

Resettlement Planning Document

Resettlement Framework
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REPUBLIC OF AZERBAIJAN



Resettlement Framework

For the

Road Network Investment Program

June 2007

CONTENTS

I.	INTRODUCTION	1
II.	LAND ACQUISITION AND RESETTLEMENT PROCESSING REQUIREMENTS	1
III.	PREPARATION OF RESETTLEMENT PLAN	2
IV.	LEGAL AND POLICY BACKGROUND	2
V.	COMPENSATION ELIGIBILITY AND ENTITLEMENT FOR THE PROJECT	5
VI.	PROVISION OF LAND FOR LAND COMPENSATIONS	8
VII.	GENDER IMPACTS AND MITIGATION MEASURES	8
VIII.	PUBLIC PARTICIPATION AND DOCUMENT DISCLOSURE	9
IX.	INSTITUTIONAL ARRANGEMENTS	9
X.	COMPLAINTS AND GRIEVANCES	12
XI.	MONITORING AND EVALUATION	12
XII.	TRAINING IN IMPLEMENTATION OF RESETTLEMENT PLANS	13
XIII.	RESETTLEMENT BUDGET AND FINANCING	13
XIV.	IMPLEMENTATION PROCESS OF RESETTLEMENT PLANS	14

APPENDIXES

A.	OUTLINE OF A FULL RESETTLEMENT PLAN	16
B.	OUTLINE OF A SHORT RESETTLEMENT PLAN	17

ABBREVIATIONS

ADB	–	Asian Development Bank
ARS	–	AzerRoadService Open Joint-Stock Company
DMS	–	detailed measurement survey
EMA	–	external monitoring agency
IPSA	–	initial poverty and social assessment
LAD	–	Land Acquisition Division
LAR	–	land acquisition and resettlement
MFF	–	multitranches financing facility
NGO	–	nongovernment organization
PIU	–	project implementation unit

DEFINITION OF TERMS

Affected Persons: Any person affected by project-related changes in the use of land, water, natural resources, or income losses.

Affected Family: All members of a household residing under one roof and operating as a single economic unit, who are adversely affected by the project. It may consist of a single nuclear family or an extended family group.

Beneficiary Community: All persons and households situated within the government-owned or acquired property, who voluntarily seek to avail and be part of the Project and represented by a community association that is duly recognized by the community residents, accredited by the local government, and legally registered with the appropriate institutions.

Compensation: Payment in cash or in kind of the replacement cost of the acquired assets.

Cut-off-Date: the date of approval of specific resettlement documents by the Cabinet of Ministers.

Entitlement: Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected persons, depending on the nature of their losses, to restore their economic and social base.

Host Population: The community residing near the area where the project beneficiaries propose to voluntarily resettle as part of the project.

Land Acquisition: The process whereby a person is compelled by a government agency to alienate all or part of the land a person owns or possesses to the ownership and possession of the government agency for public purpose in return for a consideration.

Rehabilitation: Compensatory measures provided under the Resettlement Framework other than payment of the replacement cost of acquired assets.

Relocation: The physical relocation of an affected person from her/his pre-project place of residence.

Replacement Cost: The value needed to replace an affected asset as new. In the case of land, replacement value corresponds to the market value of a plot calculated on the basis of survey of land sales in project areas at the time of taking free of transaction costs. As per crops, replacement value is the market value of the crop at farm gate. As per houses and structures the current fair market price of building materials plus labor and transport without depreciation or deductions for salvaged material and transaction costs. The replacement cost of wood trees is their market value while that of productive trees is the value of the yearly harvest for the number of years needed to re-grow a tree at same productive level of the tree lost.

Resettlement: All measures taken to mitigate all adverse impacts of the project on affected persons' property and/or livelihood, including compensation, relocation (where relevant), and rehabilitation.

I. INTRODUCTION

1. This Resettlement Framework for the Road Network Investment Program (the Program) was prepared in line with the Asian Development Bank (ADB)'s Policy on Involuntary Resettlement and relevant laws and regulations in Azerbaijan to establish principles and procedures for the compensation of land, houses, buildings, crops, and livelihood to be affected by the Program. The Resettlement Framework is approved by the AzerRoadService Open Joint-Stock Company (ARS)–Executing Agency of the Program.

2. The Program will be financed through a multitranche financing facility (MFF) including three tranches. Each tranche will focus on construction, improvement or rehabilitation of various road types from multi-lane highways to local roads. Projects entailing road construction or improvement are expected to cause land acquisition and resettlement (LAR) impacts.

3. Program appraisal will include the appraisal of the first tranche of the MFF, which will finance the construction of a 61.1 km long 4-lane highway linking Masalli, Lenkaran, and Astara. The first tranche will include a core-subproject relative to the construction of section A of the highway (23.05 km) and three additional non-core subprojects. These are (i) the construction of section B of the highway (24.55 km); (ii) the construction of section C of the highway (13.5 km) and (iii) the improvement of nine local roads in approximately 120 km of length. All subprojects under the Program except local roads will entail LAR.

II. LAND ACQUISITION AND RESETTLEMENT PROCESSING REQUIREMENTS

4. Based on ADB policy and practice the appraisal of the MFF and each specific tranche and the approval of the implementation of subprojects under a tranche will require the preparation of a number of documents as follows:

(i) A resettlement framework for the whole MFF and applicable to all subprojects. The resettlement framework will be reviewed, updated if necessary, and submitted for ADB approval at least annually and always at the start of the preparation of each tranche under the MFF.

(ii) An initial poverty and social assessment (IPSA) indicating, for each tranche, whether LAR impacts are likely to occur, type of impacts, and likely magnitude;

(iii) If LAR will occur, a resettlement plan for each specific subproject under a tranche based on detailed design. The resettlement plan will include detailed compensation and administration budgets and implementation schedules relating to the compensation process with the initiation of civil works.

5. As detailed in ADB's Operations Manual (OM) Section F2/OP & BP (2006), the content and complexity of a resettlement plan varies depending on the degree of severity caused by a subproject. When impacts are considered severe [i.e., > 200 affected people (affected persons to be resettled or suffering >10% income losses)], a full resettlement plan will be prepared (Appendix A). When losses are not severe [<200 affected persons to be resettled or suffering <10% income losses], only a short resettlement plan will have to be prepared (Appendix B).¹

¹ In view of the type of impacts that will be caused by the Program, it is expected that road construction subprojects may need a full resettlement plan and that improvement subprojects may need either a full or a short resettlement plan. Rehabilitation subprojects may need either a short or no resettlement plan.

6. Based on ADB policy and practice the appraisal of the MFF and each specific tranche and the implementation of tranche subprojects will be based on the following LAR-related requirements:

- (i) **Appraisal of the MFF and Tranche I** requires the preparation of (a) a resettlement framework acceptable to ADB, and (b) a resettlement plan for the core subproject under Tranche I.
- (ii) **Appraisal of following tranches** requires (a) review and update of the resettlement framework, and (b) preparation of a resettlement plan consistent with the resettlement framework for all subprojects under the tranches entailing LAR.
- (iii) **Civil works contract awards approval**
 - a. **Subprojects under Tranche I:** Conditional to (a) review and update, if necessary, of the core-subproject resettlement plan based on final design, and (b) preparation of a resettlement plan acceptable to ADB for each non-core subproject based on detailed design and consistent with this Resettlement Framework.
 - b. **Subprojects under other tranches:** Conditional to the preparation of a resettlement plan acceptable to ADB for each subproject based on detailed design and consistent with this Resettlement Framework.
- (iv) **Provision of notice to proceed to the contractors:** Conditional to full implementation of the resettlement plan for all subprojects. Such a condition will be specified in the text of the civil works contracts.

7. To meet above requirements for MFF approval, ARS has (i) prepared this Resettlement Framework; (ii) selected and fully designed the core-subproject under Tranche I (namely, the 23 km section of the new expressway between Masalli and the proximity of the Lenkaran Airport; and (iii) prepared the related resettlement plan.

III. PREPARATION OF RESETTLEMENT PLAN

8. For Tranche I core and non-core subprojects, preparation of resettlement plans will be initiated as part of tranche preparation by the project preparatory consultants, the Project Implementation Unit (PIU), and the Land Acquisition Division (LAD) of ARS. The implementation of the resettlement plans under Tranche 1 and the preparation and implementation of LAR tasks for the following tranches will be carried out by the design and supervision consultants. Both the project preparatory consultants and the design and supervision consultants will have international and local LAR capacity sufficient to cover LAR planning and implementation needs for the first 2 years of program implementation.

IV. LEGAL AND POLICY BACKGROUND

A. Azerbaijan's Laws and Regulations on Land Acquisition and Resettlement

9. There are no laws or legislation in Azerbaijan that specifically consider matters of involuntary resettlement. However, a few regulatory instruments exist in the country providing the basis for regulating and managing acquisition of land, property, and productive assets and for compensation for the loss of these assets. These instruments include (i) Land Code (25 June 1999), (ii) Civil Code (1 December 1998), (iii) Cabinet of Ministers Resolution No. 42 (15 March 2000), (iv) Cabinet of Ministers Resolution No. 110 (June 1999), (v) Decree on Application of the Road Law (2000), and (vi) Decree on Additional Activities for Regulating the Use of Road

Reserves (2004). Among these, the Land Code is a critical one as it (a) provides for the compensation for the loss of land offered on the basis of valuations made in accordance with the Azeri Standard Code No. 158, 1998; (b) allows recourse through courts; and (c) provides the basis for a land-for-land compensation option. The Civil Code and Land Code provide the basis for acquisition of land for projects of national interest and municipal needs while the Cabinet of Ministers Resolution No. 42 outlines procedures for the acquisition. Collectively, these regulations consider three options for the land acquisition payable only to the legal landowners: (i) land-for-land, (ii) compensation based on market prices, and (iii) dispute over compensation subject to resolution in the courts. The Decree on the Application of the Road Law and the Decree on Additional Activities for Regulating the Use of Road Reserves designate the Cabinet of Ministers as the agency to approve road reserves and acquisition of affected properties.

10. Comparison of Azeri laws with the ADB's Resettlement Policy indicates that key elements of the Policy are to a certain degree present in these laws, such as the 1999 Land Code and Cabinet of Ministers Decree No. 42. ADB's principle of avoidance or minimization of resettlement is partially addressed in the Azeri legislation. In particular, it is covered in Article 70.4 of the Land Code, which states that land can be withdrawn only for location of state, municipal or public facilities of high importance. Cabinet of Ministers Decree No. 42, Section I, Article 2 states that there is the need to avoid, wherever possible, impacts on agricultural land and forests.

11. The Land Code provides for the protection of affected population as far as their rights and access to land are concerned. It requires that land owners, users, and lessees shall not lose their rights of access and use of such lands, other than in cases which require full withdrawal of land. Article 22 of the Land Code also stipulates that the state is required to establish protection zones with a special (restrictive) regime for the purposes of construction and operation of industrial facilities.

12. Regarding compensation for lost assets, including land and other productive assets, crops, forests, buildings, Article 70.5 of the Land Code requires paying compensation in advance where land is compulsorily acquired only to the legal owners of property. In addition, Article 8 refers to the need for compensation based on full market value or through providing another land plot or building of equal quality, size, and value. Cabinet of Ministers Decree No. 42, Sections I and II requires compensation for losses, whether temporary or permanent, or damage to productive assets and crops. The current Azeri legislation provides compensation payable for the loss of buildings on the property that is being affected only to the titled individuals and businesses. Under current legislation, compensation is payable for loss of land, buildings, crops, profit and other damages arising from the acquisition of land for a project for only those who have legal titles to the property affected.

13. The Land Code allows landowners an option for seeking recourse through the courts. Accordingly, when land is required for projects of national interest, compensation is initially offered on the basis of valuations made in accordance with a Standard Code No. 158 dated 1998. If landowners are unhappy with this valuation, there is scope for agreeing on a revised valuation. In the event that such agreement cannot be reached, the acquiring authority can process its application for acquisition through the courts.

B. ADB's Involuntary Resettlement Policy

14. ADB's Policy on Involuntary Resettlement is based on the following principles:

- Involuntary resettlement is to be avoided or at least minimized.
 - Compensation will ensure the maintenance of affected persons' pre-project standards of living.
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- Affected persons should be fully informed and consulted on LAR compensation options.
- Affected persons' socio-cultural institutions should be supported and 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 rehabilitation.
- Particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance should be provided to help them improve their status.
- LAR 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 prior to clearance of right of way and ground leveling and demolition.

C. Comparison of Azeri Laws and Regulations Relevant to Land Acquisition and Resettlement and ADB's Resettlement Policy

15. Differences between Azeri laws and regulations and ADB's policy are outlined in Table 1.

Table 1: Comparison of Azerbaijan Laws and Regulations on Land Acquisition and Resettlement and ADB's Resettlement Policy

Azerbaijan Land Laws and Regulations	ADB's Resettlement Policy
Land compensation only for titled landowners.	Lack of title should not be a bar to compensation and/or rehabilitation. Non-titled landowners receive rehabilitation.
Only registered houses/buildings are compensated for damages/demolition caused by a project	All affected houses/buildings are compensated for buildings damages/demolition caused by a project.
Crop losses compensation provided only to registered landowners.	Crop losses compensation provided to landowners and sharecrop/lease tenants whether registered or not.
Land valuation based on current market value.	Land valuation based on current market rate/replacement value.
Land Acquisition Committee is the only pre-litigation final authority to decide disputes and address complaints regarding quantification and assessment of compensation for the affected assets.	Disputes, complaints and grievances are resolved informally through community participation in the Grievance Redress Committees, local governments, and NGO and/or local-level community based organizations.
The decisions regarding land acquisition are discussed only between the landowners and the Land Acquisition Committee.	Information related to quantification and costing of land, structures and other assets, entitlements, and amounts of compensation and financial assistance are to be disclosed to the affected persons prior to appraisal.
No provision for income/livelihood rehabilitation measure, allowances for severely affected persons and vulnerable groups, or resettlement expenses.	ADB's policy requires rehabilitation for income and livelihood, for severe losses, and for expenses incurred by affected persons during the relocation process.

D. Remedial Measures to Bridge the Gap

16. In principle, Azeri laws and regulations relevant to LAR and ADB's Policy adhere not only to the objective of compensation for affected families, but also to the objective of rehabilitation. However, Azeri laws are unclear on how rehabilitation is to be achieved and in practice the provision of rehabilitation is left to ad hoc arrangements taken by local governments and specific project proponents. To clarify these issues and reconcile eventual gaps between the Azeri laws and regulations and ADB's Policy, ARS prepared this Resettlement Framework, ensuring compensation at replacement cost of all items, rehabilitation of informal settlers, and the provision of subsidies or allowances for affected families that may be relocated, suffer business losses, or may be severely affected.

V. COMPENSATION ELIGIBILITY AND ENTITLEMENTS FOR THE PROJECT

17. LAR tasks under the MFF will be implemented according to a compensation eligibility and entitlements framework in line with both Azeri laws and regulations and ADB's Policy. A summary compensation entitlements matrix is included in Table 2.

A. Eligibility

18. Affected persons entitled for compensation or at least rehabilitation provisions under the MFF are:

- Affected persons losing land and other assets with legal title/traditional land rights will be compensated, and affected persons will be rehabilitated, as specified in paragraph 20 below;
- Tenants and sharecroppers;
- Owners of buildings, crops, plants, or other objects attached to the land; and
- Affected persons losing business, income, and salaries.

19. Compensation eligibility will be limited by a cut-off date to be set for each subproject on the date of the approval of specific resettlement documents by the Cabinet of Ministers. Affected persons who settle in the affected areas after the cut-off date will not be eligible for compensation. However, they will be given sufficient advance notice requesting to vacate premises and dismantle affected structures prior to project implementation. Their dismantled structures will not be confiscated and they will not pay any fine or suffer any sanction. Forced eviction will only be considered after all other efforts are exhausted.

B. Compensation Entitlements

20. Entitlement provisions for affected persons losing land, houses, and income losses and rehabilitation subsidies will include provisions for permanent and temporary land losses, house and buildings losses, crops and trees losses, a relocation subsidy, and a business losses allowance based on tax declarations and/or lump sums. These entitlements are detailed below:

- **Agricultural land impacts.** Affected persons with legal title/traditional land rights will be compensated at replacement value in (i) cash at current market rates, or (ii) through replacement land equal in value/productivity to the plot lost. Eventual transaction taxes/fees will be paid by the executing agency or waived by local governments.² Squatters will be provided with actual crop loss compensation and resettlement assistance.
- **Residual agricultural land impacts.** Residual portions of plots affected by the required right-of-way that are reduced to less than 400 m² or rendered unusable by alterations in access, irrigation, or workability will be included in the affected land and compensated as above indicated.
- **Severe Impact losses.** When >10% of an affected person income or agricultural land is affected, affected persons (owners, leaseholders, sharecroppers, and squatters) will get an allowance for severe impacts equal to the market value of a year's net yield of the land lost, in addition to standard crop compensation.

² Market rates will be assessed through a survey of prevalent land prices in subproject areas. The assessment will be carried out by local governments.

• **Table 2: Compensation Entitlement Matrix**

Asset ^a	Specification	Affected People	Compensation Entitlements
Permanent impact on arable land	All land losses independently from impact severity	Farmer/Titleholder	<ul style="list-style-type: none"> Land for land compensation with plots of equal value and productivity to the plots lost, or Cash compensation for affected land at replacement cost based on market value^b free of taxes, registration, and transfer. Residual portions of plots affected by the required right of way that are reduced to less than 400 m² or rendered unusable by alterations in access, irrigation, or workability will be included in the affected land and compensated as above indicated.
		Leaseholder	<ul style="list-style-type: none"> Renewal of lease in other plots of equal value/productivity of plots lost, or Cash compensation for affected land at full replacement cost free of taxes, registration, and transfer costs.
		Sharecroppers	<ul style="list-style-type: none"> Cash compensation equal to the market value of the lost harvest share once (temporary impact) or twice (permanent impact).
		Agricultural workers losing their contract	<ul style="list-style-type: none"> Cash indemnity corresponding to their salary (including portions in kind) for the remaining part of the agricultural year.
		Squatters	<ul style="list-style-type: none"> Actual crop loss compensation and resettlement assistance will be provided (see below).
	Additional provisions for severe impacts (more than 10% of land loss)	Farmer/Titleholder Leaseholder	<ul style="list-style-type: none"> 1 severe impact allowance equal to market value of 1 net harvest of the affected land for 1 year (inclusive of winter and summer crop and (additional to standard crop compensation).
		Sharecroppers	<ul style="list-style-type: none"> 1 severe impact allowance equal to market value of share of harvest (additional to standard crop compensation).
		Squatters	<ul style="list-style-type: none"> 1 severe impact allowance equal to market value of net harvest of the affected land for 1 year (additional to standard crop compensation).
	Residential/ Commercial land		Titleholder
Renter/Leaseholder			<ul style="list-style-type: none"> 1-3 months allowance
Squatters			<ul style="list-style-type: none"> Provision of a free or leased plot in a government resettlement area or a self-relocation allowance.
Houses and Structures		All relevant affected persons	<ul style="list-style-type: none"> Cash compensation at replacement rates for affected structure and other fixed assets free of salvageable materials, depreciation and transaction costs. In case of partial impacts full cash assistance to restore remaining structure.
Crops	Crops affected	All affected persons (including squatters)	<ul style="list-style-type: none"> Crop compensation in cash at full market rate for harvest losses.
Trees	Trees affected	All affected persons (including squatters)	<ul style="list-style-type: none"> Cash compensation shall reflect income replacement
Business employment	Temporary or permanent loss of business or employment	All affected persons (including squatters)	<ul style="list-style-type: none"> Business owner: (i) cash compensation equal to one year income, if loss is permanent; (ii) cash compensation for the period of business interruption, if loss is temporary. Worker/employees: Indemnity for lost wages for the period of business interruption up to a maximum of 3 months.
Relocation	Transport and transitional livelihood costs	All affected persons	<ul style="list-style-type: none"> Provision of sufficient allowance to cover transport expenses and livelihood expenses for one month.
Community assets			<ul style="list-style-type: none"> Rehabilitation/substitution of the affected structures/utilities (i.e. mosques, footbridges, roads, schools, health centers, etc.).
Vulnerable people livelihood		Affected persons below poverty line	<ul style="list-style-type: none"> Employment priority in project-related jobs. Additional measures will be specified in the resettlement plans.

a. Other impacts unidentified may occur in non-core subprojects of Tranche I or during core-subproject implementation. Following their identification during subproject preparation or implementation this entitlement matrix and description of compensation entitlements will be revised and updated accordingly.

b. Paragraph 21 provides the detailed definition of the methodology to evaluate land replacement cost/market value.

- **Residential/commercial land.** Legal settlers will be compensated at replacement rate either (i) in form of land for land, or (ii) cash at current market rates free of transaction costs and depreciation. Renters/leaseholders will receive a 3 months rent allowance. Squatter settlers will be rehabilitated through the provision of a free or leased plot in a public resettlement area or through a self-relocation allowance.
- **Houses, buildings, and structures** will be compensated in cash at replacement cost free of deductions for depreciation, salvaged materials, and transaction costs irrespective of the registration status of the affected item. The cost of lost water and electricity connections will be included in the compensation.
- **Crops.** Cash compensation at current market rates for the gross value of 1 year's harvest losses. Crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.
- **Trees.** Cash compensation shall reflect income replacement (see Section C iv, below).
- **Businesses.** If business is lost permanently it will be compensated in cash equal to a 1-year income based on tax declaration or, if unavailable, based on the official minimum salary; temporary business losses will be compensated in cash for the business interruption period based on tax declaration or, if unavailable, official minimum salary.
- **Business workers and employees.** Indemnity for lost wages for the period of business interruption up to a maximum of 3 months.
- **Agricultural land leaseholders, sharecroppers, and workers.** Affected leaseholders will receive either a renewal of the lease in other plots or cash corresponding to the yearly yield of land lost for the remaining years of the lease up to a maximum of 10 years. Sharecroppers will receive their share of harvest at market rates (if impact is temporary) plus 1 additional crop compensation (if the land is lost permanently). Agricultural workers, with contracts to be interrupted, will get an indemnity in cash corresponding to their salary in cash and kind for the remaining part of the agricultural year (inclusive of both winter and summer crop).
- **Relocation subsidy.** Affected persons forced to relocate will receive a relocation subsidy sufficient to cover transport costs and living expenses for 1 month.
- **House renters.** House renters who have leased a house for residential purposes will be provided with a cash grant of 3 months' rent at the prevailing market rate in the area and will be assisted in identifying alternative accommodation.
- **Community structures and public utilities** will be fully replaced or rehabilitated so as to satisfy their pre-project functions.
- **Vulnerable people livelihood.** Vulnerable people (affected persons below the poverty line) will be given priority in employment in project-related jobs.

C. Assessment of Compensation Unit Values

21. The methodology for assessing unit compensation values of different items is as follows:
 - (i) Land will be valued at replacement rate based on a survey of land sales in the period immediately before the impact survey. No deductions for taxes or transaction

costs will be applied.

- (ii) Houses/buildings will be valued at replacement value based on cost of materials, type of construction, labor, transport and other construction costs. No deductions will be applied for depreciation, salvaged materials, and transaction costs.
- (iii) Annual crops will be valued at net market rates at the farm gate for the first year crop. In the eventuality that more than one-year compensation is due to affected persons, the crops after the first year will be compensated at gross market value.
- (iv) Fruit trees will be valued based on age category (a. seedling; b. not yet productive; c. productive). Productive trees will be valued at gross market value of 1 year income X the number of years needed to grow a new tree with the productive potential of the lost tree.

22. The unit compensation rates will be undertaken as above detailed by Project consultants and will be then verified and certified by the Rayon LAR Commission.

D. Land Acquisition Modalities

23. Land can be acquired through two modalities:

- (i) through the payment of the appropriate replacement cost in cash or land for land to the affected person, or;
- (ii) through the exercise of the right of eminent domain as defined by the Azeri expropriation law and procedures. If an affected person disagrees on land compensation rates or refuses to relinquish a needed property for other reasons, ARS can file for expropriation proceeding with the relevant court of law or legal institution. If writ of possession for the needed plot is granted, and the amount equivalent to the replacement cost of the affected plot is deposited in escrow to the name of the landowner, ARS will then be able to take the property prior to a formal court judgment on the final compensation rates.

VI. PROVISION OF LAND FOR LAND COMPENSATION

24. If “land for land” is the chosen land compensation option the resettlement plan will locate on map the relocation site/ replacement plots and will identify the associated technical features (service roads, drainage, sanitation, water supply and electricity facilities to be provided) and relative site-preparation costs. The relocation will be carried out keeping in view the socioeconomic profiles of both affected persons and host communities and by minimizing as much as possible the distance of the new plots from the old ones.

VII. GENDER IMPACT AND MITIGATION MEASURES

25. In general about one half of the total affected population is composed by women. Women have important economic roles in project areas and engage in a very wide range of income making activities in the agricultural and marketing sectors. The Program 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 MFF. To ensure the above, the following actions will be considered:

- Include women in the impact enumerators.

- Impact assessment of affected families/affected persons indicating the total number of families and people must be gender-disaggregated to pinpoint how many women are likely to be affected by the Program and establish their pre-program conditions.
- Women will be major participants in the consultation processes to determine and negotiate for compensation entitlements and implement the resettlement plan.
- Special attention will be given to the impact of resettlement on women and other vulnerable groups during monitoring and evaluation of the resettlement plan.
- If asset replacement/relocation is needed, land/house titles will be in name of both spouses.

VIII. PUBLIC PARTICIPATION AND DOCUMENTS DISCLOSURE

26. Officials of district (rayon), municipal (baladiya) and villages (kant) will be informed about the Program, and their assistance will be solicited in the conduct of the inventory of affected assets and the Census of Affected Persons and the DMS. Also, prior to the finalization of a resettlement plan and its submission to Project authorities, the affected persons will be thoroughly informed on the results of the Census and DMS, and their preferences on compensation or other resettlement assistance will be given due consideration. The processes and mechanisms ensuring the active involvement of affected persons and other stakeholders will be detailed in the related resettlement plan which will also include an appendix with date, list of participants, and minutes of consultation meetings.

27. This Resettlement Framework in the Azeri version will be made available to the affected persons at the relevant PIU office once subprojects are identified. The Resettlement Framework in the English version will be disclosed on the ADB website after it is endorsed by ARS. The Azeri version of the resettlement plans will be disclosed to affected communities and a pamphlet in Azeri, summarizing compensation eligibility and entitlement provisions, will be sent to all affected persons/families before tranche appraisal (in the case of core-subprojects) and before signing contract awards for non-core subprojects. The English translations of resettlement plans and pamphlet will be disclosed on ADB's website prior to tranche appraisal (for core-subprojects) and contract signing (for non-core subprojects).

IX. INSTITUTIONAL ARRANGEMENTS

28. The compensation/rehabilitation program described in this Resettlement Framework involves distinct processes and dynamics and different agencies. These include ARS (PIU and LAD) as the Executing Agency, local governments, the Ministry of Ecology and Natural Resources, the State Land and Cartography Committee, ADB, and nongovernment organizations (NGOs) as detailed in the next sections.

A. AzeriRoadService Open Joint-Stock Company (ARS)

29. ARS has overall responsibility for the Program including the preparation, implementation and financing of all LAR tasks and for interagency coordination. ARS will exercise its functions through the PIU and LAD, which will be responsible for general project execution, and tasked with day-to-day project activities at rayon/subproject levels. For the PIU, LAR tasks will be managed by a specific unit within LAD, which will organize and internally monitor preparation, approval, and implementation of resettlement plans (including surveys, asset valuation, and community consultation), and LAR-related interagency coordination. In the implementation of these tasks, LAD will receive specific technical assistance from:

- (i) A **Resettlement Team** under the project preparatory or design and supervision consultant who will assist in LAR planning, implementation, internal monitoring and

evaluation, and training of the executing agency and local governments in the requirements of ADB's Resettlement Policy;

- (ii) A **local consulting team** hired to provide on-site resettlement plan preparation assistance for surveys, base-line information gathering or consultation with affected persons;
- (ii) An **independent agency**, hired to conduct periodic monitoring and evaluation/3rd party validation of implementation of the resettlement plans.

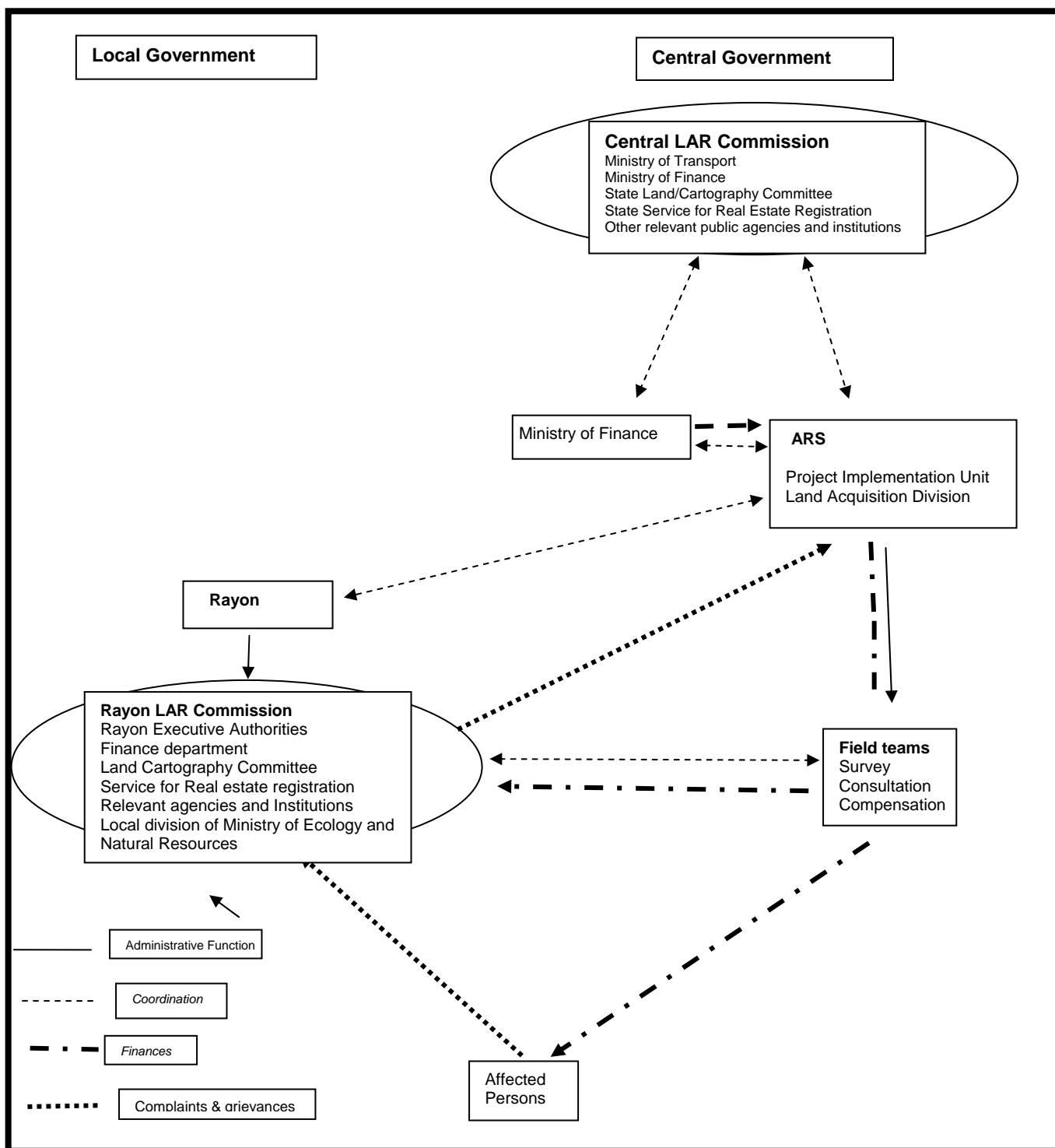
30. A Central LAR Commission will be established, which will be chaired by the Ministry of Transport and will comprise representatives of the Ministry of Transport, Ministry of Economic Development, Ministry of Finance, State Land and Cartography Committee, and the State Service for Registration. The function of this commission is to ensure effective interagency coordination, carry out a final review of this Resettlement Framework and of the resettlement plans, and provide the official approval of these documents for their final financing and implementation.

B. Local Governments

31. Local governments at the rayon level have jurisdiction for land administration, valuation, and acquisition while a number of other local officials (the local representatives of the State Land Committee and Institute of Cartography) will carry out specific roles such as titles identification and verification. Functions pertaining to compensation of assets different from land (i.e., buildings and crops) or income rehabilitation also fall on local governments and, more specifically on the relevant rayon office.

32. In order to provide effective interagency coordination and officially endorse the surveys and the compensation rates, each affected rayon government will establish a rayon LAR commission inclusive of the following local government institutions: Department of Roads, Department of Finance, Department of Land and Cartography Commission, local division of the Ministry of Ecology and Natural Resources, Real Estate Registration Service, local executives, and relevant local authorities and organizations.

Figure 1.2: Land Acquisition and Resettlement Organization Chart and Action



X. COMPLAINTS AND GRIEVANCES

33. A grievance mechanism will be available to allow an affected person appealing any disagreeable decision, practice or activity arising from land or other assets compensation. Affected persons will be fully informed of their rights and the procedures for addressing complaints whether verbally or in writing during consultation, survey, and time of compensation. Care will always be taken to prevent grievances rather than going through a redress process. This can be obtained through careful LAR design and implementation, by ensuring full participation and consultation with affected persons, and by establishing extensive communication and coordination between the affected communities, PIU, LAD, and local governments.

34. Complaint and grievances will be addressed through the process described in Table 3.

Table 3: Grievance Resolution Process

Step 1	Complaint resolution is first attempted at village levels with the involvement of the PIU, village authorities, and informal mediators.
Step 2	If still unsettled, a grievance can then be lodged to the Rayon LAR Commission. Within 15 days the Rayon LAR Commission will dismiss the case or recommend its settlements to the PIU on the affected person's terms to ARS.
Step 3	If after Rayon LAR Commission intervention no solution has been reached a grievance can be directly lodged to the PIU. The affected person must lodge the complaint within 1 month after receiving response on the original complaint from the Rayon LAR Commission and must produce documents supporting his/her claim. ARS will provide a response within 15 days of registering the complaint. The PIU decision must be in compliance with the provisions of this Resettlement Framework.
Step 4	Should the grievance redress system fail to satisfy the affected person, he/she can pursue further action by submitting his/her case to the appropriate court of law.

XI. MONITORING AND EVALUATION

35. LAR tasks under the Program will be subjected to both internal and external monitoring. Internal monitoring will be conducted by ARS, while external monitoring will be assigned to an external monitoring agency (EMA) to be hired by ARS and approved by ADB. The EMA will be selected among NGOs, academic Institutions, or consulting firms. ADB will prepare the terms of reference for the EMA once project implementation begins.

A. Internal Monitoring

36. Internal monitoring will be carried out by the PIU. The results will be communicated to ADB through the quarterly project implementation reports. Indicators for internal monitoring will be those related to process and immediate outputs and results. This information will be collected directly from the field and reported monthly to the PIU to assess the progress and results of implementation of resettlement plans and to adjust the work program, if necessary. The monthly reports will be quarterly consolidated in the supervision reports submitted to ADB. Specific monitoring benchmarks will be (i) information campaign and consultation with affected persons; (ii) status of land acquisition and payments on land compensation; (iii) compensation for affected structures (SBEs, etc.) and other assets; (iv) relocation of affected persons; (v) payments for loss of income; (vi) selection and distribution of replacement land areas; and (vii) income restoration activities.

37. The above information will be collected by LAD/PIU, which are responsible for monitoring the day-to-day resettlement activities under the Program through the following instruments: (i) review of census information for affected persons, (ii) consultation and informal interviews with affected persons, (iii) in-depth case studies, (iv) sample survey of affected persons, (v) key informant interviews, and (vi) community public meetings.

B. External Monitoring

38. External monitoring will be carried out twice a year, and its results communicated to the PIU and ADB through semiannual reports. External monitoring reports will be presented to the Project Steering Committee and the Ministry of Economic Development. Subprojects whose implementation timeframe will be under six months will be monitored only once. Indicators for external monitoring tasks will include (i) review and verify internal monitoring reports prepared by LAD and PIU; (ii) review of the socioeconomic baseline census information of pre-displaced persons; (iii) identification and selection of impact indicators; (iv) impact assessment through formal and informal surveys with affected persons; (v) consultation with affected persons, officials, community leaders for preparing review report; and (vi) assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement policy formulation and planning.

39. The EMA will also assess the status of project affected vulnerable groups such as female-headed households, disabled/elderly and families below the poverty line. The following will be considered as the basis for indicators in monitoring and evaluation of the Program: (i) socioeconomic conditions of affected persons in the post-resettlement period; (ii) communications and reactions from affected persons on entitlements, compensation, options, alternative developments, and relocation timetables; (iii) changes in housing and income levels; (iv) rehabilitation of SBEs and informal settlers; (v) valuation of property; (vi) grievance procedures; (vii) disbursement of compensation; and (viii) level of satisfaction of affected persons in the post resettlement period.

40. The EMA will carry out a post-evaluation of the resettlement plan about a year after completion of its implementation. The purpose of this study is to find out if the objectives of the resettlement plan have been attained. The benchmark data of socioeconomic survey of severely affected persons conducted during the preparation of the resettlement plan will be used to compare the pre- and post-project conditions. The EMA will recommend appropriate supplementary assistance for affected persons should the outcome of the study show that the objectives of the resettlement plan have not been attained.

XII. TRAINING IN IMPLEMENTATION OF THE RESETTLEMENT PLANS

41. All concerned staff both at PIU and local levels involved in land acquisition and resettlement activities, including LAD, local governments, and NGOs, will undergo a week-long orientation and training in ADB's Resettlement Policy and management. The training will be provided by the international specialist under the project supervision contract and will cover the following topics: (i) principles and procedures of land acquisition, (ii) public consultation and participation, (iii) entitlements and compensation and assistance disbursement mechanisms, (iv) grievance redress, and (v) monitoring of resettlement operations.

XIII. RESETTLEMENT BUDGET AND FINANCING

42. All preparation and implementation costs of the resettlement plan, including cost of compensation and LAR administration, will be considered as an integral part of program costs and will be contributed by the Government of Azerbaijan. Each resettlement plan 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.

43. Finances for compensation, allowances, and administration of the preparation and implementation of resettlement plans will be provided by the Government of Azerbaijan as counterpart funds. Costs for external monitoring tasks can be allocated under the loan. In order to ensure that sufficient funds are available for LAR tasks, the local governments will allocate 100% of the cost of compensation at replacement cost and expected allowances estimated in each resettlement plan plus 15% of contingencies before the implementation of the resettlement plan.

44. As the Executing Agency, ARS is responsible for the timely allocation of the funds needed to implement resettlement plans. Allocations will be reviewed twice a year based on the budget requirements indicated by the resettlement plans.

45. As per LAR finance flows, the budget for land and crop compensation will be disbursed by ARS through the PIU directly to affected persons in coordination with concerned local governments. The same will be done for what concerns compensation funds for other items such as losses of structures, houses, employment, crops, trees, income, etc.

XIV. IMPLEMENTATION PROCESS OF RESETTLEMENT PLANS

46. Based on experience in Azerbaijan, the implementation of a resettlement plan of category A may take up to several months. A local consultant firm will be hired by ARS to assist in the implementation of the resettlement plan under the guidance of the resettlement team of the supervision consultants (inclusive of an international and a local specialist). ARS will establish and announce the cut-off-date based on the date of census for the proposed subproject based on the eligibility criteria defined in this Resettlement Framework. The affected persons will be paid their due compensations at least 30 days prior to demolition of the structures. This time will allow them to dismantle and remove all salvageable material for rebuilding of houses and reestablish businesses. However, ARS reserves the right of demolishing such unauthorized structures without paying any compensation simply by serving a notice of eviction for a maximum of two weeks, provided it gets established that those structures were constructed on the active right-of-way after the cut-off date.

47. The basic LAR-related steps for the preparation and implementation of tranches and within tranches, subprojects are summarized in Table 4.

Table 4: Process of Land Acquisition and Resettlement Tasks

Step	Action	Responsibility
A. Tranche Preparation		
1.	Subprojects identification	PIU, Consultants PIU, Consultants
2.	Review and update of PF	LAD, Consultants
3.	Preparation of an activities plan detailing resettlement plan tasks and schedules for LAD, consultants, local governments, and NGO is set up and the formation of coordination committees at subproject level is initiated.	LAD, Consultants
B. Preparation of Resettlement Plan		
1.	Assessment of the poverty and social impacts of the Project	ARS Consultants
2.	Finalization of preferred alignment	ARS/Government through its line ministries and approved by the Cabinet of Ministers
3.	Prepare surveys forms for Census and DMS, train local census and DMS teams, and establish coordination with relevant local government agencies.	LAD, Consultants
4.	Collection of cadastral and parcellary maps of the project area	LAD, Consultants, State Committee on Land and Cartography
5.	Verify land records in affected areas, update cadastral maps and carry out impacts and valuation surveys – DMS.	Local governments, LAD, Consultants
6.	Conduct public consultations.	LAD, local governments Consultants, NGOs
7.	Negotiations with affected persons.	LAD, local governments
8.	Integrate data from Census into the resettlement plans.	Consultant
9.	Submission of the resettlement plans to ARS, local governments, and ADB for approval.	Consultant, LAD, Government, ADB
C. Implementation of Resettlement Plan		
1.	Disclosure: Distribution of resettlement plans and information pamphlets in Azeri in affected communities; posting of resettlement plans in English on the ADB website.	LAD, local governments, ADB
2.	Approval of contract awards	ADB
3.	Distribution of Relocation Notices to affected persons.	PIU, LAD
4.	Award of Cheques for land compensation.	PIU, LAD, affected persons
5.	Award of Cheques for other compensation and assistance/rehabilitation.	PIU, LAD, affected persons
6.	Demolishing and relocation of affected structures and assets.	LAD
7.	Review of resettlement plan implementation	LAD, PIU, ADB
8.	If implementation of resettlement plans found satisfactory, notice to proceed for civil works is issued.	ADB, PIU
D. Post-Implementation Task		
1.	Independent evaluation of resettlement plans.	External monitoring agency
E. Cyclical and Continuous Tasks		
1.	Internal monitoring, quarterly reporting on LAD to ADB.	PIU
2.	External monitoring, semiannual reporting to ADB.	EMA, PIU
3.	Grievances redressal and law suites.	LAD, PIU, Court
4.	Interagency coordination and communication with affected persons.	PIU, LAD, local governments

OUTLINE OF A FULL RESETTLEMENT PLAN

- 1. LAR issues for the scheme**

This chapter describes the scheme activities and items requiring LAR; alternative options, if any, considered to minimize land acquisition effects; and why remaining effects are unavoidable.
 - 2. Scope of land acquisition and resettlement**

This chapter describes the preparation of the impacts (who carried it out and when it was initiated) and provides a full assessment of each type of impact and a census of affected peoples. The chapter also includes a description of the methodology followed to determine unit-compensation rates for each affected item and subsidy/allowance.
 - 3. Objectives, policy framework, and entitlements**

This chapter outlines the eligibility and compensation framework for the scheme.
 - 4. Consultation and grievance redress participation**

This chapter summarizes procedures for redress of grievances by people affected and describes the consultation/participation process and grievance redress that occurred in the subproject at hand.
 - 5. Compensation, relocation, and income restoration**

This chapter outlines the income restoration measures to be implemented.
 - 6. Institutional framework**

This chapter outlines the institutional arrangements. It includes the following issues: responsibilities for main tasks and for planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement.
 - 7. Resettlement budget and financing**

This chapter provides the unit compensation rate for each affected item and assesses the LAR budget for the scheme. The LAR budget will include land acquisition and eventual land acquisition costs, amounts due for crop compensation and for the subsidies and allowances, monitoring and evaluation costs, and administrative costs and will be adjusted for inflation and applicable taxes.
 - 8. Implementation schedule**

This chapter provides a time schedule showing the LAR process and linking LAR tasks with civil works implementation.
 - 9. Monitoring and evaluation**

This chapter specifies arrangements for routine and independent monitoring and evaluation activities.
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OUTLINE FOR A SHORT RESETTLEMENT PLAN

A. Introduction

1. Brief description of the Project (provide map of Project areas)
2. Types of impacts (summary description of acquisition and other assets)

B. Description of Affected Persons

1. Description of APs including their spatial distribution
2. Gender-disaggregated socioeconomic characteristics of Project AFs
 - Total number of families affected by the Project
 - Employment types and major sources of income
 - Tenure status (land and house/structures)
 - Affected land and assets: areas, types of structures, and conditions
3. Categories and numbers of affected households by type and degree of impacts
 - Affected households with loss of entire holdings are required to relocate
 - Affected households with loss of partial holdings and not required to relocate
 - Tenants, landless laborers, informal settlers, etc. affected by the Project
 - Affected households with loss of incomes and employment

C. Compensation and Policy Entitlement Criteria

1. Elements of compensation policy: objectives and entitlement criteria
2. Compensation entitlements for each category of affected persons
3. Other assistance (transport allowance, rehabilitation assistance, etc.)

D. Cost Estimates and Budget

1. Aggregate costs for each type of asset loss and implementation arrangements

E. Public Participation, Consultation, and Grievance Resolution

1. Consultation with stakeholders at the different stages of the Project
2. Existing and Project-specific mechanisms for grievance resolution procedures

F. Organizational Set-up

1. Organizational structure of the unit/division within the local government at the district level that is responsible for management, supervision, and implementation of LAR

G. Implementation Schedule

1. Implementation schedule for land acquisition and compensation for each component of the Project, including description of different activities and their sequence
 2. Timetable for implementation of different land/asset acquisition activities in relation to the Project.
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