

**KAZ: Proposed Multitranche Financing Facility for the CAREC
Transport Corridor I (Zhambyl Oblast Section) Investment Program**

Land Acquisition and Resettlement Framework

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**Republic of Kazakhstan
Ministry of Transport and Communications
Committee for Roads**

ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	affected people
CAREC	–	Central Asia Regional Economic Cooperation
CR	–	Committee of Roads
EA	–	executing agency
EBRD	–	European Bank for Reconstruction and Development
IFI	–	international financial institution
IP	–	indigenous people
IsDB	–	Islamic Development Bank
km	–	kilometer
LAR	–	land acquisition and resettlement
LARF	–	Land Acquisition and Resettlement Framework
LARP	–	Land Acquisition and Resettlement Plan
MFF	–	multitranches financing facility
MOTC	–	Ministry of Transport and Communications
PMC	–	Project Management Consultant
WB	–	World Bank

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KAZ: PROPOSED MULTITRANCHE FINANCING FACILITY FOR THE CAREC TRANSPORT CORRIDOR I (ZHAMBYL OBLAST SECTION) INVESTMENT PROGRAM

LAND ACQUISITION AND RESETTLEMENT FRAMEWORK

A. Background

1. The President and Government of the Republic of Kazakhstan are giving top priority to the reconstruction of the transit route from the border with China at Khorgos to the border with Russia at Syrym. This is the country's principal link in the international transit corridor from China to Europe often characterized as the New Silk Road. The World Bank (WB), Asian Development Bank (ADB), Islamic Development Bank (IsDB), European Bank for Reconstruction and Development (EBRD) and other international financial institutions (collectively referred to here as IFIs) have been invited to participate in this major task with the Ministry of Transport and Communications (MOTC) as the executing agency (EA) and the Committee of Roads (CR) as the Implementing agency. Two sections were recently completed, from Aktobe to Karabutak-Irgiz, and Almaty to the Kyrgyz border [478 kilometers (km)]. The Government will fund a section from Karabutak to the Kyzylorda border through the budget (215 km). WB, ADB, IsDB and EBRD are preparing to co-finance three major sections, as follows:

- (i) ADB/IsDB (Zhambyl Oblast) from the Kyrgyz border to the South Kazakhstan border (480 km)
- (ii) WB – Shymkent to the Kyzylorda-Aktobe Oblast border (1,062 km)
- (iii) EBRD (Almaty Oblast) from the Chinese border to Almaty and Aktobe Oblast on the basis of concessions (301 km) and from Aktobe via Syrym to the Russian border (102 km)

2. In physical terms, reconstruction of almost 2,000 km of the highway will entail upgrading about 900 km the existing two-lane highway within current rights of way, widening about 660 km from two- to four-lanes and constructing bypasses around densely populated areas. Reconstruction of much of the corridor will be rather simple and straightforward, but some sections will require more complex inputs from soil testing and new surveying to preparing detailed designs and environmental assessments; determining needs for land acquisition and relocation; consulting local officials and stakeholders to gain support; and planning and managing the logistics of getting labor, machinery and materials to many remote locations.

3. Estimates have varied greatly regarding the amount of new four-lane roadway, the length and siting of bypasses, and the magnitude of people dislocation that along the corridor. In most cases, the estimates of new construction and dislocation have decreased sharply since discussions began between the IFIs and the CR, primarily as the result of field investigations related to feasibility studies and preliminary designs. Moreover, most of the complex issues will be resolved during final design. Although the IFIs considered processing single or multiple loans for their respective investments, they are each taking a programmatic approach. That is, they are making institutional commitments for their respective Project sections and then dividing these sections into different subprojects or tranches to make funding quickly available to start work in the sections that require minimal prior preparation¹.

¹ WB will process an Adaptable Program Loan (APL) in 3 phases. ADB will process a Multitranche Financing Facility (MFF) consisting of 3 tranches.

4. This means that the first investments will not have environmental category of “A” and will not trigger social or environmental safeguards policies. Nonetheless, subsequent sections may be Category A and require full-scale environmental assessments and short Land Acquisition and Resettlement (LAR) Plans (LARPs)². In order to use a common approach to prepare for these eventualities, the IFIs requested the CR to prepare an umbrella Resettlement Policy Framework to ensure that all parties agree on steps to be taken to manage environmental and land acquisition issues consistently throughout the Corridor in a manner that adheres to Kazakhstani laws and procedures and complies with the policy requirements of all IFIs involved in the project.

B. The Document

5. This Land Acquisition & Resettlement (LAR) Framework (LARF) expresses the Government’s commitment to avoid negative third-party impacts in the investments or to mitigate them to ensure that affected people (AP) are able to maintain or improve their well-being at the end of the project. The document incorporates the umbrella Resettlement Policy Framework prepared by the Government to bridge its own LAR and the IFI LAR policies and implement uniformly throughout the corridor its own LAR/compensation standards and procedures with minor additions agreed with the IFIs so as to meet also the standards requirements of these latter relevant policies. This will assure adherence to international standards and compliance with the policy objectives of the IFIs.

6. This LARF is a government Document reflecting (i) Kazakhstan relevant laws and the IFIs policies and (ii) ADB specific requirements. In the first sense this LAR offers an umbrella compensation/rehabilitation framework detailing agreed compensation/rehabilitation provisions which are shared by the government and the IFIs. In the second sense, this document provides specific guidance on the particular ADB requirements for planning and implementing LAR under Multitranches Financing Facility (MFF) and uses ADB language and terminologies.

7. The LARF identifies likely impacts of the investment, describes anticipated groups of AP, clarifies land and resettlement principles, assesses the legal framework for land acquisition and resettlement in Kazakhstan, describes standard procedures and methods of redress, and outlines steps that will be taken to plan, obtain concurrence from IFIs, and to implement and monitor the impact of land acquisition and resettlement along the Corridor.

8. This LARF applies to all APs with private land status affected permanently or temporarily due to the corridor’s reconstruction, including purchase and temporary use during construction. It also applies to people whose use of state land, sanctioned or not, changes as the result of the investment. The LARF does not apply to State land that is transferred from one authority to another, or is used for the reconstruction, unless third parties are adversely affected by the transfer or use.

9. Once this document is approved by ADB and the Government, it will become an element of the respective financing agreements between the Government and ADB.

² As LAR will spread over distances and affect single households rather than communities, only Short LARPs are expected to be needed. Based on ADB Operation Manual (OM) F2/OP and BO (2006) a project is classified as Category “A” and a full LARP is needed if > 200 people suffer significant impacts (relocation or loss of >10% of productive assets). A project will instead be classified as Category “B” when less than 200 people suffer significant impacts. Category “C” projects have no LAR impacts. No subproject will affect indigenous Peoples. The WB does not have a similar resettlement classification system but its policy also envisages that for minor impacts a shorter document, called “Abbreviated Resettlement Plan”, is prepared.

C. Anticipated Impacts

10. The primary impacts of reconstruction works are expected to be loss of agricultural or residential land, residences, pastures, structures and underground materials potentially affecting incomes and well-being of people who own or use the land, resources and facilities. Some losses will be temporary, related to staging and carrying out the construction. Others will be permanent.

11. Four principal scenarios are expected to apply along the corridor: (i) reconstruction, or strengthening and flattening the roadway, sometimes slightly widening the carriage way, within the existing right of way; (ii) conversion from single carriage way to dual carriage way within the current right of way or by expanding the right of way; (iii) realignment of the existing roadway to widen curves or to construct bypasses or alternative alignments; and (iv) construction of service centers.

12. **Reconstruction.** About half of the road reconstruction will consist of strengthening the road or slightly widening it, within the existing alignment and right of way, for which no land acquisition will be required. Some land will be used temporarily during construction, for staging sites and borrow pits. The standard practice in Kazakhstan is to include suggestions for the location of staging and borrow sites in the final design, but to leave the selection and temporary rental of sites up to the contractor. Generally, preference is given to the use of State land for both purposes, for which local authorities execute rental/extraction agreements with the contractor. If a contractor decides to access private land for staging and borrow sites, this is done through a rental/extraction agreement between the contractor and the private landowner. In such a case, under a willing buyer-willing seller arrangement, the agreement will be subject to standard environmental clean up requirements. Although a Resettlement Plan is not required by the Resettlement Policy Framework, the entitlements in the Framework will apply unless there are encroachments.

13. **Conversion.** In about 40% of the Corridor, generally adjacent to oblast centers and tracts with high-density traffic, such as the tract between Almaty and the Chinese border, the roadway will be converted to a dual carriage way. If the construction takes place entirely within the existing right of way, a resettlement plan will not be required. If the conversion requires additional land to expand the right of way or construct interchanges, the Resettlement Policy Framework will require the preparation of a Resettlement Plan if privately owned land is affected.

14. **Realignment.** New bypasses will be constructed at different points along the Corridor to reduce current and future disruption in urbanized areas and settlements and avoid hazardous areas in difficult terrain. In some areas, minor realignments will eliminate bottlenecks and increase visibility, reducing hazardous conditions. The realignments will require the acquisition of State and/or private land for the roadway and protected the right of way. In such locations, the LARF will apply to the private land that is affected, as well as any State land with encroachments, and a LARP will be prepared for the site, using the final design as the initial data source.

15. In some locations, realignment will also require the demolition of residences and other structures, although this is expected to be minimal. Originally, it was estimated that about 2,750 structures would be demolished along the Corridor, assuming the original alignment was kept intact and tracts through urban areas and settlements were widened. The latest version of the

feasibility study in January 2008 estimated that between 48 and 115 structures (residences, barns, sheds and others) would need to be demolished along the whole route, from the Chinese border to Karabutak. The final design process, based on local consultations, is expected to reduce demolition requirements below the lowest estimate. If private property or State land with encroachments is affected, additional field work will be required to prepare the local LARP, as indicated below.

16. **Service Centers.** In more remote areas, new service facilities will be constructed at regular intervals and existing ones will be upgraded. Mostly, the service stations will be in areas with little or no population and where the land is owned by the State. Some sites may affect agricultural or grazing areas, taking land that is owned by private individuals, collective enterprises or local administrations, but this not expected to be the usual case. If private land is involved, the LARF will apply and a LARP will be prepared.

17. **General Negative Impacts.** All along the alignment, farmers graze animals near roads and frequently herd them across the roads, disrupting traffic. The reconstructed highway will encourage higher traveling speeds, thereby putting herders and their animals in greater jeopardy, and bypasses may disrupt grazing patterns. The final design teams are expected to assess the local situation and, in consultation with residents, locate underpasses in areas where grazing patterns pose the highest risk to drivers and local residents.

18. Finally, some commercial establishments along the Corridor cater to road users, both local and transit. Their livelihoods may be adversely affected by bypasses even though they do not lose land or facilities. Conversely, increased traffic will also generate new commercial opportunities. Social assessments will be carried out in the bypass areas to assess both positive and negative impacts and propose site-specific mitigation measures, if needed.

19. In short, the most significant negative impacts of the reconstruction are expected to be loss of land assets used for livelihoods, loss of residences and home sites, and loss of access to common resources and customers. These impacts must be minimized and mitigated to ensure that affected people can regain their livelihoods and standard of living as quickly as possible. Those who lose land temporarily during construction for staging areas or borrow pits are not as likely to suffer adverse impacts; however, owners should be sufficiently aware of their rights and options to enable them to protect their interests.

D. ADB Processing Requirements

20. Based on ADB policy/practice appraisal of the MFF and each tranche and approval of the implementation of tranche subprojects will require the preparation of the following:

- (i) A LARF for the whole financial facility and applicable to all subprojects. The LARF will be reviewed, if necessary updated, and submitted for ADB approval at least annually and always at the start of the preparation of each tranche.
- (ii) An Initial Poverty and Social Assessment (IPSA) indicating, for each tranche, whether LAR impacts are likely to occur, type of impacts, likely magnitude, and whether there may be Indigenous Peoples (IP) affected, and;
- (iii) If LAR occurs, a LAR Plan (LARP) for each subproject under a tranche based on detailed design an commensurate to the severity of impacts (see footnote 2). The LARP will include detailed compensation and administration budgets and implementation schedules linking LAR tasks to the initiation of civil works.

21. Based on ADB policy/practice, the appraisal of the MFF and each specific tranche and approval of project implementation will be based on the following LAR-related conditions:

- (i) **MFF/first tranche appraisal:** Conditional to preparation/disclosure of a LARF for the whole MFF acceptable to ADB and of LARPs for all tranche projects requiring LAR.
- (ii) **Following tranches appraisal:** Conditional to review/update/disclosure of the LARF, and preparation/disclosure of LARPs consistent with the revised LARF for projects with LAR.
- (iii) **Contract awards signing:** Conditional to the preparation/disclosure of relevant LARP approved by ADB and reflecting final impacts, AP lists and compensation rates.
- (iv) **Provision of notice to proceed to contractors:** Conditional to full implementation of LARP (full delivery of compensation/rehabilitation) for the relevant project. Such a condition will be clearly spelled out in the text of the civil works contract.

E. Affected People

22. Three groups of AP are the direct subject of this LARF: (i) individual or collective owners of land or facilities who lose their assets for public interest; (ii) private individuals or enterprises whose livelihood comes from rented land (State or private) acquired for public interest or whose livelihood is primarily dependent on road users; and (iii) private and collective owners who cede the use of their assets temporarily during construction, or allow material to be removed from their land for construction, but whose livelihood sources are not sacrificed.

F. Kazakhstan Legal Framework

23. In Kazakhstan, land is owned by the State but can be transferred, sold or rented to individuals, generally for 49 years. Once land is in private hands, the State can reclaim it only for specific uses, including road construction, and only after compensating the owner for the asset and other losses.

24. Kazakhstani laws and regulations regarding land and land ownership derive from the Constitution, which states that land (surface and underground) is owned by the State, but can also be privately owned (Article 6.3). Article 26.3 also states that *No one may be deprived of property unless stipulated by a court decision. Forcible alienation of property for public use in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation.*

25. The Land Code of the Republic of Kazakhstan (Code No. 442 of 20 June 2003) covers the reservation of land for State Needs, stating that a plot may be reserved for state needs by way of purchase or by granting an equivalent plot with the consent of the owner or land user (Article 84.1). Road construction is one of several grounds for purchasing private land or terminating long-term leases (Article 84.2.4). In the case of land under lease, the land user is compensated for the full amount of losses and may be granted an alternative plot (Article 84.4). However, the availability of suitable land to swap varies from one location to another.

26. Land owners/users must be notified of the decision to purchase 1 year in advance, unless the owner/user agrees to release the land more quickly (Article 85.2). If part of a plot is

acquired and the remainder area cannot be used as before the whole plot must be purchased (Article 86 para 2).

27. The price of a plot purchased for state needs is determined by agreement with the owner or land user (Article 87.1). The payment price includes the market value of a plot or rights to it and of real estate situated on it, as well as all losses caused to the owner/land user due to land loss, including losses due to the premature termination of obligations to third parties (Article 87.2). (See provisions in Annex 1). If the owner or land user agrees, another plot of equal value can be substituted instead of cash compensation (Article 87.3).

28. If an owner disagrees with the decision to purchase (reserve), the price offered or other purchase conditions, the authority issuing the decision to purchase can file an expropriation case in court (Article 88 para 1) after the year of notification has passed (Article 88 para 2). In disputed cases, the land cannot be taken until the court adjudicates a settlement specifying compensation levels and losses (Article 166.7). Compensation must be paid to owner or user before the reservation is processed by the *raion* level office of the Land Resources Management Committee and registered at the Registration Service Committee, then allow work to begin on the land.

29. When residences are affected, the Law on Housing Relations also applies. If a house is demolished for State Need, the owners can choose either to receive a new residence or receive compensation to the market value of the house. An owner who chooses the replacement option can select a home from a list of available homes. If the value of the selected house is higher than the market value of the building to be demolished, the exchange is completed; if the cost of the selected building is lower than the market value of the one to be demolished, the owner is compensated in cash for the difference. Disagreements over the evaluation are settled in court.

30. Although the legal framework for reserving land and compensating owners is clear, procedures are not fully defined. The process was once regulated by Government Resolution No. 403, On the Approval of Provisions for Procedures to Withdraw and to Buy Out Land Areas for State Needs (8 April 1996). However, the resolution expired in February 2005 and has not been replaced. The calculation of "market value," in particular, is subject to interpretation in the absence of standardized procedures, and officials are thought to set values below actual transaction values. Final design teams frequently commission professional assessors to prepare land acquisition estimates, but there is some question regarding the extent to which their estimates are based on site-specific information. Consequently, challenges are not uncommon.

G. Land Acquisition Practices

31. The feasibility study for an investment includes a proposed alignment and estimates of the amount of land to be acquired permanently; the amount of land needed temporarily for staging, construction sites and borrow pits; the number of buildings that would be demolished; and estimated cost of acquisition, rental and restoration of affected lands. The document is sent to the oblast and *raion* levels for review and comments. It is then sent to Astana, for a national road. Meanwhile, the *raion* administration issues a decree identifying the area affected by changes in the alignment and designating the land as subject to reservation (expropriation). At this point, the oblast roads committee requests the local Land Resources Management Committee to freeze land transactions in the area identified for land acquisition for bypasses, for example, to prevent speculation. At the same time, owners are notified that their land may be

acquired. This notification was carried out along the corridor in late 2007, over a year before the final design is to be completed, thus preparing for quick action once the final design is accepted.

32. Final design is prepared in an interactive manner with intensive field work and continuous consultation with local officials, particularly at *raion* level. The design process generally starts with a meeting of all relevant officials in the oblast (agriculture, land resources, registration, utilities, public works, and others) to inform them of the tentative alignment and request the information needed for the final design. The final design includes detailed maps of individual landholdings to be affected, complete ownership data from the cadastre, and estimated compensation for acquisition and losses. Design companies subcontract specialized services for the preparation of the final design including, for the first time in 2008, the services of licensed property assessors.

33. Once the alignment is agreed with local officials, the design team obtains cadastral maps and ownership records and asks the *akimat* of the *raion* to call owners together to discuss the LAR process. The data are then given to the licensed assessors who are responsible for determining the “market value” of the property to be acquired and negotiating compensation with owners. Although there are established precedents for assessing urban property values, rural property assessment is rather new, and transactions are not common in many areas. To determine rural property values, the assessor takes into consideration soil quality, productivity, trees, and other production characteristics, in addition to recent land transactions, if there are examples available. Assessors negotiate with each owner and sign an agreement, if possible. If they cannot come to terms, the roads committee can initiate a court appeal after the one-year notification period ends. Once the *akimat* approves the final alignment, the roads committee can proceed with acquisition or expropriation. If the roads committee or owner appeals to the court, the court renders a decision that includes the amount of compensation to be given to the owner. Judgments are said to be impartial, favoring either the government or the owner, depending on the case. Land cannot be accessed until compensation is completed and the title is transferred.

34. The previous practice was for the *raion akimat* to establish a valuation commission that included officials and landowners, without specialized inputs. The use of licensed assessors is expected to reduce claims and result in a smoother acquisition process.

35. The final design identifies possible locations for work camps, storage and staging facilities, borrow pits and other sites for temporary use during construction. Contractors can use the information to estimate costs and logistics, but are not required to use the recommended sites. Civil works contracts will require the contractors to be responsible for the temporary acquisition and reinstatement of all land required outside of the right of way for construction camps, offices, borrow pits, materials storage sites, materials processing sites and haul roads. The contracts will select the land parcels they require and they will be responsible for negotiating agreements with land owners to use the land and extract materials. If a contractor fails to obtain an agreement with a landowner, the contractor must select an alternative site and negotiate a new agreement. No land can be occupied involuntarily for temporary construction purposes. Contractors are assumed to prefer to rent State land, rather than private property, but the choice is theirs. In either case, the arrangements must be subject to a written agreement between the contractor and the owner and lands are required to be returned to their original state after work is concluded.

H. Involuntary Land Acquisition/Resettlement Principles

36. The Government has agreed to apply the following principles in the acquisition of private land and resettlement of households for investments on the Corridor, which reflect the principles incorporated in the resettlement policies of ADB and the other IFIs. The principles apply in case of temporary or permanent impacts resulting from loss of land, structures or other fixed assets; changes in land use or business; restrictions on land use, housing or businesses. The principles apply to AP who experience impacts as the result of LAR for State Needs.

37. The ADB and the other IFI's policies share several principles that must be adhered to in designing and implementing the investments: (i) avoid or minimize LAR; (ii) AP are entitled to be compensated at full replacement cost for their lost assets, incomes and businesses, including temporary losses or impacts, without adjustments for depreciation; (iii) compensation should enable AP to restore their pre-project incomes and standard of living by the end of the project; (iv) the APs must be consulted and participate in resettlement planning; (v) the APs must be fully informed of their compensation options; (vi) land-for-land swap is the preferred compensation for lost agricultural land, if it is available, unless the affected person chooses cash compensation; (vii) costs of transfer of property—purchase or swap—are waived or borne by the investor, including taxes, fees, documentation and court appeals; (viii) compensation will be made giving equal consideration to women and men; (ix) lack of formal title or use agreement does not bar AP from entitlements or assistance required to achieve the objectives of the policy; (x) relocated AP receive relocation and transition subsistence allowances; (xi) special attention should be given to households headed by women and other vulnerable persons and appropriate assistance provided to assure that their living standards are maintained or improved; (xii) LAR are executed as part of the project and fully funded; and (xiii) compensation will be fully provided before land can be entered for civil works or demolition.

I. Resettlement Planning and Implementation

38. The majority of permanent project impacts will cluster around bypasses. Most LAR will occur in these areas. Demolition of structures is also expected to occur most commonly in bypass areas, particularly at the start and end of a bypass. Other demolition may be needed where alignments are revised to reduce traffic hazards and improve visibility.

39. Once a final design is completed and accepted by the *raion* and oblast, it is passed to the CR for final review and approval. If land acquisition is required, the CR will discuss details with an ADB specialist and will agree jointly on the scope of the LARP to be prepared. A resettlement specialist on the project implementation team will prepare the LARP and submit it to the IFI for approval before proceeding with construction. The LARP geographical scope will vary according to the area and the magnitude of impacts. In most cases, it is expected that a LARP would cover the area corresponding to a contract.

40. Regardless of the LARP geographical scope, preparation will include the following steps: (i) census of AP to ascertain their current standard of living and assess expected impacts; (ii) social assessment of settlements affected by bypasses and major reconstruction works; (iii) local consultations to engage AP in design of the LARP; (iv) local publication of the plan for comment (appropriate medium, location and language); and (v) submission of the final plan and cost estimates to ADB for concurrence before funding is authorized.

41. The complexity of a LARP will vary according to type and severity of impacts and number of AP (see footnote 2). Given that most of the land affected by the project will not be

occupied by settlements and that properties tend to be rather large it is expected that in general the LARPs to be prepared will be short LARPs.

J. Additional Measures

42. Land and Housing Codes in Kazakhstan regarding the acquisition of land and assets for State Needs are similar to the ADB and other IFI Resettlement Policies in most topics. However, in absence of standard regulations and procedures, implementation may vary in practice. Three steps will be taken to assure more consistent implementation, and compliance with IFI policies.

43. First, encroachment needs to be addressed clearly. The Land Code does not entitle encroachers to compensation for the loss of access to the lands they use informally, but it does not explicitly say they cannot be compensated. There appears to be very little encroachment on the existing Corridor, with the possible exception of temporary kiosks around some intersections. The feasibility study identified structures that may need to be demolished or located and owners were given notice of the possibility in late 2007. Final designs will indicate the number and location of informal structures and land use and AP will be called to the *akimat* to discuss procedures and entitlements. In most cases, the roads department will expect the owners of temporary structures to move them outside the right of way intact at their own expense. When the encroachment consists of cropping on informally occupied land, the users will be allowed to harvest standing crops and offered the opportunity to rent alternative land. These provisions, or other appropriate ones, will be incorporated in the LARPs.

44. Second, AP must be informed about land acquisition (expropriation) procedures and their rights and options in the process. Project management will play an important role in the public information process by preparing and distributing two brochures that describe the process and clarify rights and responsibilities, compensation rates, payment schedules and grievance redress options. One brochure will be targeted to people who lose land and other assets permanently for State Needs. Another brochure will target both contractors and landowners regarding temporary use of land for borrow pits, staging areas, labor camps, and the like. Both brochures will be prepared in two language versions—Kazakh and Russian—and distributed all along the corridor in official buildings, especially village offices, *akimats* and the offices of the Land Resource Management Committee and the Registration Service Committee.

45. Third, the Land Code offers owners the option to swap land or buildings in lieu of compensation. In some areas, alternative lands may not be readily available. Nonetheless, all AP will be informed of the option. Where land is available for swap, officials involved in the land acquisition process will be instructed to offer AP the option to swap land and buildings for compensation instead of cash, if they choose. As soon as final designs are completed or the Project Management office is established (whichever comes first), the project will hold an introductory seminar in each oblast. The purpose of the seminar is to acquaint oblast and *raion* officials engaged in resettlement-related activities with the concepts and practice of Resettlement Planning, and best practices in compliance with IFI resettlement policies.

K. Entitlements and Compensation

46. Compensation and entitlements must assure that APs maintain or improve their standard of living after the project. The table below shows the agreed compensation entitlements for losses caused by the project.

Table 1: Entitlement and Compensation Framework

Asset	Specifications	AP	Compensation Entitlements
Permanent Loss			
Arable Land	All Land Losses irrespective of severity of impact	Owners	<ul style="list-style-type: none"> Land x land compensation with plots of equal value/productivity to plots lost; or Cash compensation for affected land at replacement cost (market value) with no deductions for taxes, transaction, registration or transfer costs If the residual portion of a plots is too small to use, the whole plot is purchased and compensated or exchanged
		Leaseholders	<ul style="list-style-type: none"> Cash compensation, market value of gross yield (3-year average); renewed lease in alternative plot
		Sharecroppers	<ul style="list-style-type: none"> Cash compensation, market value of share of lost harvest Relocation allowance
		Rural workers	<ul style="list-style-type: none"> Cash compensation equal to salary in cash and kind for rest of agricultural year
		Encroachers/squatters	<ul style="list-style-type: none"> Cash compensation equal to market value of lost harvest Relocation allowance
	Severe Impact—>more than 10% of income lost	Owners, leasers Sharecroppers	<ul style="list-style-type: none"> Cash compensation equal to market value of two crop years Cash compensation equal to twice market value of share of lost harvest Relocation allowance option
Residential and Commercial Land		Owners	<ul style="list-style-type: none"> Land for land compensation, plot comparable in value to lost plot, or Cash compensation for affected land at full replacement cost free of taxes, registration and transfer costs
		Renters, leaseholders	<ul style="list-style-type: none"> 1-3 months allowance
		Squatters	<ul style="list-style-type: none"> Free or leased plot on State land Self-relocation cash allowance option Relocation allowance Compensation for lost assets
Houses, Buildings and Structures		Owners of permanent structures	<ul style="list-style-type: none"> House for house swap; if replacement is lower value, cash compensation for the difference, or Cash compensation at replacement rates for affected structure and other fixed assets, based on material cost, construction and labor costs free of salvageable materials, depreciation and transaction costs. Cost of lost water and utility connections included in compensation
		Temporary structures (kiosks, stalls) owners	<ul style="list-style-type: none"> Approved site to re-locate Self-relocation allowance option Compensation for lost assets
Crops	Crops affected	All AP including squatters	<ul style="list-style-type: none"> Crop compensation in cash at full market rate for 1 year gross harvest—paid to owners and tenants based on their sharecropping agreement
Trees	Trees affected	All AP including squatters	<ul style="list-style-type: none"> Cash compensation reflecting income replacement. Economic trees value based on age category and valued at gross market value of one year income times the number of years to grow a tree to similar productivity, plus purchase price of seedlings and starting materials
Business employment	Temporary or permanent business/employment loss	All AP including squatters	<ul style="list-style-type: none"> Owner: if permanent, cash compensation equal to one year income; if temporary, cash compensation for the period of loss. Compensation based on tax declaration or official minimum salary Owner: allowance for lost wages during interruption, up to 3 months

Asset	Specifications	AP	Compensation Entitlements
Relocation	Transport/ transitional livelihood costs	All AP affected by relocation	<ul style="list-style-type: none"> • Allowance sufficient to cover transport expenses and livelihood expenses for one month due to relocation
House renters		Renters with leases	<ul style="list-style-type: none"> • Three months rent at prevailing market rate and assistance in finding alternative accommodation
Community assets			<ul style="list-style-type: none"> • Rehabilitation or replacement of affected structures to pre-project function
Vulnerability		AP with special needs to avail of project benefits	<ul style="list-style-type: none"> • Special programs providing additional compensation, adjustment allowances or other initiatives, based social assessment and AP census findings • Provisions adjusted to poverty level
Temporary Loss			
Land for construction	negotiated between owner and contractor	Owners (private or public)	<ul style="list-style-type: none"> • Contractor pays cash compensation at local commercial rental rates for duration of use Land restored to original status at the end of rental
Land for borrow pits	Negotiated between owner and contractor	Owners (private or public)	<ul style="list-style-type: none"> • Contractor pays cash compensation for rental and materials at market rates .Land restored to original status at the end of rental.

L. Institutional Responsibilities

47. The CR through the Project Director has overall responsibility for LAR preparation, implementation and financing with the assistance of the Project Management Consultant (PMC) which will provide the technical expertise to prepare the LARPs. At PMC, LAR tasks will be handled by a LAR consultant. The PMC will be assisted by a construction supervision team and by non-governmental organizations or impact assessment/valuation consultants hired for impact surveys/monitoring assistance. The PMC will coordinate with *Raion* governments who have jurisdiction over land administration/valuation.

48. The LARPs will be implemented by *raion*-level officials, for the most part, with support of the oblast administration, civil works contractors and officials of local self-government. Evaluation and compensation are managed by a *raion*-level commission established for the purpose, including staff of the *raion* administration and officials representing different relevant offices, such as agriculture, forestry, roads, land resource management and registration.

49. For purposes of eligibility, the cut-off date in any location is the adoption of the final detailed design. Persons who occupy affected areas after that date are not entitled to compensation provisions.

M. Consultation and Disclosure

50. The consultation process begins when the *akimat* notifies potentially AP that their lands may be subject to being reserved. The valuation process involves direct consultation with AP and is expected to result in satisfactory agreements. (Note: this is the first year that licensed assessors are used, so no data are available on the success rate of this process. In the past, when a local evaluation commission was created to assess values, few owners contested the findings in court.) Owners who agree can discuss their concerns with the officials and, if still dissatisfied, can appeal to the court for a binding valuation.

51. The LARP will be translated into Russian and Kazakh languages and disclosed on the project website, the website of the Committee for Roads, the offices of the Oblast Committee for Roads and the respective *raion akimats*. In addition all APs will be issued an information

brochure that discusses relevant regulations, entitlements, compensation rates, payment, and grievance redress mechanisms. The LARP in English will be disclosed on the ADB website.

N. Grievance Redress Mechanisms

52. Effective grievance procedures can significantly reduce the anxiety people generally experience when they involuntarily lose assets, especially homes. During the land acquisition process, complaints regarding valuation, payment, support and follow-up are inevitable. During construction, both AP and others may have complaints related to traffic disruption, noise, encroachment or other topics. All project-related complaints will be handled through resettlement grievances mechanisms that follow the existing pattern and will be described in the project's information brochures and posted in local offices based on the following process:

- (i) APs take their complaints to local self-government head.
- (ii) If the complaint is not resolved in one week, it is passed to the *raion* level.
- (iii) If there is no resolution in two weeks, the complaint is passed to the oblast level.
- (iv) If there is no resolution within two weeks, the complaint is passed to the project management for resolution on a priority basis.
- (v) Finally, if the case remains unsolved a complaint can be lodged to the court.

53. This procedure will differ from standard practice in that each of the designated officials at the self-government, *raion* and oblast levels will be required to register the complaints, keep track of their status and report monthly to project management. Reports and grievance resolution will be subject to follow-up by the external monitoring/evaluation team, and by project management.

54. Alternatively, persons who feel that their grievances are not given adequate attention can contact project management. The monitoring and evaluation officer will acknowledge and register such complaints and seek resolution, reporting to the complainant on a weekly basis. Officials at any level who receive complaints that must be handled on an urgent basis can also forward them to the project management, if appropriate.

O. Resettlement Monitoring and Evaluation

55. Resettlement activities are subject to internal and external monitoring. Implementation monitoring will be carried out by the *raion* administration, which will report monthly to the project management. The work will be overseen by the Project Management Resettlement specialist.

- (i) The project will hire an external monitoring agency, potentially the entity hired to conduct the census and social assessment, which will carry out an independent assessment of the resettlement process and outcomes every six months to discuss with the project management, and prepare an annual monitoring and evaluation report to submit to the IFIs. The external monitor will assess whether implementation complies with provisions of the resettlement plan, if the livelihoods of affected peoples have been restored, and whether or not any unintended or unanticipated resettlement impacts have occurred.
- (ii) Specific monitoring indicators include: (i) information campaign and consultation with AP; (ii) status of land acquisition and payments for compensation; (iii) selection and distribution of replacement land areas; (iv) compensation for affected structures and other assets; (v) relocation of AP; (vi) payments for loss

of income; (vii) status of additional income restoration activities; and (viii) achievement of income restoration objectives.

- (iii) The cost of administrative oversight and monitoring and evaluation activities will be included in the project budget and reflected in the budget of the Resettlement Plan.

ANNEX 1**LAND CODE: SELECTED ARTICLES
(CODE NO. 442 OF 20 JUNE 2003 OF THE REPUBLIC OF KAZAKHSTAN)****Article 7. International Agreements**

If an international agreement ratified by the Republic of Kazakhstan, specifies other rules than those which are contained in this Code, the rules of said agreement shall apply. The international agreements ratified by the Republic of Kazakhstan shall apply to land relations directly, except for the cases where it ensues from an international agreement, that adoption of a legislative act is required for its implementation.

Article 84. Reservation, Including by Way of Purchase of a Plot for State Needs

1. A plot may be reserved for state needs by way of purchase or by granting an equivalent plot with the consent of the owner or land user.

2. The following shall be recognized as the grounds for reservation or purchase of plots for state needs:

- (i) international obligation;
- (ii) granting land for needs of defense, specially-protected natural territories, rehabilitation, recreation, historical and cultural designation;
- (iii) discovery below a plot of a field of useful minerals (except for commonly occurring);
- (iv) construction of roads, lines for electricity, communications and main pipelines as well as other facilities having national significance, where there are no other alternatives for the placement of those facilities;
- (v) demolition of accident-prone and old housing, impending collapse (slide down); and
- (vi) general surveys of cities and other populated areas, schemes for zoning territories and other urbanization or land tenure documentation approved in accordance with the established procedure.

3. The legislative acts of the Republic of Kazakhstan may provide other grounds, aside from those indicated in paragraph 2 of this Article.

4. Reservation for state needs of a plot granted into temporary land use where the granted right has not been purchased from the state by a land user, shall be carried out without purchasing land use rights. Losses shall be compensated to land users in full amount, and at their discretion, other plots may be granted.

Article 85. Purchase of a Plot

1. Reservation of plots for state needs from owners and non-governmental land users where ownership right have been purchased by them, shall be carried out in accordance with the procedure of purchase in accordance with this Code, and with regard to issues not covered by it, by other legislative acts of the Republic of Kazakhstan.

2. Plot owners or non-governmental land users, not later than one year prior to a forthcoming purchase of a plot, must be appropriately notified in writing by the authority that adopted a decision on purchase, unless it is otherwise provided for by legislative acts of the Republic of Kazakhstan.

3. Purchase of a plot prior to expiry of one year from the date of receipt by the owner or land user of such notice shall be allowed only with the consent of the owner or land user, unless it is otherwise specified by legislative acts of the Republic of Kazakhstan.

Article 86. The Rights of an Owner or Land User to a Plot to be Purchased for State Needs

1. An owner or a land user of a plot to be purchased for state needs from the time a decision is taken to purchase it until the time when an agreement is reached on price, or until the court takes a decision on purchase of a plot, may exercise his right to the plot and to incur appropriate costs ensuring the utilization of a plot in accordance with its designation. In that case an owner or land user shall bear the risk that costs and losses associated with new construction, expansion or reconstruction of buildings (installations, facilities) on a plot within said period will be at his expense.

2. Where an owner of a plot or a land user after the reservation of a part of a plot may not use the remaining part in accordance with the former designation, then the entire plot shall be purchased.

Article 87. Price of a Plot to be Reserved by Purchase

1. Price of a plot which is to be purchased for state needs, periods and other conditions of purchase shall be determined by the agreement with the owner or land user. Price of an agricultural designation plot (without considering losses) to be purchased by an owner from the state in accordance with subparagraph 2) of paragraph 2 of Article 24 of this Code and which is purchased for state needs, shall be determined within amounts paid to the state. In the case of partial payment of an amount for a plot (without considering losses) sold by the state on an installment contract, and when it is purchased by state needs, the price of a plot shall be determined within the amount paid to the state.

2. When determining the price of a plot to be purchased, it shall include the market value of a plot or rights to it and of real estate situated on it, as well as all losses caused to the owner or land user due to loss of a plot, including losses that they incur in connection with the premature termination of obligations to third parties.

3. By an agreement with an owner or land user, another plot may be granted to him by including the value of the plot or rights to it into its price, instead of a plot which is purchased for state needs. In those cases where a plot which is to be reserved for state needs or rights to it should have been purchased from the state, but such purchase did not take place, the market value of a plot shall not be included in the price, by an agreement with a land user, another plot may be granted to him instead.

Article 88. Purchase of a Plot Pursuant to a Court Decision

1. Where an owner or land user disagree with the decision to purchase from him of a plot for state needs or where no agreement has been reached with him on the price of a plot to be

purchased or on other conditions of such purchase, the executive authority that adopted the decision on purchase, may file a lawsuit to a court to purchase the plot.

2. Such a lawsuit may be filed upon expiry of one year but not later than two years from the time of directing to the plot owner or land user of a notice indicated in paragraph 2 of Article 85 of this Code, unless it is otherwise specified by legislative acts of the Republic of Kazakhstan.

Article 115. Lands of Automobile Transport

1. The following shall be recognized as lands for needs of automobile transport:

- (i) for automobile roads, their components and road facilities as well as installations and facilities technologically connected therewith;
- (ii) for placement of bus stations and bus terminals, other automobile transport facilities and road economy items which are needed for the operation, maintenance, construction, reconstruction, repair, development of surface and underground buildings, structures, installations, devices; and
- (iii) for establishing land strips of automobile roads.

2. Plots for land strips for needs of automobile transport shall be granted on the basis of the established quotas in relation to the category of a road and in accordance with the project documentation.

3. In order to ensure safety of the population and create conditions for the operation of automobile roads subject to safety requirements of road traffic, road-side strips shall be created in the form of plots attached on both sides to the land strips of international and national automobile roads of common use by establishing a special regime of their use. Said lands shall not be subject to reservation from plot owners and land users.

4. It shall be prohibited to build capital items in road-side strips and land strips of international and national automobile roads of common use, except for road service items and facilities.

Article 165. Grounds for the Compensation of Losses Caused to Owners or Land Users

Losses caused to owners/land users shall be subject to full compensation in the following cases:

- (i) reservation (purchase) of lands for state needs, entailing termination of ownership or land use rights;
- (ii) restriction of ownership or land use rights in connection with establishing a special regime of land use;
- (iii) violation of ownership or land use rights;
- (iv) deterioration of land quality resulting from construction and operation of facilities leading to disturbance of soil fertility, deteriorating water regime, producing substances which are harmful for agricultural crops and plantations; and
- (v) reservation of lands specified in Article 90 of this Code.

Article 166. The Procedure for Compensation for Losses

1. Losses to owners and land users shall be compensated at the expense of entities that caused them. Losses caused to owners or land users as a result of adoption by a state administration authority, or another state authority of an act which is inconsistent with legislation, as well as by acts (omission) of official persons of those authorities, shall be subject to compensation by the Republic of Kazakhstan or by the relevant administrative-territorial unit.
2. When determining amounts of compensation, it shall comprise the following:
 - (i) market value of a plot or land use right;
 - (ii) market value of real estate situated in a plot, including fruit trees and perennial plantations;
 - (iii) value of costs associated with the development of a plot, its maintenance, performance of protection measures, enhancing soil fertility, subject to inflation;
 - (iv) all losses caused to an owner or land user by reservation of a plot, including losses they incur due to premature termination of their obligations to third parties; and
 - (v) lost profits.
3. Determining losses caused to owners or land users when plots are reserved as well as amounts of compensation shall be established by an agreement of the parties.
4. When plots are reserved or occupied temporarily, due to which partially or fully the work of irrigation, drainage, environmental protection, anti-erosion and anti-mud-avalanche facilities and installations (systems) are disrupted, losses may be determined on the basis of costs of the operations associated with the construction of new or reconstruction of existing facilities and installations (systems), including value of project research operations.
5. Losses (costs) caused by inconveniences which emerged in the utilization of land (formation of islands in infilling of water reservoirs, disruption of transport links, disintegration of territories by communications, etc.) may be determined by the total of one-off costs associated with project research operations, construction of dams, bridges, roads, approaches, other facilities, cleaning water reservoir floors, as well as purchase of boats, ships, ferries and other means of transport.
6. When determining losses (costs) which are required for restoration of deteriorated land quality, may comprise costs associated with the performance of soil, agrochemistry and other special investigation and research as well as measures that ensure the restoration of land quality.
7. Where a plot owner or a land user disagrees with a decision entailing termination of ownership or land use rights, it may not be implemented prior to the settlement of a dispute through a court procedure. When hearing a dispute, also all issues shall be decided with regard to compensation to owners or land users of losses that were caused.

Article 167. Land Disputes

Disputes ensuing from land legal relations shall be considered through a judicial procedure.

ANNEX 2

RESETTLEMENT PLAN OUTLINES: ASIAN DEVELOPMENT BANK

A. Full Resettlement Plan

1. **Land Acquisition and Resettlement (LAR) Issues for the Scheme.** This chapter describes Project activities/items requiring LAR; alternative options, if any, considered to minimize land acquisition and its effects; and why remaining effects are unavoidable. The chapter will also indicate the type of LARP to be prepared based on the impacts severity level and will detail the LAR-related conditions to contract awards signing and civil works mobilization.
2. **Social Studies and Impacts Assessment.** This chapter describes the preparation of the impacts assessment and AP census and provides the results of: (i) a full assessment of each type of impact; (ii) a census of affected peoples and (iii) a socio-economic survey based on a 20-30% sample of the APs. 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 provides a comparison between the national and the ADB policies, defines eligibility, and details the compensation/rehabilitation entitlements for each impact type.
4. **Consultation and Disclosures.** This chapter describes the consultation participation process for the project, indicates the number and location of meetings including number of participants and provides minutes of the matters discussed at the meetings. This chapter also discusses documents disclosure and the action for its execution.
5. **Grievance Redress Participation.** This chapter summarizes procedures for redress of grievances raised by the APs.
6. **Compensation, Relocation, and Income Restoration.** This chapter outlines the income restoration measures to be implemented.
7. **Institutional Framework.** This chapter describes in detail the institutional arrangements for preparing and implementing LAR for the project. This will include a detailed description of the responsibilities for planning, survey, negotiation, consultation, approval, coordination, compensation delivery, financing, monitoring, and evaluation tasks.
8. **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 the cost for land acquisition, buildings, crop/trees compensation, business losses, general rehabilitation costs, subsidies & allowances, monitoring and evaluation costs, and administrative costs. The costs will be adjusted for inflation and applicable taxes.
9. **Implementation Schedule.** This chapter provides a real-time schedule showing the LAR process and linking LAR tasks with civil works implementation.
10. **Monitoring and Evaluation.** This chapter specifies arrangements for routine and independent monitoring and evaluation activities.

B. Short Resettlement Plan

A short LARP covers the following minimum elements: (i) project description and LA-related project implementation conditions; (ii) impacts assessment, AP census and valuation of assets; (iii) compensation eligibility and entitlements; (iv) AP consultation; (v) disclosure; (vi) institutional responsibilities (vii) complaints & grievance redress; (viii) arrangements for monitoring and implementation; and (ix) timetable and budget.