered as poor.

## **VII. Delivery of Entitlements**

The fundamental responsibility for delivery of entitlements rests with the Implementing Agency. To implement delivery, the EA will work closely with local administrations. These local institutions will be crucial links between the project affected persons (PAPs) and the Project Implementing Agency.

It is very important for EA to ensure that:

- a) RAP will be implemented prior to contractor entering the land for construction (PAPs receive due compensation)
- b) Due diligence will be conducted in identifying and contacting the owner. In cases with land owners who cannot be found (absentee land owners) or land with multiple property claims, the money should be put into an escrow account until the owner is contacted or the property is defined. If owners cannot be found within one year, the escrow account will be closed.

### **7.1. Relocation Mitigation Process**

As noted above, the responsibility to avoid and minimize, screening for, mitigate and compensate for any social and resettlement-related impacts will be shared by the Ministry of Education and MDF as follows:

The Ministry of Education will screen for and implement relocation and accommodation activities to mitigate any impacts that are related to core school operations and within the core mandate of the Ministry of Education. Such impacts include, but are not limited to, accommodation and transportation for students, teachers, and school personnel, continuous payment of teacher and staff salaries, continuous operation of school-related activities such as food, sports, clubs, etc., honoring contractual obligations to such vendors and providing them with timely information on project-related activities. Mitigation activities related to continuous school operation, as described above, will not require preparation of Resettlement Action plan, but will be recorded and described in Environmental and

Social Management Plans. Should any impacts to private businesses, incomes, or livelihoods occur in direct relation to school operations MESCS will be responsible for preparing RAP/a-RAP and delivering the related compensation to project affected persons as per the provisions in this RPF.

MDF will screen for and organize resettlement mitigation activities for any impacts related to construction or rehabilitation outside of core school operations and beyond the mandate of the MESCS. These may include, but are not limited to, permanent or temporary loss of land or assets (such as trees, fences, ancillary buildings), losses of income or livelihood for stakeholders beyond school-related personnel (e.g., vendors outside or in immediate proximity to schools), temporary damage to private assets or incomes. Should such impacts occur, MDF will be responsible for preparing RAP/a-RAP and delivering the related compensations to project affected persons as per the provisions in this RPF.

If preparation of RAP/aRAP is required, the respective Executing Agency shall ensure that an independent consultant/company for RAP preparation is engaged to conduct any survey and documentation, including cadastral survey, PAPs census, inventory of losses, and valuation of land and assets for replacement value. RAP will be prepared based on findings of the surveys following the final detailed engineering design for each sub-project. Additionally, EAs shall ensure proper consultations with PAPs regarding all necessary safeguards and other activities in accordance with OP 4.12. including informing PAPs regarding the grievance redress mechanism that is described in this RPF.

## **7.2. Livelihoods Restoration Support**

Institutional support for livelihoods restoration will be put in place for each sub-project if required. Monitoring and evaluation of resettlement and land acquisition will be carried out systematically.

## **VIII. Public Consultation, Participation and Documents Disclosure**

Relocating or compensating people implies communication or dialogue with the stakeholders. The consultation and participation process will include four phases: (i) data collecting; (ii) preparation and planning of operations; (iii) implementation of operations; and (iv) monitoring and evaluation.

### **8.1. Data Collection Phase**

Actors: MDF, MESCS, NGOs, independent consultants.

The actors will constitute the main task force in the data-collecting phase. This process will include consultations with PAPs and other relevant stakeholders. The data collected will serve as instruments for the monitoring of the social mitigation measures applied.

PAPs will be consulted to participate in the data-collecting phase by providing socio-economic information about their livelihoods. Also, PAPs will be consulted through meetings with village

committees to share information about the EA, discuss the social impacts of project operations and the mitigation measures suggested. The contributions of the PAPs will be integrated into the subproject implementation process, from planning to evaluation.

## **8.2. Planning Phase**

Actors: MDFG, MESCS, PAPs (planning inputs, sounding board and advice-giving), representatives of local communities. Planning and coordination of the tasks of the various actors is the key to a successful implementation of the compensation arrangements. The PAPs will be consulted in the aim to obtain their positions on issues at stake. The requirements of their work programs/businesses activities will be incorporated into the compensation plans.

The work will focus on: (a) taking stock of the legal framework for compensation; (b) settling institutional arrangements and mechanisms for payment of compensation; (c) defining tasks and responsibilities of each stakeholder; and (d) establishing a work plan.

## **8.3. Implementation Phase**

Actors: The principal actors is the EA. Also WB, PAPs (endorsement of arrangements).

The execution of the compensation operations will be conducted by the EA, by their contracted specialist team. PAPs will be consulted about the compensation arrangements prepared. Cash compensation amount and amount of land offered for compensation will be presented to each eligible PAP (husband and wife) for consideration and endorsement before cash payment or land for land compensation can be effected.

## **8.4. Monitoring and Evaluation Phase**

Actors: EA, independent consultants, NGOs, PAPs.

The EA will organize project completion workshops with government agencies, NGOs and representatives of PAPs after completion of the compensation operations.

This RPF in Georgian will be disclosed on the MDF and Ministry of Education website and offices before Project appraisal. The RPF in Georgian will also be disclosed to the APs at the relevant Municipality office (Mayor) and at village administration (Sakrebulo) once subprojects are identified. Its English version will be disclosed on the WB website prior to Project appraisal and after the RPF is endorsed by the Executing Agencies (EA), i.e., MDF and MESCS. Once a RAP for a subproject has been prepared and approved by EA and the WB it will be disclosed at relevant local government offices. A pamphlet in Georgian, summarizing compensation eligibility and entitlement provisions, will be distributed to all AP/AHs before the initiation of the compensation/rehabilitation process and before signing contract awards. The consultation process will be continued throughout the project cycle.

## **IX. Complaints and Grievances**

### **9.1. Formation of GRC and Grievance resolution process**

A grievance redress mechanism will be established to allow a PAP to complain about any decision of activities regarding temporary or permanent loss of their land, assets or sources of income and their compensation. Any grievances of the APs will be resolved through approved grievance redress mechanism of the Project. MESCS and MDF will be in close cooperation throughout the cycle of the project planning and implementation in order to facilitate the grievance redress procedures and to make it easily available for PAPs to raise their feedbacks and complaints if any. Once the complaints/feedback is received in MDF or MESCS, this will be shared between these two institutions immediately. Grievance will be resolved and followed-up in accordance with the procedures given below:

Grievance resolution is a two-stage process, including:

Stage 1 – informal (oral) review of the PAP’s complaint (with written or oral). At this stage the PAP’s complaint shall be reviewed by Grievance Redress Committee in an informal (oral) way and the Committee members of both levels (the composition of the committee is specified in this Section) shall make and sign the minutes on the matter. If at Stage 1 the PAP’s complaint is not resolved the PAP should be informed about grievance resolution procedures of Stage 2. PAP has the right to use the procedures of Stage 2 without applying to Stage 1 procedures.

Stage 2 – review of PAP’s complaint. For the whole period of the project implementation. GRC shall review the written complaints of PAPs, which were not satisfied at Stage 1. At stage 2 the PAP’s complaint shall be resolved and GRC shall make a decision in compliance with the Administrative Code of Georgia.

Grievance redress procedures of Stage 1 are an informal tool of dispute resolution allowing the PAPs and the project implementation team to resolve the disagreement without any formal procedures, procrastination and impediments. The international experience of resettlement shows that such informal grievance redress mechanism helps to solve most of the complaints without formal procedures (i.e. without using the procedures specified in the Administrative Code or litigation). This mechanism enables unimpeded implementation of the Project and timely satisfaction of complaints. If the PAP is not satisfied, the grievance redress mechanism should assist him/her in lodging an official complaint in accordance with the procedures of Stage 2 (the plaintiff should be informed of his/her rights and obligations, rules and procedures of making a complaint, format of complaint, terms of complaint submission, etc.).

The grievance redress mechanism shall deal with the issues of land and other assets acquisition (e.g. amount of compensation, suitability of residual land plots, loss of access roads, etc.) as well as the losses and damages caused by the construction works, e.g. temporary or permanent occupation of land by the contractor. Therefore the grievance redress mechanism shall be in place by the time the EA starts negotiations with the PAPs and shall function until the completion of the construction.

At the RAP preparation stage during the consultations meetings and negotiations the PAPs shall be fully informed of the grievance redress mechanism, its functions, procedures, contact persons and rules of making complaints through oral information and booklets. Care will always be taken to prevent grievances rather than going through Stage 2. The achievement of this goal can be ensured through careful planning and preparation of RAP, active participation of PAPs, continued consultations with PAPs through regular site visits by EA safeguard representative.

A Grievance Redress Mechanism will be established to allow a PAP to complain about any decision about activities regarding temporary or permanent loss of their lands, assets or source of incomes and their compensation.

In the event of general school rehabilitation representative of MESCS will be involved in the GRC.

A Grievance Redress Committee (GRC) is an informal grievance redress mechanism at Stage 1. This informal body will function at the community level in local Gangeoba (village/community authority). Additionally, GRC can comprise representatives of PAPs, women PAPs. If the complainants are not satisfied with the GRC decisions, they can always use the procedures of Stage 2 of grievance resolution process.

## **X. Monitoring and Evaluation**

The main objective of implementation of RAP is to improve or at least restore the social and livelihood resources of the PAPs at their pre-project level. The process of implementation should ensure that this objective is achieved over a reasonable time with allocated resources. Therefore, monitoring of the process of updating RAP, its implementation and delivery of institutional and financial assistance to the PAPs has been designed as an integral part of the overall functioning and management of the Project. The purpose of the Monitoring and Evaluation (M&E) is to provide feedback to all stakeholders on progress made in view of a timely and comprehensive implementation of the RAP and to identify problems as early as possible to facilitate well-timed adjustment of implementation arrangements.

The objectives are to: (i) ensure that the standard of living of PAPs are restored or improved; (ii) ascertain whether activities are in progress as per schedule and the timelines are being met; (iii) assess whether the compensation, rehabilitation measures are sufficient; (iv) identify problems or potential issues; and (v) identify methods to rapidly mitigate problems.

### **10.1. Monitoring**

Monitoring will be carried out routinely by EA. The results will be communicated to WB through the annual project implementation reports. Indicators for the monitoring will be those related to process and immediate outputs and results. Specific monitoring benchmarks will be:



- (i) Information campaign and consultation with PAPs;
- (ii) Status of land acquisition and payments on land compensation;
- (iii) Compensation for affected structures and other assets;
- (iv) Relocation of PAPs;
- (v) Payments for loss of income;
- (vi) Selection and distribution of replacement land areas;
- (vii) Income restoration activities, and
- (viii) Grievances and their resolution

## **XI. Resettlement Budget and Financing**

All RAP preparation and implementation costs, including cost of compensation and LAR administration, will be considered an integral part of Project cost and will be contributed as a counterpart fund by the Georgia Government. Each RAP will include a budget section indicating (i) unit compensation rates for all affected items and allowances, (ii) methodology followed for the computation of unit compensation rates, and (iii) a cost table for all compensation expenses including administrative costs and contingencies. Costs for the preparation of surveys and RAPs can be allocated under the loan.

## **ANNEX 1 SYNOPSIS OF SELECTED GEORGIAN LAWS AND REGULATIONS ON RAP**

**Constitution of Georgia.** The Constitution determines the essence of private ownership and defines presumption of inviolability and also regulates the issues related to compensation and expropriation of land and immovable property for necessary public need. The Constitution of Georgia ensures the publicity of information. Pursuant to Article 21 of the Constitution of Georgia “the right of ownership and inheritance is declared and secured”. Nobody is eligible to cancel the universal right of ownership and legacy. Throughout of the necessary public need or if the urgent necessity has emerged, the Article 21.3 of the Constitution allows the expropriation of the private ownership however, only according to the Court Decision or under the rules identified in the organic law<sup>7</sup> on basis of the appropriate and fair reimbursement.

Other articles of the Constitution of Georgia also establish legislative basis in respect with the resettlement measures related to infrastructure projects. This considers the State actions for expropriation of land for urgent public need, i.e. exercising the right of expropriation (power of eminent domain), also information disclosure and public consultations, protection of cultural heritage and grievance redress related to land acquisition and resettlement of population. The stated regulations create the set of procedures that allow obtaining the permit on road construction from private owners.

In the process of construction and rehabilitation of infrastructure elements, the significant attention shall be paid to the protection and care of cultural heritage so that they are not damaged and deteriorated. In accordance to the Article 34 of the Constitution of Georgia, “each and every citizen of Georgia is obliged to care for the protection and maintenance of cultural heritage. The State protects cultural heritage by the Law”.

The Constitution ensures the right of a citizen to live in safe and healthy environment and use natural and cultural environment. The State undertakes environment protection measures to secure safe environment for people. People have the right to obtain "full, true and timely information" in regard with their work place and residential environment.

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

**Law of Georgia on Motor Roads** defines the status of the roads and use of roads. The law divides the roads into three categories: international, domestic and local roads, as well as sets right-of-way on the land, which is located 100 meters from the road. If the land is located within 100 meters from the road the permission from road owner is required for construction activities. The road owner's means: road department of Georgia, Municipal authorities and others who are the owners of the roads.

The road agencies and other organizations that are building roads and highways are given with the right for permanent or temporary use of the lands based on the Georgian legislation.

**Organic Law of Georgia, Local Self-Government Code.** The code defines the legal basis for self-government's operation, authorities of local self-government bodies, their establishment and duty rules, their finances and properties, relations with citizens, state authorities, as well as with public and private legal entities. Local self-government is carried out by municipalities: in self-governed cities and in self-governed communities. The law establishes the categories of municipal property, the way of establishment and property rights (with the exception of natural resources, as their use, ownership and management is regulated by the Georgian legislation), as well as municipal property privatization issues.

Municipalities have their own property that could include non-agricultural lands, agricultural lands (with or without buildings), as well as shares and stocks. Property of municipality consists of two categories: the basic (inalienable) property and the additional property. The basic (inalienable) property can only be used for the public functional use by municipality and for carrying out duties. The basic (inalienable) property is inalienable, besides the exceptional cases. The additional property is inalienable. If it is necessary property of municipality can be transferred free of charge to the State.

**Civil Code of Georgia** regulates private civil relationships, and evolves property rights, the law of obligations, family law and the law on inheritance. Regulations of the Civil Code that are particularly relevant to the property law section, where the ownership, construction and servitude rights are discussed, and other type rights directly related to the project are elaborated below:

- **Ownership Right.** The ownership right entitles its beneficiary to freely possess and use the property. The ownership right can be limited based on legislation or other agreement. Ownership on the land parcel gives implicit right to the land owner to implement construction activities if it is not restricted by any agreement or law;
- **Construction Right.** The owner is allowed to transfer a land plot to another person for temporary use (not to exceed 59 years) for charge or free of charge. The transferee obtains the right to build a building/construction on or under the land plot, as well as to assign and transfer this right under inheritance or tenancy, borrowing or renting. The construction right may cover such part of a land plot that is not necessary for the actual construction but allows a better use of the facility constructed on the basis of the construction permit. Termination of the construction right requires consent from the landowner;
- **Necessary Right-of-Way.** Another possibility is the use of "Necessary Right-of-Way", a legal alternative to expropriation, which is regulated by the Civil Code of Georgia (Article 180). Per Civil Code, Necessary Right-Of-Way can be invoked "if a land plot lacks access to public roads, electricity, oil, gas and water supply lines that are necessary for its adequate use". The owner may then claim for using a neighbour's land parcel "for the purpose of providing the necessary access". "Necessary Right-Of-Way" is granted by a District Court based on an application by the "neighbour" that must contain a justification of the urgency. Compensation may either be amicably agreed or be decided by the judge further to the decision granting "Necessary Right-of-Way". Fundamentally

“Necessary Right-Of-Way” is intended to allow a landowner to obtain right of way through a neighbouring land parcel for utilities serving his/her land parcel. It can be used where amicable agreements cannot be reached due to refusal or absence of affected landowners;

- **Servitude.** Servitude Right on the property establishes the limits on land parcel or on other property in favour to other land parcel or owner of the property (beneficiary). The Beneficiary is granted with the right to use land parcel under restriction with some conditions on land parcel under restriction and/or restrict concrete activities or prohibit land owner in regard of this land under significant rights. However, in regard with this project, any rights (among them ownership, construction, inevitable road or servitude) the terms and conditions for transfer the right for constriction shall be defined against each land parcel in accordance to the identified rules and on the basis of registered agreement entered by a landowner and the party holding the corresponding right of construction.

**Law of Georgia on the Protection of Cultural Heritage.** In addition to the Constitution of Georgia affirming the State's obligation to protect cultural heritage and requiring each citizen to care for, protect and preserve cultural heritage, the Law of Georgia on Protection of Cultural Heritage defines the legislative principals for protection of existing cultural heritage in Georgia.

According to the Law, State protection of cultural heritage is undertaken by the Ministry of Culture and Monuments Protection, Ministry of Justice of Georgia, local self-government bodies, as well as other State Institutions, Public and Legal Persons of Private Law. It is worth to be mentioned that the State and local self-government bodies exercise their authorities in the sphere of protection of cultural heritage in accordance to the Constitutional Agreement between the State and the Orthodox Church of Georgia. The Ministry of Culture and Monuments Protection of Georgia provides general coordination and manages the activities undertaken in this sector.

In respect with the ownership rights, the Law identifies some differentiations. Namely, the alienation of the State-owned land parcel - located within the zone of State-owned monument, considered as cultural value, or located within archeologically protected area - with the right to possess and use the Law considers the agreement with the Ministry of Culture, Monuments Protection and Sports with the terms and conditions of protecting and care being identified ahead. On the other hand, the Law directly restricts alienation of the monuments under private 36 ownership that can only be alienated under the right to possess, and use and with the terms and conditions to care-and protect.

**Law of Georgia on Notary.** The stated law defines the types of notary activities and rules of their implementation. The law also defines which institutions and authorized persons, except the Notaries, have the right to conduct notarial activities within the territory of Georgia and beyond it. According to the Article 42 of the Law, the local self-governments have the right to implement notarial activities related to inheritance, verification of accuracy of the copy with the original document, proving the fact that a citizen is alive, proving the fact of a citizen's certain location. Rural population often applies to local self-governments to obtain certain notarial services. Especially, when it is required to identify a person and a document, or the notarial services are required to replace the deceased head of the household with another member. This

rule is often utilized in registration of the land parcels, when as the owner of the land parcel the other member of the household is registered in place of the deceased member. The representatives of the Consulates of Georgia (consuls) also other key persons at the Consulates are eligible to conduct notarial activities on behalf of the State of Georgia beyond the territory of the country (Article 43). Citizens being abroad may apply to the Consulate of Georgia in the county of their location.

**Law of Georgia on State Property.** This Law regulates issues connected to the Georgian state property management and usage transfer. This law does not apply to state property that includes useful materials that were left after reconstruction, repair or demolition of transferred in ownership property owned by the Georgian autonomous republics and local self-government and public legal persons. The law covers property which cannot be sold, including: water resources, territorial waters, continental shelf, state forest fund (except populated areas located in forests), air space, State Reserves, National Parks, Natural Monuments, recreation areas identified by the Government of Georgia and/or identified specific construction areas; objects of historical, cultural and artistic value, cultural and art facilities, as well as lands on which these objects are located, pasture (except for leased pastures until July 30, 2005), cattle trails, first section of sanitary protection zone of water supply units (maximum-security zone). The law of state property establishes rules of transferring ownership of state property and privatization. It also determines the competences of state authorities and local self-government in the privatization process.

**Law of Georgia on Ownership Rights to Agricultural Land.** The current law is completely different from the initial version adopted in 1996. The changes made to this law in different times (among them the amendments on the basis of the Law #389 dated July 14, 2000) have significantly changed its initial format and simplified to extent possible the procedures considered under the Law. The sphere of regulation of the Law mainly extends over the agricultural lands. Article 3.1. Defines that "a land parcel with or without household structure that is registered at the public register and used for cattle-breeding and plant cultivation is considered as an agricultural land parcel" with existing household and additional structures or without them. The law also refers to the share of a member of household community within the shared hay fields, grazing lands or forestry areas and the part of the agricultural land that may be the object "of separate ownership right" (Article 3.2).

The Law determines that the ownership right to agricultural land is granted to the State, physical person, household community (Komli) and legal entity registered in accordance to the legislation of Georgia, which carries out its activities in agricultural sphere. Besides, the Law declares the form of village and household community (Komli) ownership to state-owned grazing lands, private and form of community ownership in high mountain regions (Article 4.3).

According to the Articles 6 and 8, acquisition of agricultural land is allowed on the basis of ordinary rules and general restrictions. Ordinary rule considers land alienation without any permits and other limitations, and general restrictions consider land alienation only on the basis of the consent of co-owner of shared property.

**Law of Georgia on Legalization of Property** mainly refers to the lands, which are in private ownership, but are not registered in public register. The main purpose of this law is to additionally establish guaranties of defending private rights (article 21 of the Constitution, which presumes rights of private ownership) and develop international agreements. According to the article 2, State agencies and officials are obliged to ensure the protection of private property rights and immunity. According to the law, property legalization means the confirmation of ownership on property, which only can be dispossessed in cases determined in the Article 21.

The Law on Legalization of Property applies to any property owned by the state or by the local government. This applies to properties for which ownership was purchased or the reason of purchasing the property appeared from legal act or deal before 22 July 2007. All the state agencies and officials are prohibited to purchase the property under the jurisdiction of the law or to control, to study, to observe in any other forms.

Property is legalized by the National Agency of Public Register under the control of Ministry of Justice. The procedures related to the legalization are regulated by the Law on Public Register.

**Law of Georgia on Public Register** regulates rights and obligations of National Agency of Public Register under the control of Ministry of Justice, in the process of property registration, also sets rules for registration of real and personal property. Article 11 defines which types of rights are registered in real estate register. According to this article real estate rights register records property, structure, usufruct, servitude, mortgage, rent, leasing, subleasing, borrowing, rights provided for use by the public law. According to the Article 16, movable property and Intangible Benefit of Property is registered in public register. According to this article, movable property and Intangible Benefit of Property registers pledge (excluding financial pledge), leasing, bank guarantee. Public register law also sets out the procedures and conditions for the registration of companies.

Public register law is not limited only to the rules of registration, its regulation area involves land registration and changes in land use, for example, changing the status of agricultural land to nonagricultural land.

**Law of Georgia on Recognition of the Property Ownership Rights Regarding the Land Plots Owned (Used) by Physical Persons or Legal Entities.** The main purpose of this law is to support land market development and mastering lands owned by government. This law defines the legal ownership and main terms and conditions about recognition of ownership rights on illegally occupied lands. It also defines rights of involved state agencies in this process.

The law applies to illegally occupied agricultural or non-agricultural lands owned by private and legal entities. Article 2 establishes the lands on which property rights can be recognized. In particular, it can be a piece of land on which the house or other building is located. Recognition of private property by the law takes place after paying a fee, but it also can be free of charge.

Lands are recognized free of charge only when they were held legally, but they were not recognized by the government in the past, in other cases recognition of land required fee.

Ownership rights on payable or on non-payable lands are recognized by the commissions formed in municipalities.

**Law of Georgia on Rules for Expropriation of Ownership for Necessary Public Need.**

Existing laws provide that compensation for lost assets, including land, structures, trees and standing crops, should be at current market price without depreciation. They also identify types of damages eligible to compensation and indicate that both loss of physical assets and loss of income should be compensated. Income loss due to loss of harvest and business closure should be compensated to cover net loss.

Land acquisition for public interest may include eminent domain procedures, through a twophase process as follows:

- Phase 1: A negotiated settlement is sought in a first phase, based on a first compensation proposal at market/replacement value.
- Phase 2: If no agreement is reached, land acquisition is further pursued through a judicial expropriation process (the implementing agency applies to Court to order expropriation and to fix compensation).

The Minister of Economy and Sustainable Development issues expropriation applications for each property where no agreement could be reached, based on dossiers filed by the implementing agency. On this basis, the implementing agency applies to Court, which, in a first stage, validates whether the application is justified by public interest and whether the appropriate procedures have been followed. Following this ruling validating the fact that eminent domain proceedings (expropriation) can be followed, the Court in a second stage appoints an expert to assess the compensation amount.

In the case of this project, eminent domain is applicable and expropriation will be sought where no amicable agreement is reached.

**Civil Procedural Code of Georgia.** The general courts of Georgia consider the cases according to the rules identified under the Procedural Civil Code of Georgia. The requirements of the procedural law are exercised during the lawsuit, during implementation of separate procedural actions or execution of the court decision.

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

The above listed laws and regulations give the possibility of applying the following two mechanisms for legal application of the property rights:

- Obtaining the road right of way without expropriation through the payment of due compensation (on the basis of negotiations or a court decision) prior to commencement of the activities;
- Obtaining the necessary right of way through paying due compensation based on the court decision.

If applied adequately the above listed mechanisms can ensure the appropriate consideration of lawful interests of all parties and the due observation of the existing legislations.

**Law of Georgia on Social Assistance.** The law regulates issues connected with the receiving of the Social welfare, determines types of the social support. It also defines the authority of administrative bodies in the field of social aid (Article 1). The law applies to the vulnerable persons permanently legally residing in Georgia. Article 2 sets list of socially unprotected people: persons in need of special care, poor families and the homeless.

Article 4 defines terms, which explains nature of social aid and identifies persons who should receive this aid. According to this article social support can be provided in form of monetary or non-monetary benefit for persons in need of special care, poor families and the homeless. Poor families consist of persons or groups of people whose socio-economical status is lower than minimum level set by Georgian government. A homeless person does not have a permanent place of residence, and he/she is registered with the local authority as homeless. Persons in need of special care include orphans and children deprived of parental care, persons with disabilities, adults with disabilities are who are deprived of family care, persons with lost breadwinner. According to the law a disabled person is a person who has been granted such status by the Law on Medical-social Expertise. Social security financing sources include Georgian state budget, budgets of Units of local self-government, the money paid by the beneficiary or his/her representatives, and contributions (Article 24).

**Law of Georgia on Social Protection of Persons with Limited Abilities.** According to Article 1 legal status of persons with limited abilities In Georgia is regulated by Declaration of the United Nations about "Rights of Persons With Limited Abilities from 9 December 1975, Constitution of Georgia and this law. The person With Limited Abilities is person of strong physical, mental, intellectual or sensory impairment, which may interfere with the interaction of a variety of obstacles to the full and effective participation in public life on equal terms with others (Article 2). According to the Article 8 it is not allowed of the design localities, educational, cultural and sports facilities, as well as infrastructure construction and of buildings and structures, if these objects are not suitable for people with disabilities and needs.

Government provides the necessary conditions for education and professional training for persons with limited abilities. Persons with limited abilities are socially supported by funds, pension, social assistance technical and other facilities (Article 24). Social security pensions and allowances are regulated by Georgian legislation on security pensions and allowances for persons with limited abilities.



### **Law of Georgia on Internally Displaced Persons from Occupied Territories – Refugees.**

According to the Article 2, the status of refugees is given to people who are citizens of Georgia or noncitizens without citizenship status of Georgia, who were forced to leave their permanent place of residence due to occupation, armed conflict, communal violence and / or mass violations of human rights which became threat for person or person's family members lives or freedom by the other country. Any kind of discrimination of refugees is inadmissible. Refugee status is granted by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (Article 8). According to the Article 14 refugees are not being evicted from their legal owned residential areas except the cases considered by the law when: (a) written document is formed with refugee about financial or non-financial compensation in accordance with his/her land area; (b) Refugee will be given relevant living area, which does not worsen his/her living conditions; (c) Natural or other disaster takes place, which will be compensated and is regulated by the general rule.

All refugees have their family unity respect right. Uniting or dividing refugee families without their will is inadmissible (Article 13). Refugee settlement, registration, and other social issues are organized by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (Article 19).

### **Conditions for Expropriation and Legalization**

The above-listed laws and regulations give the possibility of applying the following three mechanisms for legal application of the property rights: (i) Obtaining the road right of way without expropriation through the payment of due compensation prior to commencement of the activities; (ii) Expropriation which gives the possibility of obtaining permanent right to land and/or necessary road on the basis of Eminent Domain Law or a court decision through the payment of due compensation; (iii) Expropriation of private properties for urgent public necessity, which gives the possibility of obtaining permanent rights on land and/or necessary road for the purpose of national security or accident prevention. Expropriation is to be made on the basis of the 40 Presidential Decree on Expropriation through the payment of due compensation to affected people.

**Expropriation.** Land acquisition through expropriation entails lengthy procedures, which are often resisted. Such an approach will thus be pursued only in extreme cases if there is no agreement between APs and EA. In these cases the Project will not occupy the needed plots until: (i) the proper judicial process as defined by the law is initiated; (ii) a court injunction is obtained and communicated to the APs; and (iii) the compensation/rehabilitation amounts are deposited in an escrow account.

Using the Mechanism of Necessary Road means the right to demand necessary road by court in specific cases when owners location is unknown or/and person can't be located, or there are some liabilities which interrupts land acquisition process.

According to the Article 180 of Civil Code, if land is not necessary needed for proper use of public roads, electricity, oil, gas and water supply networks, than the owner has right to demand from neighbor that he/she was the one whose land will be used for these necessary connections. Those

neighbors on whose lands are necessary roads or wiring should be compensated. There is a certain mechanism set by the Georgian civil trial code about how the public message can be delivered to respondent whose location is unknown.

According to the Article 78 of Procedural Code in this case the message will be published publicly. After 7 days following its publication, the court notice will be considered as delivered. After making this information public, the trial has legal right to review this case and make a decision. In case of using the necessary road mechanism, compensation will be transferred to an escrow account. Compensation will be transferred to the owner of land once his/her location will be identified or after the person will do all the obligations connected to the land transaction.

## **ANNEX 2. WORLD BANK INVOLUNTARY RESETTLEMENT POLICIES, OP/BP 4.12**

World Bank 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.
- (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 persons 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.

### **Impacts Covered**

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

- (a) the involuntary taking of land resulting in
  - (i) relocation or loss of shelter;
  - (ii) loss 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 access 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).

**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 cost for losses of assets<sup>12</sup> 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.

(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; 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, 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).

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, PAPs 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,<sup>17</sup> or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.
12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction<sup>18</sup> 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 PAPs and any host communities are preserved and PAPs' preferences with respect to relocating in preexisting communities and groups are honored.

## **Eligibility for Benefits**

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)); and
- (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 assistance 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. 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. 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.

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. However, where impacts on the entire displaced population are minor, 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 sub borrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects 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 communitybased 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).
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.

## **OP 4.12, Annex A - Involuntary Resettlement Instruments**

(Revised February 2011)

1. This annex describes the elements of a resettlement plan, an abbreviated resettlement plan, a resettlement policy framework, and a resettlement process framework, as discussed in OP 4.12 para 17-31.

### **Resettlement Plan**

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

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

4. *Potential impacts.* Identification of

(a) the project component or activities that give rise to resettlement;

(b) the zone of impact of such component or activities;

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

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

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

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

(a) the results of a census survey covering

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

(ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including,

as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;

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

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

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

(b) Other studies describing the following

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

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

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

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

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

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

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

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

- (d) laws and regulations relating to the agencies responsible for implementing resettlement activities;
- (e) gaps, if any, between local laws covering eminent domain and resettlement and the Bank's resettlement policy, and the mechanisms to bridge such gaps; and
- (f) any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage (see OP 4.12, para 15 b).

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

- (a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- (b) an assessment of the institutional capacity of such agencies and NGOs; and
- (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(a) consultations with host communities and local governments;

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

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

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

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

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

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

20. *Costs and budget.* Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

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

**Abbreviated Resettlement Plan**

22. An abbreviated plan covers the following minimum elements:

- (a) a census survey of displaced persons and valuation of assets;
- (b) description of compensation and other resettlement assistance to be provided;

- (c) consultations with displaced people about acceptable alternatives;
- (d) institutional responsibility for implementation and procedures for grievance redress;
- (e) arrangements for monitoring and implementation; and
- (f) a timetable and budget.

### **Resettlement Policy Framework**

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

24. The resettlement policy framework covers the following elements, consistent with the provisions described in OP 4.12 para, 2 and 4:

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

- (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- (l) a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- (m) arrangements for monitoring by the implementing agency and, if required, by independent monitors.

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

### **Process Framework**

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

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

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

(b) *Criteria for eligibility of affected persons will be determined.* The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.

(c) *Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or*

*protected area will be identified.* The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.

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

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

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

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

## **ANNEX 3. Outline of a Resettlement Action Plan**

This section provides an annotated outline for a Resettlement Action Plan.

### **Introduction**

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

### **Minimizing Resettlement**

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

### **Census and Socioeconomic Surveys**

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

### **Legal Framework**

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

- Prepare entitlement matrix.

### **Resettlement Sites**

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

## **Income Restoration**

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

## **Institutional Arrangements**

- Describe the institution(s) responsible for delivery of each item/activity in the entitlement policy; implementation of income restoration programs; and coordination of the activities associated with and described in the resettlement action plan.
- State how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identify the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?



- Describe the external (nonproject) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.
- Discuss institutional capacity for and commitment to resettlement.
- Describe mechanisms-for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely fashion.

### **Implementation Schedule**

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

### **Participation and Consultation**

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

### **Grievance Redress**

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

## **Monitoring and Evaluation**

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

**ANNEX 5. Minutes of Public Consultation Meetings on the ESMF and RPF**

