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**RESETTLEMENT FRAMEWORK**  
**FOR**  
**ROAD NETWORK UPGRADING PROJECT**

Prepared by

**MINISTRY OF INFRASTRUCTURE**

**GOVERNMENT OF TIMOR LESTE**

# Glossary of Terms

## **Affected Persons**

In the context of involuntary resettlement, affected persons (APs) are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It is increasingly being replaced by the term “Displaced Persons (DPs)” following ADB Safeguard Policy Statement 2009 – but is still in common use in the field. The terms of APs and DPs are used interchangeably in this document.

## **Cut-off-date**

This is the date of start of inventory of losses during preparation of the RP. APs and local communities will be informed of the cut-off date for each Project component, and that anyone moving into the Project Area after that date will not be entitled to compensation and assistance under the Project.

## **Eligibility**

People who at the cut-off-date were located within the area affected by the project, its sub-components, or other subproject parts thereof, and are affected by the project. Eligibility is irrespective of (a) formal legal rights to land, or (b) customary claim to land or asset, or (c) no recognizable legal right or claim to the land APs are occupying.

## **Encroachers**

People who illegally extend their legal holding, and encroach upon government land. They are encroachers for their illegal holding. Affected people with title to land who have encroached from their legitimate landholding onto land that they do not own, will be compensated for land and assets on the legitimately occupied piece of land and only for eligible non-land assets on non-titled land.

## **Entitlement**

The range of measures comprising cash or kind compensation, relocation cost, rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to APs, depending on the type and degree nature of their losses, to restore their social and economic base.

## **Land Expropriation**

It is the taking of private property and structures by the State for public purposes under expropriation legislation after paying compensation. This is also called involuntary land acquisition. It is different from a land purchase where the sale is made by a willing seller.

## **Negotiated Land Purchase/Settlement**

Obtaining land and structures by the State for public purposes through a negotiated process that ensures payment for such assets on a willing seller – willing buyer basis. Negotiated purchase is a proactive way of acquiring land. The government agency through its officials negotiates a price with the owners with the assistance of an expert valuer/appraiser to determine the market value of the land (replacement value), which is the minimum amount it can pay for it.

**Non-titled persons**

People with no recognizable rights or claims to the land they are occupying and/or using. Indigenous groups, ethnic minorities, pastoralists, people who claim such land without formal legal rights, and others, who may have usufruct or customary rights to affected land or other resources, often have no formal legal title to their lands. The absence of a formal legal title to land is not a bar to entitlements.

**Rehabilitation**

Measures required to (i) restore access to public facilities, infrastructure, and services; (ii) cultural property and common property resources; (iii) mitigate loss of access to cultural sites, public services, water resources, grazing, or forest resources including establishment of access to equivalent and culturally acceptable resources and income-earning opportunities; and, (iv) restore the economic and social base of APs seriously affected by the loss of assets, incomes, and employment. All such people will be entitled to rehabilitation assistance measures for restoring incomes and living standards. Such measures must be determined in consultation with APs, including any APs whose rights might not be formally recognized.

**Replacement cost**

The method of valuing assets to replace the loss at market value, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs. Where national law does not meet this standard the replacement cost will be supplemented as necessary. Replacement cost is based on market value before the project or dispossession, whichever is higher. In the absence of functioning markets, a compensation structure is required that enables affected people to restore their livelihoods to levels at least equivalent to those maintained at the time of dispossession, displacement, or restricted access. For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and supplies; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

**Relocation**

The physical shifting of APs from their pre-project place or residence, place of work or business premises.

**Resettlement**

Full or partial, permanent or temporary physical displacement (relocation, loss of residential land/ or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) resulting from (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to parks and protected areas. The definition applies to impacts experienced, regardless of whether it involves actual relocation.

**Resettlement Plan**

A time-bound action plan prepared to compensate and/or mitigate the impacts of resettlement. A resettlement plan is required for projects or subprojects with resettlement impacts.

**Screening**

The process to determine what types of impacts might be anticipated, based on project type, scale, location, and sensitivity. The screening will categorize the project or sub-project, and therefore determine what level of assessment and further planning is required.

**Significant impact**

When more than 200 people are affected by resettlement through (i) loss of 10% or more of productive assets (income generating) or (ii) physical displacement/dislocation (loss of housing).

**Squatter**

A person using or occupying vacant state land and who does not have title to it or formal agreement from the owner to use the land.

**Vulnerable**

People who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e.; (i) female-headed households with dependents; (ii) disabled household heads; (iii) poor households as defined by the official poverty line; (iv) landless elderly households with no means of support; (v) households without security of tenure; and (vi) ethnic minorities.

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## EXECUTIVE SUMMARY

### A. Introduction

1. The proposed Road Network Upgrading Project (RNUP) includes proposals for the Asian Development Bank (ADB) to finance road improvements along the north of the country to the west of Dili. The Japan International Cooperation Agency (JICA) will finance road improvement east from Dili to Baucau. The already approved World Bank (WB)-financed project – Timor Leste Road Climate Resilience Project (TLRCRP) - will improve key north-south links, starting with the Dili-Ainaro Road, with additional financing in future years for this and other priority projects. The Resettlement Framework (RF) provides guidelines on due diligence and preparation of Resettlement Plans (RPs) for road subprojects.

### B. Scope, Objectives, Principles and Entitlements

2. The widening and improvement of roads will require additional land. The project executing agency (EA) –the Ministry of Finance (MOF), and the implementing agency (IA) --the Ministry of Infrastructure (MOI) will follow the RF principles and procedures to comply with the Government’s applicable laws and regulations and relevant policies of the WB, ADB and JICA. The objectives are to (i) avoid resettlement impacts wherever possible; (ii) minimize impacts by exploring alternatives; (iii) enhance, or at least restore, the living standards of affected persons (APs); and (iv) improve the living standards of the poor and vulnerable APs.
3. The Constitution of Timor-Leste guarantees the right to property and provides for expropriation of property for public purposes following fair compensation in accordance with the law. There are some laws on ownership of state land, claims to private land (undisputed parcels), and land administration. A law on land expropriation and compensation has been passed by Parliament and is awaiting promulgation by the President. Under this law the Government will be able to acquire land for public purposes including roads under “eminent domain” or involuntarily. However, in the first instance this law requires land for public purposes should to be acquired “privately”.<sup>1</sup> Only if such attempts fail can land be expropriated. The Government has started granting land registry certificates in urban areas, which will help in identifying land owners in those areas. In rural areas where most of the road sections will be improved, the Ministry of Justice and the Directorate of Land, Property and Cadastral Survey (DLPCS) will identify and establish ownership claims for the land parcels required for the project roads. The recently passed Land Law will enable this to be expedited. The absence of an active land market in rural areas poses a challenge to determine the market or replacement value of the affected land.
4. The resettlement principles adopted for the project are as follows: (i) resettlement impacts will be minimized through careful engineering design; (ii) APs will be consulted meaningfully in the project cycle ensuring their concerns and ideas are incorporated into

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<sup>1</sup> The Expropriation Law uses the term “private acquisition” for the uncontested expropriation. The terms “private acquisition”, “private negotiation”, and “negotiated settlement” have been used interchangeably in the RP.

project design whenever feasible, and effective mechanisms will be established for hearing and resolving grievances; (iii) RPs will be prepared and updated after the detailed design; (iv) All APs will receive compensation at replacement cost for their loss of assets to ensure that they will be as well off as without the Project; (v) Compensation will be paid to APs prior to commencement of civil works; (vi) Absence of formal title will not be a bar to compensation and assistance; (vii) Particular attention will be paid to women and other vulnerable people; (viii) Land acquisition and resettlement will be conceived as part of the Project and related costs will be included in and financed out of the Project cost; and (ix) Resettlement impacts, including any unforeseen losses, will be monitored.

### Entitlements

5. The following categories of affected persons will be entitled to receive entitlements as set out in the RF as well as any additional entitlements as set out in each RP:
  - Those with titles to land recognized on a legal basis;
  - Those with no legal rights but have a claim to the land or assets, and are recognized through a process identified in the RP;
  - Those who have no legal right or claim to the land they are occupying before the cut-off date;
  - Those whose land is temporarily affected.
  
6. While APs with recognizable land rights/claims will receive payment at replacement rate for land, those without such rights will be compensated for assets attached to land such as houses, kiosks, and other structures. APs will also be entitled to assistance to restore their incomes. Vulnerable persons and women headed households will qualify for special assistance. In disputed land claims, when involuntary land acquisition is involved, compensation funds will be held in escrow as prescribed in the Expropriations Law.
  
7. Where public buildings such as schools, clinics, electricity lines, water supplies, markets, and government offices are affected, MOI/PMU will work with relevant authorities to plan to replace them well in advance, and ensure the required funds are included in the resettlement budget. Where churches are affected they will be paid compensation at replacement value.

Table 1 provides a summary entitlement matrix (a detailed matrix is in appendix to the RF).

Type of Impact	Entitled Person(s)	Entitlements
Temporary use of land.	Legal/ customary landowners	It will be done only with agreement of landowners/APs. Affected landowners/APs will be paid rent on terms negotiated with them based on replacement value. The land will be returned to respective landowners/APs after its restoration.

Permanent acquisition of land.	Legal owner(s)/customary landowners Informal settlers with no recognizable rights	Landowners will be provided equivalent size and quality of land, or cash compensation at replacement cost.  All APs will be provided compensation at replacement cost for damaged non-land assets (e.g. crops, trees,) on project-affected land.
Loss of crops and trees	All APs irrespective of their legal status	APs will be given notice to harvest crops and trees before site clearance. If APs are not able to harvest, they will be paid cash compensation at replacement cost. In case of perennial crops and trees, the compensation will also include loss of income.
Loss of structures	All APs (whether having legal land title or not)	APs will be provided replacement structure or compensation at replacement cost (if APs preferred so) without deductions for depreciation or salvaged materials. It will be ensured that replacement structures are ready to move before relocation of existing structures. In case business activities are disrupted, APs will be provided disruption allowance for the duration of business disruption.
Displacement of community structure	Community representatives as identified by the social impact assessment	Affected structures will be restored in consultation with community or the affected community will be provided with cash compensation at replacement value without deductions for any materials salvaged.  Community will be assisted in dismantling and relocating structure/property.
Impacts on vulnerable APs	Vulnerable AP households identified by social assessment.	Vulnerable households will receive (i) additional support, (ii) priority employment in project construction and maintenance works; and (iii) income support for the period of disruption. Amount to be confirmed in the RP for each road/bridge.
Unforeseen impacts	Concerned APs	These will be determined as per the principles of the RF and safeguard policies of funding agencies.

### C. Consultation, Assessment of Impacts and Preparation of RP

8. APs will be informed and consulted on compensation and/or resettlement options, including relocation options/sites, and socio-economic rehabilitation measures, the acquisition of lands, assets and possible impacts on their livelihoods. They will be informed of their rights and options and be invited to participate actively in the identification of compensation and rehabilitation measures. Representatives of local governments, village chiefs, other community leaders and non-government organizations (NGOs) from the operational areas will be included. The customs and traditions, as well as the religious practices of all APs, will be respected and protected.
9. MOI/PMU will undertake an assessment of social impacts (census of APs, cadastral survey/ inventory of losses, and socioeconomic survey) and prepare the RP. The RP will summarize scope of land acquisition/purchase and resettlement; socio-economic information; consultation process; entitlements; and implementation arrangements. It will also include an implementation schedule ensuring that civil works will not commence until compensation and/or assistance has been paid to APs. The RP will be prepared in consultation with and disclosed to relevant stakeholders and submitted to ADB/JICA/WB for approval and posting on their websites.

### D. Land Acquisition



10. Land required for the Project will be obtained according to the provisions of the Expropriations Law. The law requires land acquisition through private negotiation in the first instance. The Ministry of Justice, the agency empowered to acquire land involuntarily, will only entertain applications for compulsory acquisition after it receives documentary evidence that all attempts to obtain land under private acquisition have failed. To conform to ADB/JICA/WB social safeguards requirements, the compensation paid to affected persons will be based on replacement value. Where statutory compensation under the Expropriation Law is less than replacement value, the project will provide additional funding to ensure that donor compensation standards are met. A grievance redress mechanism, linked with existing traditional formal and informal systems and cognisant of cultural requirements, will be established to solve disputes and complaints from APs. For disputes arising on land issues, grievances will be resolved under the provisions of the Land Law.
11. ADB/JICA/WB will assist the DLPCS by providing professional valuation expertise under the Project Management Unit (PMU) to establish a basis for compensation for land and other affected assets at replacement value.

#### **E. Compensation and Income Restoration**

12. MOI/PMU will coordinate with local governments to disburse or pay compensation to APs in according to the Entitlement Matrix. The Expropriation Law prescribes detailed processes for payment of compensation for land, structures, businesses, tenants, usufructs and easements. Compensation will be paid and affected structures relocated before taking possession of land/properties, and prior to the start of civil works. Government staff, working in association with independent entities like NGOs and Church leaders, will assist in identifying entitled persons and delivering the compensation amounts as required under Law. Besides direct compensation, implementation of other measures for APs such as employment in project construction, skills training, assistance to vulnerable groups will be specified in the RP.

#### **F. Grievance Redress Mechanism**

13. The Project manager for each subproject will be the grievance focal point to receive and address concerns regarding compensation. Matters arising from ownership disputes and other land related issues will be resolved according to the provisions of the Land Law in coordination with local authorities, MOJ/DLPCS and MOI/PMU. The grievance redress mechanism described in the RF will be further elaborated in RPs for each sub-project, to suit prevailing local conditions. MOI/PMU will assist APs to access this mechanism. Most grievances related to resettlement benefits, relocation of structures, and other assistance will be resolved at subproject level.

#### **G. Institutional Arrangements and Financing**

14. The PMU under the MOI will have overall responsibility for implementing the sub-projects. A Working Group comprising senior officials from MOJ, MOF, MOI, DLPCS, PMU, and a representative of the relevant donor agency (ADB/JICA/WB) will ensure coordination of project activities and guide the PMU. The PMU will be supported by international and national safeguard specialists to plan and implement land acquisition

and resettlement and monitor the activities. To this end an Environmental and Social Unit (ESU) will be established, staffed by national counterpart staff and assisted by international specialists.

15. The MOF/MOI will be responsible for ensuring that adequate funds are available for land acquisition and resettlement according to budgets prepared for each sub-project. Financing of land acquisition and all associated costs will be borne by the Government. The actual costs for such activities under each subproject will be prepared during detailed design and included in the RPs. The budget will be based on estimates made from the inventory of losses, and assessment of impacts.

#### **H. Monitoring**

16. MOI/PMU with the assistance from the design/supervision project consultants will monitor all activities associated with resettlement. Internal monitoring will include reporting on progress of activities in the implementation schedule with particular focus on public consultations, land acquisition, financial disbursements, and level of satisfaction among APs. MOI/PMU will prepare and submit semi-annual progress reports to ADB/JICA/WB as part of project performance monitoring. In addition, external monitoring experts (e.g. NGOs) will be engaged to monitor category A subprojects, if any.

## **A. Project Description**

1. According to a national survey in 2009, Timor-Leste's road network has almost entirely deteriorated and is no longer maintainable. This has resulted in increased isolation of communities, higher vehicle operating and freight costs, and longer journey times.
2. Many roads are often impassable during the rainy season due to landslides and road failure. Often, the roads were not properly designed, lack sufficient drainage capacity, and are structurally unsound. This has been exacerbated by irregular and/or poor quality maintenance. Due to the steep cliff, ground conditions and local climate, slope instability is a major problem and results in significant damage to the road network. It also poses considerable risk to road users.
3. A number of donors are active in the sector, including the Asian Development Bank (ADB), European Union (EU), Japan International Cooperation Agency (JICA), and the World Bank (WB). Donors are supporting the government in rehabilitating national, district and rural roads, often with a focus on labour based activities for employment generation.
4. With ADB's technical assistance a study of 1,675km of roads was undertaken to identify needs for road improvement. This led to 10 year Master Plan for 976km at an estimated investment of US\$107 million in road rehabilitation. The study team recommended 268km for priority development and a feasibility study for Dili-Baucau Road – 118.5km as priority based on multi-criteria analysis. The Master Plan aligns closely with the key goals for the road sector presented in the government's Strategic Development Plan (2010-2030).
5. The government has requested ADB, JICA and WB to finance the proposed Road Network Upgrading Project to improve its priority roads. Accordingly, ADB is considering financing to improve the roads along the north of the country to the west of Dili, and JICA is considering funding the road east from Dili to Baucau. The already approved World Bank (WB) financed project – Timor Leste Road Climate Resilience Project (TLRCRP) - will invest in key north-south road links, starting with the Dili-Ainaro Road, with additional financing in future years for this and other priority projects.

## **B. Anticipated Land Acquisition Impacts**

6. The government proposes to widen the roads where feasible, to improve their quality and safety and ensure greater economic and social benefits to the people. Sub-projects to be included in the Project will be designed taking into account social safeguard policies of the funding agencies that include avoiding and/or minimizing resettlement and land acquisition impacts. However, some road improvement works particularly widening and any realignment of the roads, are likely to have unavoidable impacts on land and other assets, although these are expected to be small. Such impacts may include loss of land, structures, crops, trees and other assets. Table 1 contains a list of priority roads being considered for improvement/upgrading and an indicative resettlement impact category for each road section.

**Table1: Proposed Priority Roads and Impacts Category**

<b>Finance Source</b>	<b>Project Roads</b>	<b>Length km</b>	<b>Resettlement Impacts Category</b>
JICA	Dili-Hera	8.5	To be confirmed under JICA project
JICA	Hera-Manatuto	49.2	B
JICA	Manatuto-Baucau	60.2	To be confirmed under JICA project
World Bank	Dili-Ainaro	110	B
ADB	Dili-Liquica	28.6	B
ADB	Tibar-Gleno	33.3	B

### **C. Objectives of the Resettlement Framework**

7. This Resettlement Framework (RF) outlines the principles and procedures to obtain land and address potential resettlement impacts under the project. The Executing Agency (EA) Ministry of Finance, and the Implementing Agency (IA) Ministry of Infrastructure will follow the procedures to comply with the government's applicable laws and regulations and relevant policies of the ADB, JICA and WB.
8. The basic objectives of the RF are to: (i) guide the EA/IA in obtaining land, properly identifying impacts, and restoring the livelihoods of affected persons (APs), (ii) serve as a binding document to ensure compensation and assistance to APs, and (iii) provide direction in preparing, updating, implementing and monitoring subproject Resettlement Plans (RP). The RF includes measures to ensure that APs are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible alternatives; and (iii) provided prompt, adequate and effective payment / compensation at full replacement cost for losses of assets attributable directly to the Project.
9. The RF provides (i) the policy and legal framework of the Government and relevant policies of the ADB, JICA and WB; (ii) the compensation guidelines to be applied to all locations affected by the Project; and (iii) procedures to be followed during preparation, implementation, and evaluation of RPs. The RF's process and outline will be used for the RPs for all subprojects requiring land or asset acquisition. RPs for the sub-projects will be prepared and updated after detailed design and submitted to ADB/WB/JICA for clearance.
10. This RF outlines the policies and requirements for resettlement planning for the different scenarios as required by ADB, JICA and WB policies on involuntary resettlement. Alternative design options will be considered during detailed design of the sub-projects to avoid and/or minimize involuntary resettlement.

### **D. Existing Legal and Policy Framework**

#### **(i) National Policies and Legislation**

11. Section 141 of the Constitution states that the ownership, use and development of land are key factors for economic production and they shall be regulated by law. Section 54 of the Constitution covers the right to private property and provides for:
  - i. Every individual has the right to private property and can transfer it during his or her lifetime or on death, in accordance with the law.
  - ii. Private property should not be used to the detriment of its social purpose.
  - iii. Requisitioning and expropriation of property for public purposes shall only take place following fair compensation in accordance with the law.
  - iv. Only national citizens have the right to ownership of land.
  
12. The first land law of Timor-Leste was promulgated in March 2003 and was designed to serve as an umbrella law for the rest of the land and property regime. The law established the Directorate of Land, Property and Cadastral Survey (DLPCS) as a legal entity and defined its jurisdiction, and articulated general rules concerning land tenure and property rights to be further developed by ensuing legislation. Moreover, this law established a one-year period for both nationals and non-nationals to register their land claims. Effectively Law No. 1/2003 vests all land that belonged to the Portuguese state, and all state property acquired or built by the Indonesian regime, in the new state of Timor-Leste.
  
13. A decree issued by the Government in February 2011 provides for granting compensation to relocate unlawful occupants of State property based on humanitarian considerations. The Ministry of Justice (MOJ) through Ministerial Decree, which is yet to be finalized, will establish the basis for calculating compensation.
  
14. Another decree promulgated in July 2011 passed in June 2011 allows private property rights registration by landowners/persons in areas where cadastral surveys have been completed (following registration and verification of claims by the government) and confirmed that the claims to land are undisputed. Among the claims registered so far under the Ita Nia Rai program, which has been limited to urban areas, some 92 per cent of claims are undisputed.
  
15. The Civil Code promulgated in 2011 (which comes into force in March 2012) includes a section that governs day-to-day land decisions such as the sale and lease of land. The following three laws have recently been passed by Parliament and are awaiting promulgation by the President:
  - The **Land Law** decides who owns what land and in the case of conflicting claims, who has the strongest right to the land;
  - The **Expropriation Law** allows the state to take land for "public good" for example, to build ports and other infrastructure.

- The **Real Estate Finance Fund** provides compensation as determined under the other laws.

Land acquisition for the roads, and payment of compensation to affected persons, will be guided by the provisions of the Expropriations Law once promulgated. This Law recognizes the right to private property and guarantee of fair compensation for expropriated land, as fundamental rights of citizens. Under this law, expropriation of property for public purposes is only possible where it is not possible to acquire it amicably through private negotiations. The Council of Ministers, with advice of the Ministry of Justice, is empowered to issue a notice of public purpose for expropriation.

16. When road works required land in the past, the Government negotiated with the owners or users (including squatters) on a case by case basis. According to past practice, when land was required for project development, concerned parties under the direction of local authorities (district and sub- district Land and Property Units and village) negotiated and reached agreement on compensation rates, total compensation amount, and the procedures or mechanism for compensation and transfer. This process is likely to continue until the expropriation law is promulgated and come into force.

**(ii) World Bank Safeguard Policies**

17. The WB's safeguard policy on Involuntary Resettlement – OP 4.12 (December 2001) – seeks to ensure that impoverishment risks due to involuntary resettlement are addressed and minimized.

18. The objectives of the policy are to:

- Avoid resettlement where possible, and otherwise minimize through alternative project designs;
- Resettlement should be conceived and executed as a sustainable development program;
- Affected people should be meaningfully consulted, and be facilitated to participate in planning and implementing resettlement plans; and
- Displaced people should be assisted to improve, or at least restore their livelihoods and standards of living to pre-project levels.

19. The policy includes direct economic and social impacts that result from (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 APs.

20. Where impacts on the affected population are minor, a short resettlement plan will be prepared. For projects causing significant resettlement (more than 200 people are

displaced or will lose 10% of productive/income generating assets), a full resettlement plan is required.

21. The policy requires that in the resettlement planning process:

- Affected people and their communities, as well as host communities, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in resettlement planning, implementing, and monitoring;
- At new resettlement sites, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service. 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); and
- Patterns of community organization appropriate to the new circumstances are based on choices made by the affected people, and existing social and cultural institutions of those people are preserved.

22. To achieve the objectives of the policy, WB requires that particular attention be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous people, or other displaced persons who may not be protected through national land compensation legislation.

23. The policy comprises three important elements: (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and, (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.

24. The policy recognizes as displaced persons as people in one of the following groups:

- Those with titles to land recognized on a legal basis;
- Those with no legal rights but have a claim to the land or assets, and are recognized through a process identified in the RP;
- Those who have no legal right or claim to the land they are occupying before the cut-off date;
- Those whose land is temporarily affected.

**(iii) ADB Safeguard Policies**

25. ADB's *Safeguard Policy Statement* (2009) provides comprehensive guidance on complying with the requirements for environmental and social safeguards (involuntary resettlement and Indigenous Peoples) in Projects. It aims to avoid or minimize the impacts on people affected by a project, and to provide support and assistance for those who lose their land and property, as well as for others whose livelihoods are affected by the acquisition of land or restriction on land use. Resettlement planning is designed to provide APs with a standard of living equal to, if not better than, that which they had before the project.

26. The policy is guided by the following principles:

- Involuntary resettlement is to be avoided or at least minimized;
- Compensation must ensure the maintenance or improvement of the APs' pre-project living standards;
- APs should be fully informed and consulted on compensation options;
- APs' socio-cultural institutions should be supported/used as much as possible;
- Compensation will be carried out with equal consideration of women and men;
- Lack of formal legal land title should not be a hindrance to assistance/rehabilitation;
- Particular attention should be paid to households headed by women and vulnerable groups, such as indigenous people and ethnic minorities, and appropriate assistance should be provided to help them improve their status;
- 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;
- Compensation/rehabilitation assistance will be paid prior to ground levelling and demolition, and in any case, before an impact occurs.

27. The policy comprises three important elements: (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and, (iii) assistance for rehabilitation to improve or achieve at least the same level of wellbeing with the project as without it.

28. Projects are assigned to one of the following categories depending on the significance of the probable involuntary resettlement impacts:

- Category A. A proposed project is classified as category A if it is likely to have significant involuntary resettlement impacts. A resettlement plan, including assessment of social impacts, is required.
- Category B. A proposed project is classified as category B if it includes involuntary resettlement impacts that are not deemed significant. A resettlement plan, including assessment of social impacts, is required.
- Category C. A proposed project is classified as category C if it has no involuntary resettlement impacts. No further action is required.
- Category FI. A proposed project is classified as category FI if it involves the investment of ADB funds to, or through, a financial intermediary.

29. A project's involuntary resettlement category is determined by the category of its most sensitive component in terms of involuntary resettlement impacts. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan are commensurate with the significance of the potential impacts and risks.

(iv) **JICA Safeguard Policies**

30. JICA classifies projects into three categories according to the extent of environmental and social impacts:



- Category A: Proposed projects are classified as Category A if they are likely to have significant adverse impacts on the environment and society. Projects with complicated or unprecedented impacts that are difficult to assess, or projects with a wide range of impacts or irreversible impacts, are also classified as Category A. These impacts may affect an area broader than the sites or facilities subject to physical construction. Category A, in principle, includes projects in sensitive sectors, projects that have characteristics that are liable to cause adverse environmental impacts, and projects located in or near sensitive areas.
- Category B: Proposed projects are classified as Category B if their potential adverse impacts on the environment and society are less adverse than those of Category A projects. Generally, they are site-specific; few if any are irreversible; and in most cases, normal mitigation measures can be readily designed.
- Category C: Proposed projects are classified as Category C if they are likely to have minimal or little adverse impact on the environment and society.

When necessary, JICA can change a category even after screening. This might occur such as when a new significant impact has come to light as a result of the cooperation project process, or in other specific situations.

- For projects that will result in large-scale involuntary resettlement (Category A), a Resettlement Action Plan (RAP) must be submitted.
- JICA publishes the status of host countries' submission of major documents on environmental and social considerations on its website. Prior to its environmental review, JICA also discloses the RAPs for projects that will result in large-scale involuntary resettlement.  
JICA also examines the results of information disclosure and local stakeholder consultation.
- The information necessary for monitoring confirmation by JICA must be supplied by project proponents by appropriate means, including in writing. When necessary, JICA may also conduct its own investigations.
- When projects undergo significant changes, JICA re-categorizes them and discloses an outline of changes and new categories as well as major environmental and social considerations documents promptly after receiving them.

## **E. Project Policy Framework and Entitlements**

31. The legal and policy framework on resettlement in Timor Leste has been compared with the requirements of the donor agencies and some gaps have been identified. The gap filling measures and resettlement policy principles for the project are as follows:

- (i) The Constitution gives the power to the state to expropriate land for public purposes paying due compensation in accordance with the law. Once the Expropriation Law is promulgated, the government will be able to acquire land

- under “eminent domain” or involuntarily. Under this law, land can be expropriated only when attempts to acquire the land privately have failed.
- (ii) A cadastre has been developed under the Ita Nia Rai program covering urban centers. The Government has started issuing land registry certificates in urban areas, which will help in identifying land owners. In rural areas where most of the road sections will be improved, the DLPCS will identify and establish ownership claims for the land parcels required for the project roads.
  - (iii) The absence of an active land market in rural areas poses a challenge to determine the market or replacement value of the affected land. ADB/JICA/WB will assist MOJ/DLPCS by providing professional expertise under the Project Management Unit (PMU) for valuation of affected assets to determine fair compensation at replacement cost;
  - (iv) Resettlement impacts will be minimized through careful engineering design;
  - (v) APs will be systematically informed and consulted during the entire process of resettlement planning and implementation, including assessment of possible impacts on their livelihoods, acquisition of land/assets, determining compensation/resettlement options, and socio-economic rehabilitation measures. They will be informed of their rights and options and be invited to participate actively in the identification of mitigation and rehabilitation measures;
  - (vi) The APs will be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cut-off date, usually around the time of initial consultations, at the subproject identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits;
  - (vii) Consistent with donor policies, eligible APs are those with (a) titles to land recognized on a legal basis; (b) no legal rights but have a claim to the land or assets, and are recognized through a process identified in the RP; (c) no legal right or claim to the land they are occupying before the cut-off date; (d) whose land is temporarily affected.
  - (viii) Eligible APs are entitled to compensation and livelihood rehabilitation measures sufficient to assist them to improve or at least maintain their pre-subproject living standards, income earning capacity and production levels;
  - (ix) In the consultation process, representatives of local governments, village chiefs, other community leaders and civil society organizations such as non-government organizations (NGOs) from the operational areas will be included. The customs and traditions, as well as the religious practices of all APs, will be respected and protected;
  - (x) The institutions of APs, and, where relevant of their hosts, are to be protected and supported. Physically displaced APs will be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted;
  - (xi) Lack of formal legal rights to assets lost will not deprive any AP from receiving compensation and payments for non-land assets and entitlements.
  - (xii) Particular attention will be paid to the needs of vulnerable APs. This group of APs may include those without legal or recognizable title to the land or other assets, households headed by females, the elderly or disabled, and other vulnerable groups, such as people living in extreme hardship, and indigenous people that may be a minority in specific locations. Appropriate assistance will be provided to help them improve their socio-economic status;

- (xiii) The concerns of women will be identified based on sex-disaggregated socio-economic data, separate discussions on women's concerns, and ensuring adequate measures and budgetary allocations in the resettlement plan to compensate and resettle them in a manner that does not disadvantage them. In this effort the assistance of national NGOs currently engaged in women's welfare will be sought;
- (xiv) Since there are no significant differences in cultural and socio-economic identity among the different language groups, no specific adverse impacts are anticipated to warrant separate indigenous peoples' plans. To ensure that the different language groups fully participate in planning and implementing resettlement, discussions and reports will be prepared and disclosed appropriately in the relevant languages. RPs will also include provision for any special measures that may be required.
- (xv) Resettlement planning decisions will be preceded by a social preparation phase where consultations will be held with APs, community leaders, local administrators, and NGOs, as applicable, to enhance the participation of these APs in negotiation, planning, and implementation;
- (xvi) Payment for physical assets, i.e. houses, buildings and other structures, and non-physical assets such as lost income from productive assets or jobs, will be calculated at replacement cost and included in the RP;
- (xvii) APs losing only part of their physical assets will not be left with a proportion inadequate to sustain their current standard of living. Such a minimum size will be identified and agreed upon during the resettlement planning process;
- (xviii) Land for land or asset for asset compensation is always the preferred method. However, if insufficient land or assets are available, or if the affected people have a preference and the resettlement impacts are considered to be minor and do not undermine the livelihoods of APs, cash compensation at replacement costs will be provided based on negotiation with APs. For those experiencing significant impacts (i.e. losing more than 10% of productive land) assistance will be given to identify and purchase alternative land. Efforts will also be made to provide sustainable livelihood restoration measures so that affected people can improve or at least restore their standard of living to pre-project levels.
- (xix) A grievance redress mechanism, linked with existing traditional formal and informal systems and cognisant of cultural requirements, will be established to solve resettlement related disputes and complaints from APs;
- (xx) The full cost of land acquisition and resettlement will be included by the government in the project cost and adequate budgetary provision shall be made available during implementation;
- (xxi) All land acquisition, compensation, resettlement activities will be satisfactorily completed and the subproject areas cleared of all obstructions before the commencement of civil works; and
- (xxii) No works with resettlement impacts will be implemented before a RP has been prepared and approved in line with this RF. The general process for preparing RPs includes:
  - Consultation – with APs relevant stakeholders, and whenever necessary, assistance of relevant institutions to ensure effective consultations;

- Undertaking of a participatory inventory of losses (IOL), which will be updated during a detailed measurement survey (DMS) following the detailed design;
- Determination of replacement cost – for APs losing assets (land, physical assets, means of livelihood, or social support systems) will be compensated and assisted, through adequate and satisfactory to the AP, replacement land, housing, infrastructure, resources, income sources, and services, in cash or in kind, so that their economic and social circumstances will be improved or at least restored to the pre-project level. All compensation will be based on the principle of replacement cost at current market value. When necessary, livelihood restoration programs acceptable to the local community will be put in place to help people improve, or at least restore, incomes to pre-project levels;
- Preparing a cost estimate and budget – including the costs of compensation, relocation and rehabilitation, social preparation and livelihood programs. The budget will also include the costs for planning, management, supervision, monitoring and evaluation, land taxes, land fees, physical and price contingencies, and implementation of the RP;
- Inclusion of a grievance mechanism based on cultural practices and agreeable to APs.
- Inclusion of a monitoring system - appropriate reporting and monitoring and evaluation will be established as part of the resettlement management system, this will be set out in the RP.

## **Entitlements**

32. The PMU will establish cut off dates for each sub-project prior to the census of affected persons. People who move into the area after this date will not be entitled to any compensation.
33. The following categories of affected persons will be entitled to receive payments:
- Those with titles to land recognized on a legal basis;
  - Those with no legal rights but have a claim to the land or assets, and are recognized through a process identified in the RP;
  - Those who have no legal right or claim to the land they are occupying before the cut-off date;
  - Those whose land is temporarily affected.
34. Compensation at replacement cost for land and other fixed assets (houses, other structures) crops and trees will be adequate to replace losses.
35. While APs with recognizable land rights will receive compensation /price at replacement rate for land, those without such rights will be compensated for assets attached to land such as houses, kiosks, and other structures. They will also be entitled to assistance for

restoring their incomes. Vulnerable persons and women headed households will qualify for special assistance.

36. APs without legal title or legitimate claim will be entitled to compensation for non-land assets only and other assistance.

37. An entitlement matrix is in Appendix 1. Each RP will include a detailed Entitlement Matrix identifying the following main components:

- Description of relevant impact (permanent, temporary, land, structure, crops, access, employment, business, communal facilities, public buildings and utilities etc.);
- Nature of impact (ROW, access for construction, partial or total loss, ownership, impact on income etc.);
- Definition of affected person for each category of impact;
- Specific entitlement for each type of loss;
- Agency responsible for each entitlement.

38. Where public buildings such as schools, clinics, electricity lines, water supplies, markets and government offices are affected, PMU will work with relevant authorities to plan for replacing them well in advance and ensure that the required funds are included in the resettlement budget. Compensation will be paid to replace affected churches.

## **F. Land Acquisition**

39. This RF describes processes for both negotiated and involuntary acquisition of land. Land required for the Project will be acquired according to the provisions of the Expropriations Law. The Law requires that in the first instance attempts should be made to obtain the land privately. Expropriation, that is “eminent domain” will be exercised only after the MOJ and the Council of Ministers are convinced that private acquisition has failed. Specific provisions under the law are:

- MOI/PMU must first try to acquire land through private negotiation;
- Compensation must be fair;
- MOJ/ Council of Ministers require documentary justification for expropriation;
- Public notice of intention to expropriate must be issued;
- A registration survey is required for land to be acquired;
- Disputes arising on land issues should be resolved according to the provisions of the Land Law;
- The procedure for expropriation specified in the law must be adhered to. The following actions are required: (a) inspection of the land; (b) a report to be prepared including valuation of the land and the estimated compensation costs; (c) expropriation decision; (d) attempts made to acquire land privately; (e) conveyance of the land through a public deed; (f) application for notice of expropriation, where private acquisition has failed; (g) publication of notice of public purpose; (h) vesting of the acquired property; (i) arbitration as required to

determine fair compensation; (j) notice of results of arbitration; (k) payment of compensation.

Compensation payment for land, other physical assets, i.e. houses, buildings and other structures, and non-physical assets such as lost income from productive assets or jobs, will be based on guidelines in the Law. If statutory compensation according to the Table of Values prepared under the law fails to compensate at replacement value, MOF/MOI will be required to provide additional funds to “top up” compensation to meet donor safeguard policy requirements. To ensure that any negotiations with APs address the risks of asymmetry of information and bargaining power of the parties involved, an independent external party such as NGOs will be engaged in the process of negotiated acquisition. The processes applicable to such transactions are described in the following paragraphs.

40. APs will be well informed of their rights and entitlements regarding compensation, so they can make an informed decision. Once the subproject and potential impacts have been identified, and consultations are taking place, APs will be informed of their options. The consultation with APs will provide details of land required to construct or facilitate the works as well as some basic socio-economic information about the APs.
41. The PMU will obtain the views of the APs to assess their support for the subproject in general and the proposed works specifically, and whether they will support the acquisition of their land with fair compensation. The provisions of this RF will apply to the acquisition of land and land will be acquired and compensated at replacement cost. Any land ownership issues will be satisfactorily resolved under the Land Law to enable the Project to acquire land in a timely manner.
42. In the event that the owner does not support the acquisition of land for use by the Project, MOI has two options: (i) invoking involuntary/compulsory land acquisition procedures according to the Expropriation Law and in compliance with donors’ policy and this RF; or (ii) not proceeding with the particular works in respect of that piece of land.
43. Where the APs support land acquisition for the project, the PMU will discuss and document the basis on which the land transfer will proceed including the agreed compensation. The PMU will ensure that negotiated land settlement is voluntary, and that people are not coerced or pressured in any way. For negotiated land settlement, it will be ensured that land is not under dispute or the subject of an unresolved claim.
44. All types of land acquisition will be carefully documented. For negotiated settlement, MOI will obtain agreed legal documents between MOI, MOJ/DLPCS, and the land owners supporting land transfer. The legal documents will establish the obligations of each party to the agreement. If the obligations are agreed, the legal documents will be signed by the parties being the land owners, representative(s) of MOI, and representative(s) of DLPCS.

45. The international and national safeguards specialists at PMU will verify all land acquisition processes, and document the consultations and agreements reached, on behalf of the PMU. It is of utmost importance to verify that APs are fully informed of the compensation payments that they are entitled to regardless of whether land is acquired through negotiation or expropriated. In case of negotiated settlement, a third party, such as a non-government organization (NGO) or civil society organization (such as a church), will be involved to validate that (i) the consultations have been undertaken, meaningfully, freely, and in good faith; and (ii) the land owners have been informed of their choices and been part of the process and support transfer and use of land for the project works.

### **G. Social Surveys and Impact Assessments**

46. Socio-economic surveys will be conducted for each sub-project, comprising a social impact assessment of a 20% sample of the affected population and a 100% inventory of losses (IOL) census survey at detailed design. Data will be disaggregated by gender, vulnerability, and any other social groups. These surveys will:

- Define, identify and enumerate the people and communities affected;
- Describe the likely impacts due to acquisition of land and other assets;
- Discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups;
- Identify resettlement impacts on women, relating to their needs and priorities.

#### **Gender**

47. Socio-economic surveys will collect sex-disaggregated data so that gender concerns can be addressed to ensure that women participate, through separate meetings and discussions, drawing on locally active formal and informal women's groups. The objective will be to guarantee protection and enhancement of women's assets, land use rights, income and livelihoods, and ensure that women also receive compensation.

#### **Indigenous Peoples**

48. There are 17 languages spoken across the country. The social assessments undertaken for the ongoing ADB grant project have not identified any distinct and vulnerable indigenous peoples that would trigger the IP safeguards policy. However, each sub-project will be screened to assess if there are distinct and vulnerable IP groups in the project area. If any such groups are identified, the project design, particularly the RPs, will address issues of indigenous peoples to ensure that they do not experience adverse impacts from project implementation, receive culturally appropriate benefits, and actively participate in the project activities. The project will ensure free, prior and informed consultations leading to broad community support for the project, if applicable. The leaders of local communities along the project road corridors will be consulted to solicit their support for the project. Since language could be a barrier for access to information and consultation, RPs will address necessary measures to disseminate project information in a language and manner understandable to local communities.

## **H. Stakeholder Participation and Disclosure**

49. Consultations with APs will be organized to ensure APs understand and support the project, and actively participate so that conflicts are avoided. A key requirement for this is that APs concerns are adequately taken into account. The following guidelines will be adopted:

- Involve local authorities and through them all APs, in planning and decision making. The PMU will maintain continuous dialogue with officials, community leaders, NGOs (already active in the project areas) and APs, including women, starting with sub-project planning and right through to implementation;
- Make arrangements through a semi-formal process to share project information and to get feedback, and to provide opportunities for APs to contribute to design, mitigation measures and sharing in project benefits;
- Disadvantaged groups such as the elderly, the poor, the landless and women headed households and indigenous people will be included in the consultations;
- Record all proceedings of meetings with stakeholders;
- Prepare and distribute a project information brochure in relevant local language(s) (Tetum, Portuguese and Bahasa Indonesia, etc.); outlining a brief description of the project and its impacts, eligibility for entitlements, responsible agencies, cut off date/s for compensation eligibility, and grievance redress procedure.
- Transparency in land acquisition, compensation, livelihood restoration, relocation of structures and overall entitlements.

50. The RF and the RPs will be prepared in consultation with affected people and endorsed by the MOI and the funding agency (ADB/WB/JICA) financing the project. Once the document has been approved, it will be uploaded to web-sites of the funding agency in compliance with the respective funding agency's requirements for communications and disclosure of information. Relevant information from the RF and RPs will be summarized in a resettlement brochure and translated into the relevant local language(s) (Tetum, Portuguese, Bahasa Indonesia, etc.) and disclosed in the project affected areas. The RF and RPs will be distributed in such a way as to be available to central and local government agencies, NGOs and potential APs requesting the complete version of the RF and RP.

## **I. Resettlement Planning for Road Sub-Projects**

51. The PMU, with the assistance of social safeguards specialists under PMU as well as the project design/supervision consultants (including international specialists), will prepare RPs for the sub-projects. The following are the main tasks in RP preparation:

- Screen sub-projects for resettlement impacts and categorize
- Prepare terms of reference for RP preparation of the appropriate road section
- Plan and conduct consultations throughout planning process and record all meetings
- Set cut-off dates and video record the proposed road section to avoid encroachment
- Schedule and conduct social impact assessment and IOL census; train survey staff
- Establish a database of affected persons and impacts



- Identify land acquisition requirements and finalize ownership status
- Prepare entitlement matrix, and compensation, income restoration and relocation plans based on replacement rates
- Set up grievance redress mechanism
- Prepare a Project Information Booklet (PIB) in relevant local language (Tetum, Bahasa Indonesia, Portuguese, etc.) and distribute among stakeholders
- Identify and assign institutional responsibilities for land acquisition and resettlement
- Prepare resettlement budget, disbursement mechanisms and resettlement implementation schedule
- Prepare draft RP in consultation with affected people
- Submit draft RP to ADB/JICA/WB and responds to comments
- Translate and disclose summary of draft RP locally. Conduct consultations with local people and amend RP as needed after consultations.
- Submit finalized RP to WB/ADB/JICA for approval and disclose on Government, World Bank, ADB and JICA websites as appropriate.
- Recruit external monitor (e.g. NGO) to oversee land acquisition and resettlement processes for subprojects with significant impacts, as needed.

#### **J. Measures for Redress of Grievances**

52. It is important to deal effectively with APs concerns. Courts should be the last resort, and to ensure this a simple, accessible, transparent and effective grievance redress system will be established. There are three main categories of grievance on projects with involuntary resettlement impacts. They relate to: (a) land and associated assets; (b) compensation rates and payments, and (c) impacts during project implementation. MOJ with DLPCS will assist the project in resolving disputes on land issues.
53. Existing community processes can assist in dealing with land disputes. They include the village chiefs, other elders, church leaders and recognized civil society leaders. ITA NIA RAI's experience with conflict resolution and dispute mediation in property rights will be drawn upon as necessary to strengthen PMU's capacity in addressing land related issues. Experience from the Justice for the Poor (J4P) program in grievance redress will also be drawn upon as appropriate.
54. The PMU will be the focal point for receiving and resolving any grievances of APs.
55. APs will not be liable for any costs associated with resorting to the grievance redress process; any such costs will be reimbursed by the project.
56. Table 2 sets out the grievance redress process to be adopted by the project. However, any grievances arising from land issues will be dealt with according to provisions in the Land Law. The Expropriations Law also has comprehensive time bound processes (arbitration, appeal, judicial review etc.) to specifically address any issues arising during the course of land acquisition and compensation payment.

**Table 2: Grievance Redress Framework**

Stage	Process	Duration
1	AP submits grievance to sub-project manager in person	
2	Sub-project manager will try to resolve the issue.	7 days
<b>If unresolved or if AP wanted to go directly to PMU</b>		
3	Sub-project manager will take grievance to PMU/community liaison officer	Within 2 weeks of receipt of decision in step 2
4	Issue discussed at project liaison meeting	1 week
5	PMU/community liaison officer reports back to village/AP	5 days
<b>If unresolved</b>		
6	AP takes grievance to MOI Secretary of State with assistance from the sub-project.	Within 2 weeks of receipt of decision in step 5
7	Secretary of State refers matter to an internal committee	2 weeks
8	Secretary of State reports back to AP/village chief	5 days
<b>If unresolved or at any stage if AP is not satisfied</b>		
AP can take the matter to appropriate court		As per judicial system

## K. Institutional Arrangements and Implementation

57. The PMU under the MOI will have overall responsibility for implementing the sub-projects. The PMU will strengthen its capacity with a national social safeguard specialist to plan and implement land acquisition and resettlement and monitor resettlement in the sub-projects. To this end an Environmental and Social Unit (ESU) will be established in the PMU. The design and supervision consultant on the project will also provide an international social safeguards specialist to work with the PMU on all resettlement and consultations tasks.
58. The PMU/ESU will be responsible for all environmental and social aspects of the road development work. On the social safeguards side, it will manage all land acquisition and resettlement activities. The following are its key functions:
- Planning, coordination, implementation and monitoring of land acquisition and resettlement;
  - Preparing RPs as required to comply with government and WB/ADB/JICA policies;
  - Conducting consultations and ensuring affected people are informed and get a choice on their options for resettlement and compensation and can voice their ideas and concerns on the process;
  - Assisting in acquiring land required for road development;
  - Coordinating with MOI and Lands Directorate and ensuring prompt, adequate and timely compensation payment according to entitlements;
  - Monitoring of resettlement activities and reporting.
59. The PMU will work closely with the DPLCS and ITA NIA RAI as well as MOI to deal with land acquisition, and to resolve any conflicts that may arise during these processes<sup>2</sup>.

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<sup>2</sup> ITA NIA RAI, originally supported by USAID but now integrated under MOJ, is engaged in strengthening property rights through a systematic process that involves public consultation, assisting in land legislation, land administration, preparation of land survey maps, and conflict resolution through mediation.

60. PMU will engage experienced NGOs active in the project areas, to monitor and validate the negotiated land acquisition process as well as to monitor land acquisition under eminent domain, as needed. NGOs will also be engaged, as appropriate, to assist in consultations and in resolving disputes.

61. Table 3 summarizes the key tasks to be carried out by the respective agencies.

**Table 3: Resettlement Implementation Structure**

<b>Agency</b>	<b>Roles and Responsibilities</b>
Executing Agency (EA) MOF/ Implementing Agency (IA) MOI	<ul style="list-style-type: none"> <li>• Overall execution of the Project</li> <li>• Directs the PMU</li> <li>• Provides funds for land acquisition and resettlement</li> <li>• Liaises with ADB, WB, JICA</li> <li>• Coordinates the Working Group</li> </ul>
Project Management Unit (PMU)/MOI	<ul style="list-style-type: none"> <li>• Manages the social and resettlement aspects of the road sub-projects</li> <li>• Manages design and supervision consultant on all matters dealing with resettlement and consultations</li> <li>• Directs and supervises the planning and implementation of land acquisition and resettlement</li> <li>• Organizes effective public consultation and disclosure of resettlement planning documents in appropriate languages</li> <li>• Procures and manages the funds required for land acquisition and resettlement, administration and monitoring</li> <li>• Coordinates with the MOJ/DLPCS to ensure smooth land acquisition and assessment and payment of compensation at replacement rates</li> <li>• Ensures that effective monitoring of resettlement is conducted and reported to funding agencies</li> <li>• Ensures that the grievance redress system is effective in addressing APs concerns</li> <li>• Liaises with ADB, WB and JICA on all matters relating to resettlement and submits regular reports.</li> <li>• Contracts NGOs or other third party to monitor land acquisition and resettlement, as needed.</li> </ul>
Working Group comprising MOJ/MOF/MOI/PMU/DLPCS/ Donor representative	<ul style="list-style-type: none"> <li>• Ensures coordination among relevant ministries</li> <li>• Oversees and reviews implementation effectiveness of land acquisition and resettlement</li> <li>• Resolves land related issues arising during implementation</li> <li>• Guides the PMU in addressing issues that require policy direction</li> </ul>

Agency	Roles and Responsibilities
	<ul style="list-style-type: none"> <li>• Reviews and takes action on findings of monitoring reports</li> </ul>
ADB, WB and JICA	<ul style="list-style-type: none"> <li>• Review and approve all resettlement documentation as required under their respective policies</li> <li>• Assist in capacity building in the PMU to manage social safeguards in road projects</li> <li>• Disclose RPs, RFs on respective websites</li> <li>• Provide guidance as required based on progress reports and supervision missions</li> </ul>

#### **L. Budget and Financing Arrangements**

62. The MOF/MOI will ensure that adequate funds are available for land acquisition and resettlement, including negotiated purchase - according to budgets prepared for each sub-project. The PMU will coordinate/undertake procurement and allocation of funds, approval of payments, and delivery of funds, monitoring of progress and reporting. Guidelines in the Expropriations Law will be adopted in paying compensation for land acquisition.
63. Budget items will include provision for preparing resettlement plans, acquiring land and structures, payments for lost crops and trees, loss of income, temporary impacts before and during civil works, common property resources, public buildings and facilities, transitional allowances and livelihood restoration. Land acquisition costs, based on valuations that provide compensation at replacement rates, will be applied for all types of losses and the valuation system in place will be the main instrument that establishes those values (which will be detailed in the RPs).
64. The budget will provide for administration costs, including monitoring, land acquisition and resettlement and a contingency to deal with any unforeseen expenditure.
65. All costs associated with land acquisition and resettlement will be provided by the government.

#### **M. Implementation Schedule**

66. Each sub-project's resettlement plan will include a detailed time bound implementation schedule identifying each activity, showing milestones for completing each action and coordinated with the civil works. Depending on progress made this schedule will be updated from time to time.
67. The key activities to be included in the RP preparation schedule are:
- Approvals of RPs
  - Disclosure of RP including providing relevant information to APs in local languages
  - Mobilization of resettlement staff and consultants

- Consultations with APs and communities
- Setting up of grievance redress mechanism
- Internal/external monitoring arrangements
- Recruitment of experienced NGOs for external monitoring and validation of the negotiated land acquisition process, if needed
- Project information booklet
- Updating of RP based on detailed design and consultations with affected people
- Obtaining approval of updated RP from ADB/JICA/WB
- Finalizing entitlements
- Liaising with MOJ/DLPCS and MOI in land acquisition and disbursement of compensation including ensuring this takes place prior to the start of civil works or land/asset acquisition
- Land acquisition and disbursement of compensation
- Clearance for commencement of civil works
- Monitoring schedule including reporting

## **N. Monitoring and Evaluation**

68. Resettlement Plans will set out in detail the criteria and the procedures for internal/ external monitoring of resettlement implementation. Internal monitoring reports will be prepared by Project Safeguard Specialists and sent at specified intervals to the PMU, who will forward them to ADB/JICA/WB. The reports will highlight any issues that have been identified and indicate the actions that have been taken to resolve them.
69. Internal monitoring will include reporting on progress in the activities envisaged in the implementation schedule with particular focus on public consultations, land acquisition, record of grievances and status of complaints, financial disbursements, and level of satisfaction among APs.
70. External monitoring by NGOs or other third party will be done for negotiated land acquisition processes particularly for subprojects with significant impacts. Reports will be submitted to the PMU and forwarded to ADB/JICA/WB.
71. In addition to the internal monitoring, external monitoring for any Category A sub-projects will be carried out quarterly by external experts hired by the PMU. Its focus will be to evaluate application of the agreed project resettlement policies, functioning of the institutional set up for resettlement implementation, timely delivery of entitlements, budget and disbursements, effectiveness of the consultative processes, and the grievance redress mechanism, and the general level of satisfaction among the APs. Lessons learned will be identified and reported to serve as guidance for future projects. The PMU will review and respond to any issues that the external monitors identify and report.

### Appendix 1: Project Entitlement Matrix

Type of Loss	Application	Definition of APs	Entitlement	Details of Entitlements	Responsibility
<p>1. Permanent loss of land (agricultural) by titled owners/ claimants</p>	<p>Land to be acquired for road widening or realignment</p>	<p>1. Land owners or customary owners, leaseholders  2. Others with traditional land rights</p>	<p>Compensation at replacement cost</p>	<p>1. The following options will be given:  Land for land compensation is the preferred option. If land is not available then:</p> <ul style="list-style-type: none"> <li>• The AP keeps the remaining land and compensation at replacement cost and assistance is paid to the AP for the land to be acquired</li> <li>• The entire plot including the residual plot is acquired, if the owner wishes that the MOI will also acquire the residual plot.</li> <li>• If the AP is from a vulnerable category, assistance to purchase land if preferred by the AP.</li> </ul> <p>If more than 10% of an APs land is acquired and sufficient land is not available as compensation, cash payments will not be enough and livelihood support and training will be needed to ensure the AP can improve or at least restore their standards of living to pre-project levels.</p> <p>2. Transitional allowance (to be determined) to be paid for maximum of nine months if the residual land is not viable (land acquired is 75% or more of the total land holding of the titleholder) or for 3 months if the residual land is viable. If the household is vulnerable transitional allowance may be needed for a greater amount of time.</p> <p>4. All fees, taxes and other charges, as applicable under relevant laws incurred in the relocation and resource establishment are to be borne by the project.</p>	<p>PMU assisted by District, Sub-District, Suco officials, and the Directorate of Land, Property and Cadastral Survey, will help identify alternative replacement land and determine replacement cost through valuation in consultation with community leaders and APs.</p> <p>Training and skills will be arranged through existing government programs.</p>

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					Replacement rates will be established through the valuation process.
2. Permanent loss of homestead and commercial land	Non-agricultural land and assets	1. Titleholders /Claimants	Compensation at replacement cost	<p>1. AP is entitled to compensation at replacement cost for the residential structure (part or full) which will be calculated at replacement rates without depreciation. Land for land and asset for asset compensation is the preferred method.</p> <p>2. Payment for the loss of residential land will be paid at replacement cost.</p> <p>3. Transitional allowance (to be determined) to be paid for maximum of nine months if the residual land is not viable (land acquired is 75% or more of the total land holding of the titleholder) or for 3 months if the residual land is viable. If the household is vulnerable transitional allowance may be needed for a greater amount of time.</p> <p>4. All fees, taxes and other charges, as applicable under relevant laws incurred in the relocation and resource establishment are to be borne by the project.</p> <p>5. Landless/vulnerable APs will be assisted to find alternative land/plot.</p>	PMU: Replacement rates determined as above. Other payments as above.
3. Permanent loss of residential/commercial structures of owners/claim	Loss of structure	Owners of structures	Compensation at replacement value (in kind or cash as per APs choice)	<p>1. AP will be provided with replacement house/structure(s) with necessary amenities or paid compensation at replacement value (according to APs choice).</p> <p>2. Transitional assistance to cover a maximum of nine months rental accommodation. If the household is vulnerable transitional</p>	PMU as above

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ants				<p>allowance may be needed for a greater amount of time.</p> <ol style="list-style-type: none"> <li>3. A lump sum shifting allowance for temporary, semi-permanent and permanent structures.</li> <li>4. Right to salvage materials from the demolished structure</li> <li>5. Training will be provided to upgrade skills.</li> <li>6. Vulnerable APs will be provided a one-time rehabilitation grant in the form of productive assets or cash as per APs choice.</li> </ol>	
4. Tenant – residential	Affected by project	Tenant	Compensation	<ol style="list-style-type: none"> <li>1. The amount of deposit/advance paid to the landlord or the remaining amount at the time of purchase (to be deducted from the payment to the landlord)</li> <li>2. A sum equal to up to nine months rental in consideration of disruption caused. Vulnerable will need to be monitored to ensure this is sufficient allowance.</li> <li>3. Payment at replacement cost for any structure the tenant has erected on the property (to be deducted from the payment to the landlord)</li> <li>4. Shifting allowance</li> <li>5. Vulnerable APs will be paid a one-time rehabilitation grant in the form of productive assets or cash as per APs choice.</li> </ol>	PMU
5. Tenant – commercial	Affected by project	Tenant	Compensation	<ol style="list-style-type: none"> <li>1. The amount of deposit/advance paid to the landlord or the remaining amount at the time of purchase (to be deducted from the payment to the landlord)</li> <li>2. A sum equal to up to nine months rental in consideration of disruption caused. Vulnerable will need to be monitored to ensure</li> </ol>	PMU in consultation with local officials, NGOs, APs, community



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				<p>this is sufficient allowance.</p> <p>3. Compensation for any structure the tenant has erected on the property (to be deducted from the payment to the landlord)</p> <p>4. Shifting allowance</p> <p>5. Training to upgrade skills</p> <p>6. Vulnerable APs will be paid a one-time rehabilitation grant in the form of productive assets or cash as per APs choice.</p>	<p>leaders, relevant government agencies.</p>
6. Income from business or land through wages and other employment	Households affected by project	Individual	Lump sum	<p>1. A lump sum grant as a transitional allowance.</p> <p>2. Training to upgrade skills for vulnerable groups and linked to jobs. Livelihood support activities to ensure APs can restore income base.</p> <p>3. Vulnerable APs will be eligible for a rehabilitation grant in the form of productive assets or cash as per APs choice.</p>	PMU as above
7. Annual / Seasonal crops	Households affected by project	Household	Notice to harvest standing crop	<p>1. Grant for lost crop due to forced relocation, equal to market value of crop for three years plus cost of replacement of seeds for the next season.</p>	PMU with assistance from relevant government ministries and valuation expert.
8. Perennial crops / trees	Households affected by project	Household	Compensation at market value	<p>1. Compensation for trees based on timber value at market price to be determined by valuation specialist.</p> <p>2. For perennial trees, compensation will be depend on species, current average yields and expected life of the trees.</p>	PMU in consultation with relevant authorities

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9.. Structures of squatters and informal settlers	Households affected by project	Household	No payment for land; payment for structure at replacement cost and other assistance	<ol style="list-style-type: none"> <li>1. Compensation for loss of structure at replacement cost paid by project. Asset for asset compensation is preferable.</li> <li>2. A lump sum amount depending on the type of structure: temporary, semi-permanent or permanent house for shifting household assets</li> <li>3. Transitional allowance to be determined</li> <li>4. Training to upgrade skills for each family losing commercial activities. Livelihood support activities to ensure APs can restore income base.</li> <li>4. Vulnerable APs losing commercial activities will be provided a rehabilitation grant per family, in the form of productive assets or cash as per APs choice.</li> <li>5. Right to salvage material from the demolished structure.</li> </ol>	PMU
10. Shifting business	Mobile and ambulatory (kiosks)	Household		Ambulatory vendors will be considered as kiosks and will receive a lump sum shifting allowance	PMU
11.Primary source of income	Households affected by project	Individual	Assistance for income restoration and training	<ol style="list-style-type: none"> <li>1.Payment for income generating training option preferred by AP. Livelihood support activities to ensure APs can restore income base.</li> <li>2. May include starting production or business activity</li> <li>3. Rehabilitation grant and training</li> <li>4. Preferential employment in the project, especially for women and</li> </ol>	PMU

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12. Temporary loss of land (agricultural, home garden, business). Owners/claimants/occupiers	Affected by project – required during construction phase	Household	Owners/claimants entitled to rent.  Occupiers with no evidence of claims, are helped in finding suitable state land	Lease agreement to be signed with recognized owners/claimants for the duration of the works. Land to be restored to its original or better condition and returned to the appropriate HH or village.	PMU with assistance of local authorities and community leaders.
13. Community infrastructure and amenities	Affected by project	Community and government service agencies	Conservation, protection, compensatory replacement	Replacement of public buildings and utilities (schools, transmission lines, markets, clinics, offices). Cultural properties will be conserved by special measures such as relocation in consultation with the community. Safety measures will be provided for pedestrians, including children. Landscaping of common areas, improved drainage, rest areas will be provided in the design of the highways. Trees will be replaced by compensatory replanting as required.	PMU will liaise with relevant government agencies on replacement of buildings and utilities and provide adequate funding in the resettlement budget.
14. Other impacts not identified	Households affected by land loss or land restrictions	Individual	Appropriate assistance	1. Unforeseen impacts will be documented and mitigated based on the principles agreed upon in this policy framework.	PMU identifies and mitigates impacts as required.

Note: This entitlement matrix is based on current knowledge of anticipated impacts. It will be reviewed and appropriately updated based on specific impacts identified during preparation of the RPs for the sub-projects. This will be used as the basis for involuntary land acquisition and as a guide for land acquisition through negotiation, but the specific details may vary from subproject to subproject (without lowering the standards).