

# Resettlement Framework for Forest Plantation Development Project

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## Definition of Terms

AP	includes any person or persons, household (sometimes referred to as project affected family), a firm, or a public or private institution who, in the context of acquisition, or repossession, of assets or change in land use, as of the cut-off date, on account of the execution of a development project, or any of its sub-components or part, would have their: (i) standard of living adversely affected; (ii) right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land), water resources, or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected; or (iii) business, occupation, place of work, residence, habitat, or access to forest or community resources adversely affected, with or without displacement.
Compensation	means payment in cash or kind for an asset to be acquired or affected by a project at replacement cost.
Cut-off date	means the date prior to which the occupation or use of the project area makes residents/users of the project area eligible to be categorized defined as affected persons. In many projects, the cut-off date coincides with the commencement of the census of APs within the project area boundaries, or the date of the detailed measurement survey after the completion of detailed design. The cut-off date for this project will be the date of completion of the detailed land survey. Persons not covered by the detailed measurement survey will not be eligible for compensation and other entitlements.
Entitlement	means the range of measures comprising compensation in cash or kind, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and business restoration which are due to APs, depending on the type and degree nature of their losses, to restore their social and economic base.
Household	means all persons living and eating together as a single-family unit. The census used this definition and the data generated by the census forms the basis for identifying the household unit.
Implementing agency (a.k.a. project proponent, project authority, executing agency)	means the agency, public or private, that is responsible for planning, design, and implementation of a development project.
Income restoration	means reestablishing income sources and livelihoods of APs.
Insignificant effects	means less than 200 persons are likely to experience loss of assets and livelihoods. This requires preparation of a short resettlement plan.
Land acquisition	means the process whereby a person is compelled by a public agency to alienate all or part of the land a person of the land s/he owns or possesses, to the ownership and possession of that agency, for a public purpose in return for fair compensation.

Project area	the unstocked forest lands earmarked for acquisition for large industrial plantation (LIP) or medium enterprise plantation (MEP) development
Rehabilitation	means assistance provided to APs seriously affected due to loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets in order to improve, or at least achieve full restoration of her/his pre-project living standards and quality of life to pre-project level.
Relocation	means the physical shifting of APs from his/her their pre-project place or residence, place of work, or business premises.
Replacement cost	<p>means the amount of cash or kind needed to replace an asset and is the value determined as compensation for:</p> <ul style="list-style-type: none"> <li>(i) Agricultural land: at the pre-project or pre-displacement level, whichever is higher and is based on productive value; and residential or commercial land based on market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes;</li> <li>(ii) Land in urban areas: it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;</li> <li>(iii) Houses and other related structures: based on current market prices of materials, transportation of materials to construction site, cost of labor and contractor's fee, and any cost of registration and transfer taxes. In determining replacement cost, depreciation of assets and value of salvaged building materials are not taken into account and no deductions are made for the value of benefits to be derived from the project or transaction costs;</li> <li>(iv) Crops, trees, and other perennials based on current market value; and</li> <li>(v) Other assets (i.e. income, cultural or aesthetic resources) based on replacement cost or cost of mitigating measures.</li> </ul>
Resettlement	means all of the measures taken by the project proponent to mitigate any and all adverse social impacts of a project on APs, including compensation for lost assets and incomes and the provision of other entitlements, income restoration assistance, and relocation, as needed.
Resettlement effects	mean all negative situations directly caused by the project including loss of land, property, income generating opportunity, and cultural assets.
Resettlement plan	means the time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, actions, responsibilities, monitoring, and evaluation.

Significant impacts	means that more than 200 or more persons will experience severe impacts which are defined as being displaced from their homes and or losing 10% or more of their productive assets. This requires the preparation of a full resettlement plan.
Social assessment	means the framework for incorporating social analysis and participatory process in project design and implementation.
Structures	mean all structures affected or to be acquired by the project—living quarters, agricultural structures such as rice bins or stores/warehouses, roadside shops/businesses, commercial enterprises, and any community infrastructure (i.e. schools, wats, temples, churches, etc).
Vulnerable group	means any distinct groups of people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and specifically include; (i) female-headed households with dependents; (ii) disabled household heads; (iii) households falling under the generally accepted indicator for poverty; (iv) landless; (v) elderly households with no means of support; and (vi) ethnic minorities.

## I. INTRODUCTION

### 1. The Project

1. Forestry, along with water, is the most important natural resource base in Lao PDR. The formal forestry sector contributes about 5% to GDP and accounts for 34% of total export value, and even more of net foreign exchange earnings. The forest cover has declined from 70% in 1970 to approximately 42% in 2000. The vast areas of degraded forestland can be brought under productive forest plantations. Lao PDR, along the Lao Mekong plains, has a significant potential and clear comparative advantage over its neighbors to develop financially viable forest plantations subsector, because it has (i) suitable climate and site conditions for growing trees; (ii) low population density; (iii) vast areas of degraded forest land; (iv) flat or undulating terrain; (v) an existing road infrastructure that is being upgraded; (vi) access to large markets in neighboring countries; (vii) low costs for land-lease; and (viii) competitive costs for labor and inputs. The Project will establish a new institution, Lao Plantation Authority (LPA), to provide full-package service to livelihood and enterprise plantations and one-window service to facilitate operations of multinational companies to develop industrial plantations. LPA will be a financially viable and sustainable institution. It will spearhead efficient and expeditious development of the plantations subsector in Lao PDR.

2. The Government's *Socio-Economic Development Strategy for 2020* forecasts GDP growth of 7% per annum. By 2010, the Government aims to reduce poverty by half from its current level of 39%. Furthermore, there is a national commitment to attain 70% forest cover by 2020—accomplished through forest rehabilitation and planting. The Government, therefore, in formulating the National Growth and Poverty Eradication Strategy (NGPES),<sup>1</sup> attached great importance to forest protection and reforestation. The Government is cognizant of the significant potential forests can make to national economic growth, poverty reduction, environmental and biodiversity protection, and sequestration of carbon to mitigate its impact on global climate. NGPES aspires to meet its objectives through natural resource development. Future growth-enhancing investments and development priorities—that reflect economic potential of the country's natural resource base—have been identified as means to increase national revenues and eradicate poverty. Recently, the Government has adopted a comprehensive *Forest Strategy 2020*.<sup>2</sup> This strategy consolidates the Government's vision and related policies to develop the forestry sector and plantations subsector on sustainable basis. To implement NGPES and *Forest Strategy 2020*, the Government wishes to promote both private and public sector investments in forest plantations development. The objective is to develop the plantations subsector at large-scale to create substantial supply of industrial raw material and generate employment. In order to mobilize the necessary financial resources, the Government aims to promote foreign direct investment (FDI) in forest plantations subsector. The Government also encourages the participation of poor households in establishing forest plantations for livelihoods by allocating suitable lands in the rural areas.

3. The Lao Forest Plantation Development Project (LFDP) is building on the GOL Forest Strategy and the lessons emerging from the Industrial Tree Plantations Project. It is an important step forward in developing the forestry sector to provide critical gains for pro-poor economic growth, employment generation, improved incomes, and food security for poor households participating in the Project.

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<sup>1</sup> 2002. Lao PDR. *National Growth and Poverty Eradication Strategy*. Vientiane.

<sup>2</sup> 2005. Lao PDR. *Forest Strategy 2020*, Vientiane.

## 2. Purpose of the Framework

4. The Resettlement Framework (RF) has been prepared in order that the resettlement impacts and effects on all affected households, including in particular ethnic minority communities, of the development of large industrial plantations (LIPs) and medium enterprise plantations (MEPs), will be identified, mitigated, and compensated in accordance with various laws and guidelines of Government, ADB's *Policy on Involuntary Resettlement* and *Policy on Indigenous People*, and established for LFPDP by this RF. The RF also builds upon principles currently being developed under other ADB-funded projects in Lao PDR. The sites of the LIP and MEPs are yet to be identified. Once the LPA has been set up, the Land Use Division (LUD) of the LPA will be responsible for identifying suitable tracts of unstocked forest lands for potential LIP and MEP development, and conduct social assessments through participatory methods. The likely sites once identified, will be checked for negative impacts arising out of land acquisition for LIPs or MEPs or land use conversion from unstocked forest land to industrial plantations, on the livelihoods of local communities, in particular ethnic minorities. Ethnic minorities issues have been treated under the Ethnic Minorities Development Framework (EMDF). Principles adopted under the RF will apply fully to ethnic minority communities adversely affected by LIP and MEP development. The RF should be read in conjunction with the EMDF.

5. The RF provides:

- (i) A brief description of the Project, and likely scope of the resettlement effects and any impacts on ethnic minority communities;
- (ii) Policy and legal framework of Government and ADB in respect of resettlement and ethnic minority development;
- (iii) The resettlement, compensation, and community development principles to be applied to all LIP and MEP development under the LFPDP;
- (iv) Outline procedures to be followed for the preparation and implementation of RPs and community development plans; and
- (v) Administrative, resourcing, and financing arrangements for preparation, approval, implementation, monitoring, and evaluation of RPs and community development plans.

6. The RF should be implemented along with the EMDF which has been developed under the Project. The RF and EMDF will be translated into Lao and distributed to the central and local agencies, companies, and agencies contracted to carry out design and works of the subprojects, and other individuals responsible for aspects of subproject preparation and implementation. The R/EMDF should be also read in conjunction with *ADB's Handbook on Resettlement: A Guide to Good Practice* (1998) and various relevant Government laws and guidelines.

## 3. Project Description

7. The long-term goal of the Project is to develop the plantations subsector to accelerate the pace of economic development, reduce poverty, and improve the environment. The immediate project objective is to develop an efficient and equitable forest plantations subsector by: (i) establishing an autonomous, sustainable, and efficient new institution to support the development of this subsector; and (ii) supporting financially viable livelihood and enterprise plantations, and facilitating the establishment of industrial plantations and the associated processing industry. The Project will contribute to poverty reduction by generating income and employment, and creating assets for the poor households and raising considerable revenues for

the Government. The purpose of the Project is to create a substantial plantation resource base and to catalyze large-scale FDI in forest plantations that will lead to the development of a modern and efficient wood processing industry in the medium-term. Plantations will be established on degrade forestlands that have little or no alternative economic value

8. To meet its objectives, the Project will establish LPA as an autonomous, sustainable, and efficient new institution to support the subsector development. The business plan of LPA will comprise four activities to: (i) undertake land-use planning; (ii) support small livelihood plantations (SLPs); (iii) facilitate operations of large industrial plantations (LIPs); and (iv) promote plantation enterprise development by supporting medium enterprise plantations (MEPs) and small and medium enterprises (SMEs). The first activity, land-use planning, is the key to the success of subsector development. The second activity, with bulk of project investments, will establish SLPs by providing them full-package service. The third activity will facilitate the entry of multinational pulp and paper companies in this subsector to establish LIPs following sustainable environmental and participatory social standards, policies, and laws. And the fourth activity will support the development of MEPs and the associated SMEs through partial project financing and technical assistance. The establishment of LPA will create an adequate staff and institutional capacity to start an efficient and equitable development of this subsector and tap its considerable potential.

9. An Initial Poverty and Social Assessment (IPSA) was prepared for the LFPDP. Among the project provinces, all except Champasak (19% poor) have very high poverty levels starting from 50% to 80%.<sup>3</sup> Among the poor the ethnic minorities are particularly vulnerable to food shortages on account of lack of access to adequate cultivable land, reduced access to nontimber forest produce (NTFPs), lack of access to capital, inputs, markets, and basic social amenities such as education and health. Among the ethnic minorities women tend to be disadvantaged on account of their lack of literacy in Lao, lack of access to extension and training, their poor access to basic services of water and sanitation, poor health, and heavy workloads both for income earning and food production.

10. In the Project area, there are ethnic minority communities living in both traditional and relocated villages, in the provinces of Bolikhamxay, Saravan, Savannakhet, and Vientiane, among the seven provinces covered by the Project. The Lao people belong to four ethno-linguistic groups. Tai Kadai, Austro Asiatic (Mon Khmer), Hmong Mien (Miao-Yao), and Sino Tibetan (Tibeto-Burman). The dominant ethnic group, (the Tai Kadai group), accounts for a much smaller proportion of the population in Lao PDR than in the neighboring countries. The minorities to be found in the project areas include the Mon Khmer group (Suay, Khmu), Hmong Mien (Hmong). Distinctive ethnic groups comprise about 70% of the population of Lao PDR. Among the Mon-Khmer, the Khmou are the majority subethnic group. The ethnic minority communities are among the poorest and suffer from prolonged periods of rice shortages ranging from three to eight months per annum.

11. During detailed social and poverty assessments carried out during project preparation it was found necessary to prepare an EMDF (Appendix ) and RF in order to safeguard the vulnerable groups against any negative impacts of plantation development. As the exact sites where SLPs, LIPs, and MEPs are to be developed still remain to be determined, after the setting up of the LPA, these frameworks will provide the fundamental principles upon which detailed ethnic minority development plans and resettlement plans are to be prepared, and entitlements

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<sup>3</sup> Bolikhamxay-71.2%, Champasak-19%, Khamouane-36%, Saravan-61%, Savannakhet-57%, Vientiane-33%, Xekhong-81%.

of affected persons and ethnic minority communities/households will be determined. The RF has been prepared to set out the process for ensuring that the rights of project affected persons (APs) are protected during implementation of resettlement activities if required, and if any APs or beneficiaries belong to ethnic minority groups that they are not disadvantaged by virtue of their ethnicity, or that social or cultural characteristics related to their ethnicity prevent them from enjoying project benefits.

12. Lao PDR policy emphasizes the multi-ethnic nature of the nation and in many ways works to reduce the discrimination against midland and upland minorities. The use of the “three-ethnic group” emphasizes the commonality of Lao nationality—“Lao First”<sup>4</sup> and is widely used in the country to refer to specific ethnicity. While there is participation in the political process with a number of ethnic minority people holding positions in government, there is not yet equal representation at all political levels when compared to their total numbers in the provincial populations. Often due to their remote location, the rural ethnic people have comparatively less access to government services such as health, education, agricultural extension, and infrastructure. Many development plans, including infrastructure, are not planned or implemented with ethnicity as the overriding variable. As a result, development impacts can inherently be marginalizing on the isolated and pre-market ethnic economies unless adequate mitigation measures are adopted and the potential beneficiaries are consulted in project planning and implementation. Further, the higher incidence of poverty in the rural north, particularly among minority groups, makes them more vulnerable socially and economically.<sup>5</sup>

13. In cases where resettlement or other project impacts will affect households that belong to ethnic minority groups, mechanisms to ensure that these households are not disproportionately affected and that ethnic minority villages/households affected by plantation development, can benefit, at least to the same degree as the predominantly Lao Loum villages, a community development plan for these villages will need to be prepared under principles enunciated also in the EMDF.

## **2. Resettlement Framework**

### **a. Review of Lao PDR Resettlement Laws and Regulations**

14. The Resettlement Policy Framework for ADB 10 has been built upon the laws of the Government, ADB’s *Policy on Involuntary Resettlement* (1995) and *Decree on Compensation and Resettlement*. This Project will be bound by the principles and conditions stated in this RP and principles adopted in this RF will supersede the provisions of relevant decrees currently in force in Lao PDR wherever a gap exists.<sup>6</sup>

15. In Lao PDR, compensation principles and policy framework for land acquisition are governed by several statutory laws; such as the Constitution (1991), Forestry Law (1996), Land Law (1997) and Road Law (1999), and the Decree no.192 on Resettlement and Compensation of 7 July 2005. The Land Law (No. 01/97) provides for the issuance of a Land Title, which attests provisional ownership rights to use agricultural as well as forestland.<sup>7</sup> Land titling is being

<sup>4</sup> “My Way and the Highway: Ethnic People and Development in the Lao PDR” M Milloy & M Payne in *Development or Domestication? Indigenous Peoples of Southeast Asia* (D McCaskill & K Kampe eds; Thailand; 1997).

<sup>5</sup> *Participatory Poverty Assessment of LAO PDR* (State Planning Committee, National Statistics Centre, & ADB; June 2001).

<sup>6</sup> Decree 192 on Compensation and Resettlement, dated 7 July 2005, fully meets the requirements of ADB’s Policy on Involuntary Resettlement.

<sup>7</sup> Articles 17-18 and 21-22 of the Land Law (No. 01), 1997.

undertaken in a number of towns, although as yet it has not reached the rural areas. More commonly held are Land Use Rights Certificates (often known as Form 01), which are declarations of land use for tax purposes and are considered as evidence of land use although they do not confer any land rights. In case of acquisition, those with Land Title and Form 01 holders (and for example, Survey Certificate, land tax receipts, residency certificate, customary land use rights)<sup>8</sup> receive compensation under the law (refer to Section 3.5.x). For this Project, all APs regardless of whether they have land title or certification or are unregistered, are entitled to compensation for losses caused by the Project.

16. People without any proof of ownership and/or certificates are considered “unregistered” users. The Land Law, however, provides mechanisms (for example, residency or use of the land by the unregistered user for at least two years) by which individuals can apply for certification.<sup>9</sup> While the Land Law ensures compensation for legal owners of properties under acquisition, they do not guarantee either replacement value of the acquired properties or restoration of income, or indeed provide for compensation to non-legal (but not illegal) users. This is now guaranteed by the Decree No. 192 of July 2005.

## **b. The Constitution**

17. Article 14 of the Constitution declares that the State protects and promotes all forms of state, collective, and individual ownership.

18. Article 15 declares that the land within the Lao PDR is owned by the national community and that the State ensures the right to use, transfer, and inherit it in accordance with the law.

19. Article 8 establishes the right of all ethnic groups to protect, preserve, and promote their customs and heritage. All acts of division and discrimination among ethnic groups are prohibited.

20. These principles of protection, property ownership and land use are further elucidated and defined in the Forestry Law (1996) and the Land Law (1997), both of which determine current resettlement policy. The Decree no 192 and the Land Law have the most significance for the Project.

## **c. Land Law**

### **i. General Provisions and Land Management**

21. The Land Law, which became effective on 31 May 1997, is the principal legislation by which the State exercises its constitutional responsibility for the management, preservation, and use of land. Several articles of this Law are relevant to issues of resettlement.

22. Article 3 of the Law reaffirms that all land in the Lao PDR is the property of the national community under the centralized and uniform management of the State. It provides that the land is entrusted for efficient use to individuals, families, and other entities. It specifically states that land may not be used as a tradable commodity. “Ownership,” thus, consists of the right to use land, and speculation in land is prohibited.

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<sup>8</sup> These certificates are issued at the district level.

<sup>9</sup> The “unregistered” users are thus not “illegal,” because such usage constitutes a process in the eventual ownership.

23. The constitutional rights of land users are protected by Article 5, which provides for state protection of the lawful interests of efficient, regular, and long-term users, and at the same time it guarantees their rights to possession, use, usufruct, transfer, and inheritance.

24. Article 11 classifies land into eight categories, and subsequent chapters of the Law are concerned with the management of each. The categories are: agricultural land, forest land, construction land, communications land, cultural land, defense, and security land, and water area land. For this Project, the two major categories of concern are unstocked forest land being used for livelihoods and agricultural land (i.e., land permanently improved for agricultural purposes) and construction land (i.e., land designated for dwellings and other buildings).

## **ii. Land Registration and Certification**

25. Article 43, refers to the certification of the lawful land use rights of persons or entities. There are two land registration methods (Article 44) by which individuals can register the land which they are using lawfully. Firstly is systematic land registration, which is carried out throughout a particular designated area where land allocation, zoning, or classification is required. Systematic registration confers a Land Title. Secondly, persons or entities can make application to certify their right to use certain land. This is done through issue of a Survey Certificate. These are the documentary evidence of the long-term rights to use land. This certificate has been called a "Land Title" in several translations and documents, however, land ownership is retained by the State and the right of use can be forfeited if land is not used efficiently (Article 62), and therefore these do not constitute a land title, per se.

26. There are two types of certification. Firstly under Article 48, there are the documents that certify the temporary right to use agricultural or forest land which are issued at the district level. These are known as Temporary Land Use Certificates (TLUCs) and can be inherited, but cannot be transferred or used as collateral. The second type of certification (Article 49) is the declaration of the land use for the purposes of levying a land tax from the user. This is often referred to as the Form 01 and is also not transferable or accepted as collateral. A common misconception is that Form 01 is a type of title, but it is not.

27. Persons entitled to use the land, have the following rights: to keep the land for a specific purpose, to use the land in accordance with the State's management plans, to enjoy usufruct from the land, to transfer the right of land use, and to bequeath the right of land use.

## **iii. Unregistered Land Users**

28. The Land Law does not specifically address itself to unregistered land users. It does, however, provide the registration and certification methods described above by which individuals can register the land which they are using lawfully. Article 81 further provides that persons or entities that are lawfully keeping, using, and developing land with efficiency will be awarded the right to use that land, all other conditions being met.

## **iv. Compensation**

29. Article 63 states that the right of land use shall terminate either through voluntary relinquishment of the land or if the State retrieves the land for public purposes. This is applicable to the Project, in which unstocked forest land which may be used by local

communities for extraction of nontimber forest products (NTFP) for livelihoods, may be allocated for LIP/MEP development.

30. Compensation is treated in Articles 67 to 71 of the Land Law. For the Project Articles 70-71 are relevant. Article 70 states that when the use of land belonging to other persons or organizations becomes necessary for the public interest, the State will compensate any damage suffered by the rightful user of the requisitioned land, as appropriate. Furthermore, the Law requires that each village, province, municipality, or special zone keep 5% of its total land area in reserve to ensure the compensation of requisitioned land.

31. Evaluation of the damage is provided by Article 71, which states that the evaluation will be done by a committee composed of representatives of the various concerned parties.

v. **Decree On Compensation and Resettlement no 192, dated 7 July 2005<sup>10</sup>**

**DECREE**  
on  
**Compensation and Resettlement for Development Projects**

- Pursuant to the provisions of the law of the government of the Lao Peoples
- Democratic Republic number 02/NA dated 6<sup>th</sup> May 2003.
- Pursuant to the Request of Prime Minister's Office, Head of Cabinet Science Technology and Environmental Agency number 1116/STEA.PMO dated 3 June 2005.

**The Prime Minister**

**PART I**

**I. GENERAL PROVISIONS**

**Article 1 Objectives**

This decree defines principles, rules, and measures to mitigate and compensate adverse social impacts that result from involuntary acquisition or repossession of land and fixed or movable assets, change in land use, restriction on access to community or natural resources affecting community livelihood and income sources This decree aims to ensure that Project Affected People benefit from the Project and are compensated and assisted to improve their pre-project incomes and living standards, and are not worse off than they would have been without the Project.

**Article 2 Scope of Application**

This decree covers all development projects including government or domestic or foreign or private development projects, regardless of source of funding, when the projects require acquisition of land or land use rights or possession rights or fixed or immovable assets, change in land use rights or restriction of the use of resources that affect the livelihood or income of the people.

**Article 3 Definitions**

1. **Project Owners** mean individuals, entities or organizations that have approvals to undertake feasibility study, survey, design, construct or operate development projects. Project Owners could be private or public sector or joint venture between the government and private sector.

2. **Compensation** means payment in cash or in kind for an asset to be acquired or affected by projects at Replacement Cost.

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<sup>10</sup> This English translation is not an official one, as the official English translation is not yet available.

3. **Replacement Cost** is the amount in cash or in kind needed to replace an asset, including lands, houses, infrastructure or assets on the lands such as crops and trees, and other assets such as income, affected by the development projects.

4. **Project commencement date** means the date when Project Owners undertake a census to identify Project Affected People within the project boundaries, and when the Project Owners inform the Project Affected People 30 days prior to the registration as Project Affected People. People who are not registered as Project Affected People shall not be entitled to Compensation or other rights.

5. **Project Affected People** includes any person or entity or organization affected by a project, who in the context of acquisition of assets or change in land use before the project commencement date, would have their:

- (i) Standard of living adversely affected;
- (ii) Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land), water resources, or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected;
- (iii) Business, occupation, place of work or residence, or habitat adversely affected, with or without displacement; or
- (iv) Community resources adversely affected.

6. **Rehabilitation** means assistance provided to Project Affected People seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of Compensation for acquired assets in order to improve, or at least achieve full restoration of living standards and quality of life to pre-project level.

7. **Resettlement** refers to all measures taken by the Project Proponent to mitigate any and all adverse social impacts of a project on the Project Affected People, including Compensation for lost assets and incomes and the provision of other entitlements, income restoration assistance, and relocation, as needed.

8. **Social Assessment or Social Impact Assessment** means a framework for incorporating social analysis and participatory process in project design and implementation.

9. **Vulnerable Groups** are distinct groups of people who might suffer disproportionately or face the risk of being marginalized from the effects of Resettlement and specifically include:

- (i) divorced or widowed female headed households with dependents and low income,
- (ii) households with disabled or invalid persons,
- (iii) households with persons falling under the generally accepted indicator for poverty as defined by the ministry of labor and social welfare, or the landless
- (iv) elderly households with no means of support;

#### **Article 4 Obligations of Project Owners to Address Adverse Social Impacts**

When development projects have potential to cause adverse socio-economic impacts, Project Owners shall:

- (a) In collaboration with the concerned local governmental authorities and concerned organizations, carry out necessary surveys and field investigations, identify affected communities, prepare inventory of impacts by types and degree, determine entitlements to mitigation measures including Compensation for affected assets, other assistance and support, relocation and income rehabilitation measures, prepare necessary planning documentation and, upon approval of the same, provide adequate resources to implement such measures in an efficient and timely manner in accordance with the provisions of this decree, to ensure the improvement of their socio-economic situation;
- (b) Make every attempt so that displacement and other direct adverse impacts on peoples' assets and income are avoided or, if unavoidable, minimized by examining all design options available to the project;
- (c) Be responsible for the timely provision of adequate budget for all aspects of planning, implementing, monitoring and evaluating all Resettlement and Compensation activities;
- (d) Pay particular attention to the needs of the poorest Project Affected People, and Vulnerable Groups that may be at high risk of impoverishment. Appropriate assistance must be provided to help them improve their socio-economic status; and
- (e) Ensure that the Resettlement process is carried out through a meaningful involvement of project-affected communities, and their existing social and cultural institutions are supported to the greatest extent feasible.

### **PART II ELIGIBILITY**

#### **Article 5 Eligibility for Compensation, Resettlement, and Rehabilitation Assistance**

1. All individuals and entities residing, cultivating or making a living within the area to be acquired for a project as of the formally recognized cut-off date would be considered as project affected persons (Project Affected People) for purposes of entitlements to Compensation, Resettlement and Rehabilitation assistance in accordance with the provisions of this Decree.

2. People who are not living within the project areas, but have land and buildings in the project areas, shall also be entitled to Compensation, Resettlement, and Rehabilitation assistance.

## **PART III ENTITLEMENTS**

### **Article 6 Compensation Principles**

1. Project Owners shall compensate Project Affected People for their lost rights to use land and for their lost assets (structures, crops, trees and other fixed assets, affected in full or in part, at Replacement Cost.

2. Where significantly large or entire land holding affected by a project, the general mechanism for Compensation for affected agriculture, residential or commercial land shall be through provision of "land for land" arrangements of equivalent size and productivity and at location acceptable to Project Affected People and Project Owners.

3. If the house or structure is only partially affected by the Project and the remaining structure is unviable for continued use or the remaining area is less than the minimum house size at prevailing standards, the AP shall be entitled to be compensated for the entire structure at full Replacement Cost without depreciation or deduction for salvaged materials. In case the remaining structure is viable for continued use, Project Owners shall provide Compensation for the lost portion and assistance in cash or material for restoration of the remaining structure.

4. Project Affected People whose land or assets are temporarily taken by the works under the project shall be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The Project Owners shall also ensure that the land and structures are returned in its pre-project state.

5. Tenants, who have leased a house / structures for residential or other purposes and are affected by the project, shall be provided with cash assistance equivalent to three months rental allowance, and shall be assisted in finding alternative rental accommodation.

6. Project Affected People who are living in rural or remote areas, who do not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy shall be compensated for their lost rights to use land and for their other assets at Replacement Cost and provided additional assistance to ensure that they are not worse off due to the project. Project Affected People in urban areas who do not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land, and who do not have any other land, will be compensated for their lost rights to use land and for their other assets at Replacement Cost and provided additional assistance to ensure they are not worse off due to the project.

7. All Project Affected People, regardless of land use right, will be entitled to compensation for lost assets (structures, crops, trees) at replacement cost, and provided with other assistance and allowances during the transition period, and economic rehabilitation assistance to ensure that they are not worse off due to the project.

8. All previous claims and unresolved issues related to tenure status and ownership of land and other assets affected by the sub-project or components shall be resolved prior to initiating any new land acquisition measures on the respective sub-project or component.

9. Before provision of Compensation, Project Owners shall establish a joint committee, with representatives from all stakeholders, to assess the loss to Project Affected People.

10. Prior to the commencement of project construction, Project Affected People shall be fully compensated and resettled and Rehabilitation measures shall be in place, .

#### **Article 7 Assistance during Relocation and Transition Period**

1. Project Affected People displaced and/or severely affected due to the loss of income and livelihood shall be provided with the following assistance until their income levels and living conditions can be stabilized:

- (a) Transport allowance or assistance in kind to transfer to the Resettlement site or their choice of relocation, as the case may be;
- (b) Food allowance and allowance for loss of income, in cash or in kind, during the transition period;
- (c) Suitable development assistance after displacement during the transition period until they are able to restore their incomes or living standards or reach the targeted level of household incomes on a sustainable basis.

#### **Article 8 Economic Rehabilitation**

1. All Project Affected People severely affected by the Project due to loss of 20% or more of productive income generating assets (loss of agricultural, industrial or commercial land), means of livelihood, income, employment or business and access to community resources shall be entitled to income restoration measures in addition to their entitlement for Compensation and other allowances enabling them to attain, at a minimum, pre-project livelihood levels on a sustainable basis.

2. For displaced persons whose land-based livelihoods are affected due to the project, preference shall be given to land-based Resettlement strategies, or where land is not available, non-land-based options built around opportunities for employment or self-employment.

3. For displaced persons whose businesses are affected due to the project, in addition to Compensation for lost land, structures, and income, assistance shall be given to finding replacement sites with comparable commercial advantage.

4. These Rehabilitation measures shall specifically focus on Vulnerable Groups. Adequate assistance, in addition to Compensation for affected assets and other allowances, shall be provided such that their economic and social wellbeing can be improved and to enable such Project Affected People to achieve household income targets set above the national poverty line.

#### **Article 9 Community Services and Resources**

1. Project Owners shall restore or repair community facilities and infrastructure that are damaged due to the project, at no cost to the community.

2. Any acquisition of, or restriction on access to resources owned or managed by affected community as a common property shall be mitigated by arrangements ensuring access to improved or at least equivalent resources or alternative sources of livelihood on a continuing basis. Attention shall also be paid to ensure that directly affected Project Affected People get

due share of such benefits, corresponding to their personal losses from loss of access to common property resources, if any.

#### **Article 10     Resettlement Site Development**

1. All persons relocating to group Resettlement sites shall be provided with suitable housing or developed housing lots, shop lots if businesses are affected, agricultural sites of equivalent size, with productive potential and locational advantages better or at least equivalent to the old site. Replacement land, house/business plot shall be as close as possible to the land that was lost and/or acceptable to the project-affected people. Group resettlement sites shall be developed with water supply, sanitation, drainage, with internal and access roads, and access to electricity. When it is necessary they may be provided other forms of assistance from Project owners such as public health and education.

2. All replacement land for agriculture, residential and businesses shall be provided with secured land titles and certificates and without any additional cost, sales taxes, fee, and surcharge to the Project Affected People at the time of transfer. Construction lands shall be allocated in accordance to regulations and standard procedures in urban planning.

3. Project owners shall take responsibility to develop resettlement sites in order to avoid or mitigate adverse social and environmental impacts to the surrounding areas.

4. Where relocation to a group resettlement site is considered necessary, Project owners shall mitigate the adverse impacts on host community and shall provide appropriate compensation and assistance to host community similar to the project-affected persons.

### **PART IV     FUNDAMENTAL COMPONENTS OF COMPENSATION AND RESETTLEMENT**

#### **Article 11     Local Culture & Practices**

1. During planning, construction and operation periods, Project owners shall consider, and to the extent possible preserve, local, cultural and religious properties, practices and beliefs.

2. Where local communities or individuals elect to make voluntary contribution of affected land without Compensation in accordance with traditional practices, this shall be acceptable only if the impacts on their assets are marginal (affecting less than 20% of productive income generating assets) and do not result in displacement; incomes, employment and businesses are not affected; Project Affected People are fully aware of their entitlements.

3. Project owners shall define mitigation measures and socio-economic benefits to improve status of ethnic minority communities and shall be in harmony with their cultural preferences and shall be decided in consultation with affected communities.

**Article 12 Public Participation and Consultation**

1. The Project Owners shall implement the Resettlement program in a participatory manner ensuring that Project Affected People, local authorities and other stakeholders are fully informed and consulted and that their concerns are taken into account at all stages of the project cycle, particularly during the planning and implementation phases of the land acquisition, valuation and resettlement process.

2. Project Owners shall make concerted efforts for an effective public dissemination of information about the policy objectives of the project and the compensatory package that is part of the resettlement process, through the mass media such as newspapers, radio, TV or public meeting and other means to inform local authorities at provincial, district and village levels and mass organizations, Project Affected People and other concerned people as necessary.

**Article 13 Grievance Redress Mechanism**

1. Project Owners shall establish an effective mechanism for hearing and grievance redress during the Resettlement planning and implementation in a project.

2. In grievance redress process, the Project Owners in consultation with concerned government authorities shall establish a Grievance Redress Committee to address complaints and grievances pertaining to land acquisition, Compensation and Resettlement.

3. Grievances related to any aspect of the project or subproject shall be handled through consultations conducted in a transparent manner and aimed at resolving matters through consensus at the project level before complainants forward these to higher level and ultimately to the court of law. The project authorities will document all complaints received in writing (or written when received verbally) from the Project Affected People.

4. Project Affected People will be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures. In case the complaints are forwarded to the court of law, all costs for pursuing such cases in the court of law must be borne by the project.

**Article 14 Resettlement Cost and Budget**

1. In each Resettlement Plan, Project Owners shall include detailed cost estimates for Compensation and other Resettlement entitlements and relocation of Project Affected People, if that be the case, with a breakdown by category of Project Affected People by type and degree of impacts. The cost estimates will also include the cost of monitoring and evaluation; management and administration; and other cost related to the project impacts; and adequate provisions for contingencies.

2. Total estimated cost of Resettlement Plans shall be included in the cost of the project. In the case of cost overruns due to unforeseen circumstances or delays, the project authorities/owners shall allocate additional funds as may be necessary.

## **Article 15 Reporting and Documentation**

1. The Project Owners shall provide reports and documents to responsible government authorities to consider. Those reports and documents should have description of the project and shall include:

- (a) Name of Project Owners
- (b) Project type;
- (c) Project scale and location;
- (d) Project objectives;
- (e) Number and sources of labor that will be use during construction and operation period;
- (f) Estimate number of people who will be affected by the project and types of impacts;
- (g) Estimate social costs and benefits of the project;
- (h) Impact mitigation measures.

2. After screening of the project reports and documents and it seems that the project will cause adverse social impacts, the Project Owners shall carry out necessary studies and field investigations including census, inventory of lost assets and socio-economic baseline surveys, and prepare the following reports and documents on social impacts and submit to concerned government authorities for approval:

- (a) Initial Social Assessment/ Land Acquisition Assessment and assets losses
- (b) Social (Impact) Assessment
- (c) Land Acquisition and Compensation Report
- (d) Resettlement Plan
- (e) Ethnic Minority Development Plan

3. The procedure and methodology on social impact assessment will be defined in detailed regulations and guidelines on Compensation and Resettlement.

4. In submitting the reports and documents, Project Owners shall:

- (a) When the project is a government-financed project, the Project Owners shall present the document to the Science, Technology and Environment Agency at central level for review and approval;
- (b) When the project is domestic or foreign privately owned or joint venture between the government and private sector, the documents shall be sent first to the concerned ministry and local authority to consider and then the ministry shall forward the documents to the Science, Technology and Environment Agency for final review and approval.

## **Article 16 Monitoring and Supervision**

1. Project Owners shall make adequate arrangements for monitoring of the implementation of the Compensation, Resettlement and Rehabilitation measures.

2. In projects with major Resettlement component where there are Severe Impacts, the Project Owners shall contract an experienced and independent external monitoring agency for monitoring of the implementation of the Compensation, Resettlement, and Rehabilitation measures.

3. The Project Owners shall make provisions for post-evaluation six months to one year after completion of the implementation Resettlement and Rehabilitation measures, to check whether the economic Rehabilitation objectives of the Resettlement Plan have been achieved.

4. If the evaluation indicates that the Project Affected People have not been able to achieve the stated objectives and income targets, Project Owners shall make arrangements for provision of additional assistance to meet the stated objectives.

## **PART V REWARDS AND SANCTIONS**

### **Article 17 Rewards and Sanctions**

1. Ministries and government agencies have responsibilities to consider appropriate rewards to people who have high achievement in the implementation of Compensation, Resettlement, and Rehabilitation programs, or to give sanctions like warning, fine, and punishment on those who do not comply with this decree and concerned regulations.

## **PART VI FINAL PROVISIONS**

### **Article 18 Implementation**

1. Ministries, ministerial equivalent agencies, and The Science Technology and Environment Agency have mandate to issue decisions, order, instructions, or notification on the implementation of this decree;

2. Ministries, ministerial equivalent agencies, and local authorities who have responsibility for the supervision of development projects shall strictly comply with their roles and mandate;

3. The Science, Technology and Environment Agency is assigned to provide and coordinate with concerned sectors and local authority in the implementation of this decree strictly.

### **Article 19 Effectiveness**

The provisions of this Decree are effective from the date of signature and any previously issued regulations, guidelines, etc., which are in conflict with the provisions of this Decree are hereby annulled.

**Signed**

**Prime Minister**

## II. ADB Policies on Resettlement<sup>11</sup>

### 1. Policy on Involuntary Resettlement

32. ADB's policy and guidelines must also be followed in all of the Bank's operations. The guiding principle of ADB's *Policy on Involuntary Resettlement* (approved in November 1995) and also set out in the *Handbook on Resettlement: A Guide to Good Practice* (1998) is that APs should be "...compensated and assisted so that their economic and social future will generally be at least as favorable with the project as without it".

33. ADB's Policy also stipulates that the absence of formal legal title to land by some affected groups should not be a bar to compensation and that "*particular attention should be paid to the needs of the poorest affected persons including those without legal title to assets, female-headed households, and other vulnerable groups, such as indigenous people, and appropriate assistance provided to help them improve their status.*"

### 2. Resettlement and Compensation Basic Principles

34. The basic principles of the Project are:

- (i) Involuntary resettlement and loss of land, structures and other assets and incomes shall be avoided and minimized by exploring all viable options.
- (ii) APs shall be provided with compensation for their lost assets, incomes and businesses, and provided with rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income levels and productive capacity.
- (iii) Lack of legal rights to the assets lost will not bar the affected persons from entitlement to such compensation and rehabilitation measures.
- (iv) Replacement of affected assets shall be provided at their current market values and without deduction for depreciation.
- (v) Preparation of resettlement plans (as part of LIP/MEP preparation) and their implementation shall be carried out with participation and consultation of affected people.
- (vi) Schedule of budget for resettlement planning (including socio-economic survey/census) and implementation must be incorporated into those of each LIP/MEP proposal and the overall project.
- (vii) Payment of compensation or replacement of affected assets and any resettlement to new locations must be completed prior to allocation of land for LIP/MEP development. Rehabilitation measures must also be in place, but not necessarily completed, as these may be ongoing activities.
- (viii) Compensation and rehabilitation assistance for ethnic minorities, and socially disadvantaged such as households headed by women, the disabled and elderly will be carried out with respect for their cultural values and specific needs.

### 3. Resettlement and Compensation Project Policies

35. For the implementation of the above principles, the following policies shall apply:

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<sup>11</sup> For GOL and ADB policies on Indigenous Peoples please refer to the EMDP for the Project.

- (i) Land acquisition and involuntary resettlement will be avoided where feasible or minimized by identifying among possible alternative project designs, appropriate social, economic, operational and engineering solutions that have the least adverse impacts on populations in the Project area.
- (ii) Where population displacement is unavoidable, individuals, households and communities losing assets, livelihood and other resources will be fully compensated and assisted so that they can improved or at least restore their former economic and social conditions.
- (iii) Compensation and rehabilitation support will be provided to any APs, includes any person or persons, household (sometimes referred to as project affected family), a firm, or a public or private institution who, in the context of acquisition or repossession of assets or change in land use, as of the cut-off date, on account of the execution of the Project, or any of its subcomponents or part, would have his, her, or their;
  - Standard of living adversely affected;
  - Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land, trees, standing crops), or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected;
  - Income earning opportunities, business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected temporarily or permanently, with or without displacement;
  - Social and cultural activities and relationships and other losses that may be identified during the process of resettlement planning.
- (iv) The last day that the detailed measurement survey will be carried out as part of the planning process for the LIPs/MEPs will be the cut-off date for compensation eligibility for physical assets for the Project plantation development
- (v) Where significantly large or entire land holdings are affected by a project, the general mechanism for compensation for affected agriculture, residential or commercial land shall be through provision of "land for land" arrangements of equivalent size and productivity and at location acceptable to the AP.
- (vi) If a house or other structure is only partially being affected by the Project and the remaining structure is rendered unviable for continued use or in area less than the minimum relevant structure size under the prevailing standards, the AP shall be entitled to surrender the entire structure and to compensation for the entire structure at full replacement cost without depreciation or deductions for salvaged material. In case the remaining house or other structure is viable for continued use, APs shall be entitled to assistance in cash or material for restoration of the remaining structure in addition to the compensation at replacement cost for affected portion.
- (vii) APs whose land or assets are temporarily taken by the works under the project shall be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The project authorities shall also ensure that the land and structures are returned in its pre-project state.
- (viii) Compensation of affected populations dependent on agricultural activities will be land-based wherever possible, with cash compensation avoided as an option as this may not address losses that are not easily quantified, such as access to services and traditional rights, and may eventually lead to those populations being worse off than without the Project.

- (ix) Affected populations that stand to lose only part of their physical assets will not be left with a proportion that will be inadequate to sustain their current standard and convenience of living; such a minimum size being identified and agreed during the resettlement planning process.
- (x) Affected populations will be systematically informed and consulted about the Project, the rights and options available to them and proposed mitigating measures, and to the extent possible be involved in the decisions that are made concerning their resettlement.
- (xi) The consultative process will include not only those affected, but also representatives of the local governments of the areas in which the Project is located, leaders of host communities, civil society organizations such as nongovernment organizations, and members of local mass organizations (such as Women's Union, Youth Organization, LFNC, and members of local ethnic minority communities). Any RP must consider the needs of those most vulnerable to the adverse impacts of resettlement (including the poorest, ethnic minorities, women, children, and the elderly) and ensure they are considered in the formulation of RP and in the options and mitigation measures identified.
- (xii) Adequate budget support by the LPA will be fully committed and made available to cover the compensation and resettlement with the agreed implementation period. Clear budget commitments are required for critical activities such as formal detailed physical surveys and administrative functions associated with compensation and resettlement.
- (xiii) Replacement lands shall preferably be within the immediate vicinity of the affected lands and of comparable productive standards and potential, failing which sites should be identified that minimize the social disruption of those affected; such lands should have access to services and facilities similar to those available in the lands affected.
- (xiv) Displaced households shall be assisted with the move and supported during the transition period at the resettlement site so that they do not have to bear any of the displacement and relocation costs.
- (xv) Organization and administrative arrangements essential for the effective implementation of the RP will be identified and in place prior to the commencement of the process; this will include provision of adequate human resources for supervision, liaison, and monitoring of land acquisition and rehabilitation activities.
- (xvi) Appropriate reporting (including auditing and redress functions), monitoring and evaluation mechanisms will be identified and set in place as part of the resettlement management system.
- (xvii) The award of civil works contracts will be given "no objection" after the evaluation of resettlement plan implementation by the LPA has been cleared by ADB noting that the Government has completed satisfactorily and in accordance with the principles set out above and the approved resettlement plan compensation payment and resettlement, and ensured rehabilitation assistance is in place and the area for the civil works has become clear of all encumbrances.
- (xviii) Community facilities and infrastructure damaged due to the Project, the project proponents/developers shall be restored or repaired as the case may be, at no cost to the community.
- (xix) Any acquisition of, or restriction on access to resources owned or managed by affected community as a common property shall be mitigated by arrangements ensuring access to improved or at least equivalent resources on a continuing basis. Attention shall also be paid to ensure that directly affected APs get due

- share of such benefits, corresponding to their personal losses, if any, that accrue to community on a collective basis.
- (xx) No resettlement activities, including the detailed measurement survey after detailed design, shall begin until after the LPA's social impact specialists/community development specialist consultants have mobilized.
- (xxi) Economic Rehabilitation
- All APs severely affected by the Project due to the loss of productive assets (unstocked forest, agricultural, commercial or industrial land), means of livelihood, incomes, employment or businesses, and access to community resources will be entitled to rehabilitation measures including income restoration programs, agricultural extension assistance, over and above their entitlements for compensation and other allowances, enabling them to attain, at a minimum, pre-project livelihood levels on a sustainable basis.
  - These rehabilitation measures would specifically focus on vulnerable groups such as female-headed households, disabled-headed households, itinerant workers, households falling below the national poverty line, elderly households with no means of support and landless households. Adequate assistance, in addition to compensation for affected assets and other allowances, will be provided such that their economic and social well-being can be improved and to enable such APs achieve household income targets set above the national poverty line.
  - For displaced persons whose land-based livelihood is affected due to the Project, preference shall be given to land-based resettlement strategies.
- (xxii) Where local communities or individuals elect to make voluntary contribution of affected land without compensation in accordance with traditional practices, this shall be acceptable only if the following safeguards are in place:
- Full consultation with landowners and any non-titled affected people on site selection;
  - Ensuring that voluntary donations do not severely affect the living standards of affected people, and are linked directly to benefits for the affected people, with community sanctioned measures to replace any losses that are agreed to through verbal and written record by affected people;
  - Any voluntary "donation" will be confirmed through verbal or written record and verified by an independent third party such as a designated nongovernment organization or legal authority; and
  - Having adequate grievance redress mechanisms in place.

#### **4. Eligibility and Entitlement**

36. The primary objective of an RP is to provide the framework for compensation for lost assets and resettlement of APs. The RP identifies (i) the extent of losses; (ii) the policy and legal framework for compensation and resettlement; (iii) institutional framework for participation and implementation; (iv) provision for employment and poverty reduction; and (v) responsibilities for monitoring the implementation measures.

37. The resettlement activities of the Project will be carried out in consultation with the APs and all efforts will be made to minimize disruption during the project implementation.

38. A census will be conducted once the details of LIP/MEP sites have been identified/designed. A detailed measurement survey (DMS) will be undertaken in tandem with the surveys and verification of detailed planning when the area and boundaries of lands designated suitable for LIP/MEPs is marked out. Affected villages will be informed in advance of the DMS which can be undertaken concurrently with land survey for the LIPs/MEPs. On completion of the DMS, APs will be given 14 days to review and confirm (or otherwise) the amount and type of loss they will incur and the compensation to which they are entitled. Persons who encroach onto the ROW after the cut-off date will not be entitled to compensation or any other form of resettlement assistance.

39. General eligibility is defined as:

*“All people residing, cultivating or making a living within the area to be acquired for a project as of the formally recognized cut-off date should be considered as project affected persons (APs) for the purposes of entitlements to compensation, resettlement and rehabilitation assistance in accordance with the policy, and lack of legal Land Use Certificate or any acceptable proof indicating land use right to the land or structure affected by the project should not bar any person from such entitlement/assistance.”*

40. In line with this definition, APs for the purpose of any RP to be prepared for subprojects under the Project include the following persons who will be identified during the census and will be confirmed during the DMS:

- (i) Persons or households whose **agricultural, residential, or commercial land** is in part or in total affected (temporarily or permanently) by the Project;
- (ii) Persons or households whose access to forest lands (for livelihoods) to be allocated for plantation development is in part or in total affected by the project
- (iii) Persons or households whose **houses and other structures** are in part or in total affected (temporarily or permanently) by the Project;
- (iv) Persons or households whose **businesses or source of income** (i.e. employment) are affected (temporarily or permanently) by the Project;
- (v) Persons or households whose **crops (annual and perennial) and trees** are affected by the Project; and
- (vi) Persons or households whose **other assets** are in part or total affected (temporarily or permanently) by the Project.

## 5. Project Impacts and Entitlements

41. Entitlements for each type of AP are based on the types and levels of losses. The Entitlement Matrix for the project is shown in Table 9.

### A. Land

#### 1. Temporary Loss of Agricultural, Residential, or Commercial Land and Access to Forest Lands for NTFPs: Compensation for damages during the plantation development period

- (i) Extreme care shall be taken by LIP/MEP developers to avoid damaging property. Where damages do occur, the contractor will be required to pay compensation immediately to affected families, groups, communities, or government agencies. Damaged property will be restored immediately to its former condition.

- (ii) For loss of use of land for a period less than one year (e.g. during construction).
  - No compensation for land if returned to original user and in original or better condition. Restoration of agricultural land to its previous or better quality by providing measures to improve land quality;
  - Cash compensation for loss of crops and trees at market prices and compensation for loss of net income from subsequent crops that cannot be planted for the duration of the temporary use arrangements; and
- (iii) If the disruption is more than 1 year, APs have an option to (a) continue the temporary use arrangements or (b) sell affected land to the project at full replacement cost.
- (iv) If access to forest lands for NTFP collection for livelihoods is disrupted, alternative land with similar tree cover and NTFP yields will be identified at if possible, within reasonable distance from the community. If not, assistance to compensate for lost livelihoods will be provided during the period of disruption of access.

## **2. Permanent Loss of Agricultural, Residential, and Commercial Land**

### **a. Agricultural Land**

- (i) Compensation will be through the provision of “land-for-land“ of equal productive capacity of the lost land satisfactory to APs;
- (ii) Cash compensation for loss of crops and trees at market prices; and
- (iii) Farmers who lose 10% or more of their total agricultural landholding, and are therefore severely affected, will in accordance with OMF2, be entitled to a transition subsistence allowance and rehabilitation assistance such as agricultural extensive assistance to increase productivity on remaining land.

### **b. Residential and Commercial Land**

- (i) Compensation will be through the provision of “land-for-land” of equivalent size satisfactory to APs;
- (ii) If the residential or commercial land and/or structure is partially affected by the project and the remaining residential land is not sufficient to rebuild the structure lost, then at the request of the APs, the entire residential land and structure will be acquired at replacement cost without depreciation;
- (iii) When the only vacant land available in a village is not suitable for residential or commercial construction, the Project will provide earthmoving equipment to create viable homestead plots.
- (iv) Commercial Land—compensation will be through the provision of alternative business or commercial site of equal size and accessibility to customers satisfactory to APs.

## **3. Houses and Structures**

42. All houses and other structures including simple shops and rice bins—regardless of construction standard—must be rebuilt. Owners of structures will receive compensation in cash or kind at replacement cost for the structure. All relocating APs will receive allowances to assist them during the transition period [refer to item (8)].

## **4. Crops and Trees**

- (i) Cash compensation for loss of crops and trees at current market value; and
- (ii) Compensation for crops will be based on the anticipated harvest at market value while compensation for trees will be based on the type, age and productivity. Compensation for standing crops will be paid at market value expected at harvest, regardless of the maturity of the crop; and
- (iii) Compensation for perennial trees—a lump sum amount for young non-bearing fruit trees to cover the cost of maintenance and inputs; and for fruit bearing trees, cash compensation for three years' production value at the current market value.

## **5. Loss of Common Property Resources**

43. The effects on common property resources will be compensated through affected land being replaced through consultation; and restoration of affected community buildings and structures will be made to original or better condition.

## **6. Temporary Loss of Business**

44. The owner of businesses or shops affected will be entitled to cash compensation for loss of business during the period of dismantling, moving, rebuilding, and re-establishing their business at the new location. For informal businesses, cash compensation equivalent to the provincial daily wage rate for the transition period.

45. For formal businesses, cash compensation for the lost income during the transition based on tax declaration.

## **7. Loss of Workday Income**

Heads of households with structures affected will be entitled to compensation for loss of workdays during the period of dismantling, moving, and rebuilding their structures. The amount will be equivalent to the provincial daily wage rate for the transition period.

## **8. Transition Allowances**

46. Several different types of allowances will be provided during the transition period while households and livelihoods are being re-established: materials transportation allowance, transition subsistence allowance, repair allowance, and special allowance for loss of business.

- (i) Materials transport allowance: assistance in cash or kind to move structures, salvaged and new building materials, and personal possessions;
- (ii) Transition subsistence (i.e. food) allowance preferably payable in kind, but where this is not logistically possible and at the specific request of APs, this allowance may be given in cash:
  - Relocating households whose income is affected or severely affected farmers who lose 10% or more of their total productive land will be entitled to 6 months supply of rice per person in the household.
  - Relocating households whose income is not affected will be entitled to 3 months supply of rice per person in the household.
- (iii) Repair allowance: APs whose structures are only partly affected and the remaining part is viable for continued use will be entitled cash payment, over and above their compensation for affected part of structures, to cover the cost of repair of remaining structure. The amount should be sufficient to cover whole cost of repairs and may vary with the type of structure affected. Temporary

structures will need relatively modest amount while the allowance for a permanent multi-storied structure will be significantly large.

## **9. Rehabilitation Assistance**

- (i) Severely affected farmers would be entitled to agricultural assistance to improve productivity on their remaining or new land.
- (ii) APs affected by severe loss of other productive assets (commercial land, shops, business premises), income and employment due to the Project would be entitled to rehabilitation assistance in addition to their entitlements to compensation allowances. Shops and businesses would be assisted to relocate to similarly advantageous locations. All lost income would be compensated during the transition period.

47. The Entitlement Matrix, Table 9, provides further details regarding the application of the policy, eligibility, entitlements, and implementation responsibilities.

## **10. Compensation for Damages During Construction**

48. Extreme care shall be taken by contractors to avoid damaging property. Where damages do occur, the contractor will be required to pay compensation immediately to affected families, groups, communities, or government agencies. Damaged property will be restored immediately to its former condition.

## **11. Other Assistance**

49. Vulnerable households would be provided special assistance, in accordance with the needs identified during the DMS, to ensure that they are able to reestablish themselves and improve their income levels. Assistance will also be available through implementation of the measures included in the ethnic minority development plan to be prepared under the EMDF of the Project.

## **6. Policy on Community Development for Ethnic Minority Groups**

50. The project policy, in-keeping with ADB's *Policy on Indigenous People*, requires that if the social assessment determines that ethnic minority groups in the Project area are likely to be significantly and adversely affected by the LIPs/MEPs, or that in the development of the LIPs/MEPs, ethnic minority groups might be disadvantaged or vulnerable because of their social or cultural identity, an ethnic minorities development plan addressing the specific ethnic minority groups, their concerns and needs, and the socioeconomic issues that are significant must be prepared, in keeping with the EMDF prepared under the Project.

51. For example, where LIPs/MEPs include areas with ethnic minority groups that have low levels of literacy, education and skills compared with the Lao Loum in the Project area, an assessment must be undertaken to determine if and how this is likely to disadvantage them, to act as a constraint on their ability to enjoy Project benefits from improved access to marketing opportunities, or to leave them vulnerable to an influx of people from outside associated with the development of LIPs/MEPs This is the type of risk that will trigger ADB's safeguard policy in respect of indigenous people and require the identification of measures to mitigate such risks.

52. If there is any doubt that as to whether an EMDP needs to be prepared for any of the project plantations, a summary of information pertaining to the specific ethnic minority groups in the area of each LIP/MEP shall be forwarded to the ADB's Resettlement/Ethnic Minority Specialists for the Project, for advice.

53. The types of information to be included in the summary would include:

- (i) Numbers of Lao Theung and Lao Sung people or households in the Project area,
- (ii) The proportion of ethnic minority people or households of Project area population,
- (iii) Main issues facing ethnic minority development in the Project area, and
- (iv) A summary of the main anticipated impacts of the development of LIPs/MEPs

Table 5: Entitlement Matrix

Type of Loss	Identification of APs	Entitlement
Permanent loss of land—agricultural or orchard	All land owners and users	(a) For severe impact (i.e. 10% or more of total productive land area lost), full title to replacement land of equal productivity at a location acceptable to APs wherever available and transition subsistence allowance and income restoration (agricultural extension assistance); or (b) For marginal losses (i.e. less than 10% of total productive land area), cash compensation for lost land at 100 % of replacement cost at the informed request of APs.
Permanent loss of access to forest lands used for collection of NTFPs for livelihoods	All users	(a) provision of alternative land with similar NTFP yields at a reasonable distance from the location of the community, acceptable to APs; and cash compensation for loss of net incomes, transition subsistence allowance, income restoration.
Temporary loss of agricultural land	Loss of the use of the land for a period up to a maximum of 6 months	(a) Cash compensation for loss of net income, damaged assets, crops, and trees at market value. (b) Restoration of land to former state.
Temporary loss of access to forest lands used for NTFP collection for livelihoods	All users	Provision of alternative lands with similar NTFP yields, and/or cash compensation for lost incomes, transition subsistence allowance.
Homestead and/or commercial land (without structures built thereon)	All owners and occupants	Cash compensation at 100% of replacement cost of the affected land at current market value or replacement land.
Homestead and/or commercial land (with structures built thereon)	With remaining legal homestead and/or commercial land sufficient to rebuild	(a) Cash compensation for lost land at full replacement cost at current market value; AND (b) Transition subsistence allowance (see below).
Homestead and/or commercial land (with structures built thereon)	Without remaining legal homestead and/or commercial land sufficient to rebuild	(a) Full title to replacement land equivalent in area and at a location acceptable to APs; and (b) Transport allowance or assisted transfer to the new site; and (c) Transition subsistence allowance (see below).
Structures—all residential or commercial including simple shops and rice bins	Legal owner of structure	(a) Compensation at full replacement cost at current market value without depreciation or deductions for salvaged material. (b) Repair costs to rebuild the house front if structures partially affected.
Tenants of residential and/or commercial structures	Tenant of structure	(a) Cash assistance equivalent to three months rental allowance and assisted to find alternative rental accommodation, and (b) Transport allowance or assisted transfer to the new site, and (c) Transition subsistence allowance.
Loss of work income	Head of relocating household without business affected	Compensation in cash for loss of workdays during the period of dismantling, moving and rebuilding their structures. The amount will be equivalent to the provincial daily wage rate according to set amount for various types of structures, to be determined during the DMS and replacement cost survey.
Loss of business income	Head of household of relocating business including simple shops	Cash compensation for lost business income during the period of dismantling, moving, rebuilding and reestablishing business at the new location, amounts to be determined during the DMS. For informal businesses, cash compensation equivalent to the daily wage rate for the transition period according to a set amount for various types of sizes of informal businesses, to be determined during DMS and replacement cost survey. For formal

Type of Loss	Identification of APs	Entitlement
		businesses, cash compensation for the lost income based on tax declarations.
Graves	AP household who owns graves	Cash compensation for all costs of excavation, movement, and reburial.
Private wells	AP household who owns the well	Cash compensation at replacement cost or a replacement well if requested by AP.
Crops	Owners of affected crops	Cash compensation at current market price.
Perennial trees	Owner of trees	(a) A lump sum amount for young non-bearing fruit trees to cover the cost of maintenance and inputs; (b) For fruit bearing trees, cash compensation at 3 years production value at current market value.
Non-perennial trees	Owner of trees	Compensation at current market value for timber.
<b>Allowances</b>		
Materials transport allowance	Owners or occupants of relocating residential or commercial structures including rice bins and simple shops	Assistance in cash or kind to move structures, salvaged and new building materials and personal possessions.
Transition subsistence allowance	(a) Owners of houses or commercial structures or simple shops or rice bins who are displaced without impact on business or source of income (b) Owners of houses or commercial structures or farmers who are displaced and lose 10% or more of their total productive assets	(a) cash or kind equivalent to 3 months supply of rice per person at current market value. (b) cash or kind equivalent to 6 months supply of rice per person at current market value.
Repair Allowance	Owners of partially affected structures where the remaining part is viable for continued use.	In addition to compensation for the affected part of the structures, AP will be entitled to cash payment to cover the whole cost of repairs.
Income restoration	Severely affected farmers who lose 10% or more of their productive assets	Agricultural extension assistance to increase productivity on remaining or new land
Special assistance to vulnerable groups	Households belonging to vulnerable groups such as the very poor, or households headed by women, the elderly, or disabled without support	Special assistance to be provided depending on the needs and priorities of the vulnerable households as identified during the detailed measurement survey. And assistance under the Ethnic minorities Development Plan.

### III. IMPLEMENTATION PROCEDURES AND PROCESS

#### 1. Preparation of Resettlement Plans

##### a. Identification of Impacts

54. Initial poverty and social assessment (IPSA) will be carried out during the identification stage, and if the expected impact is significant, more detailed social and cultural impact assessment (SA) will be required to identify in detail, and in full consultation with APs, measures that will mitigate the adverse effects will be identified.

##### b. LIP/MEP Resettlement Activities

55. Based on the preliminary subproject design, identify which of the following categories applies to the subproject:

- (i) No resettlement effect;
- (ii) Insignificant resettlement effect which requires preparation of a short RP (refer to Definition of Terms for the definition of 'insignificant' resettlement effect); or
- (iii) Significant resettlement effect which requires preparation of a full RP (refer to Definition of Terms for the definition of 'significant' resettlement effect).

56. Note that the term 'resettlement' effect includes the loss of crops, trees, structures, loss of incomes and food supplies through limits on access to forest lands for collection of NTFPs<sup>12</sup> and income, in addition to any physical relocation of APs. If the areas to be allocated for LIP/MEP development are located in areas with high proportions of ethnic minority, an ethnic minorities development plan could also be required (in conjunction with the EMDF. While all LIPs/MEPs to be developed under the Project will be developed according to the principle of avoidance, in cases where resettlement is unavoidable, the LIP/MEP proposal must identify all effects and mitigation measures in the subproject RP. The compensation policy outlined in this RF will apply.

57. In further refining the LIP/MEP design, consult with potential APs (refer item [iii]) and LPA Land Use Division staff to avoid and minimize, as far as possible, resettlement effects by realigning and adjusting the areas to be allocated

58. For LIPs/MEPs falling under categories (ii) and (iii) above, an inventory of losses (IOL) and detailed measurement survey (DMS) and socioeconomic survey of all the potential APs will need to be carried out. This should include the socioeconomic data of the APs and the recording of accurate measurements of type and level of loss. The IOL/DMS survey establishes the cut-off date for the eligibility of entitlement.

59. It will be carried out by LPA with the assistance of specialist consultants and attendance of relevant local authorities as required. ADB's *Handbook on Resettlement* (1998) suggests the following data to be collected:

- (i) Data about APs:
  - Total number of households and APs
  - Demographic, education, cash, and barter income

<sup>12</sup> These will include other activities such as swidden cultivation for food production.

- Main economic activity and livelihood profiles of household members
  - Inventory of all property and assets affected
  - Socioeconomic production systems and use of natural resources
  - Inventory of common property resources if any
  - Social networks and social organization
  - Cultural systems and sites
- (ii) Data on land and the area:
- Total land area acquired for the Project (include maps if relevant);
  - Land type and land use;
  - Trees, structures or other losses;
  - Ownership, tenure, and land use patterns;
  - Land acquisition procedures and compensation; and
  - Existing civic facilities and infrastructures.

60. In parallel to the AP survey, continue consultation with APs to identify their preferences and any special needs (i.e. for vulnerable households) to be addressed in the RP. In addition, a replacement cost survey will be undertaken to obtain information on market prices for houses (modern, traditional and simple), residential and agricultural land, crops, trees, and any other property or assets likely to be affected by the Project. Information on replacement rates should be collected from respective provincial, district, and village authorities and the local market, so that the cost estimates and replacement costs can be established in the RP.

61. Consultation will be required with APs, village administrations, and district agriculture and forestry agencies (DAFOs) to agree the replacement costs to be used in resettlement. Under ADB policy and the Government's *Decree on Resettlement and Compensation*, replacement rates must be at current market value. A replacement cost survey shall be undertaken to determine the market rates for compensation and allowances to be applied under the Project.

62. Prepare a Short or Full RP. Attachments 1 and 2 provide the suggested outline and scope of an SRP and an FRP. The Entitlement Matrix (Table 2.4.2) should be used for each LIP/MEP proposal by specifying the number of APs, the area of land affected, the number of other assets affected, and the entitlements and compensation amount for each type of loss.

63. Any additional measures considered necessary for rehabilitation or assistance for vulnerable households will need to be identified and included in the cost estimates provided.

64. Prepare a draft RP for consultation with relevant authorities and ADB. Any comments made should be discussed and documented and considered for incorporation into the finalized RP.

### **c. Consultation, Participation of APs, and Public Information**

65. During the identification of impacts and remedial measures, local residents will need to be made fully aware of the potential Project impacts and benefits, particularly related to land acquisition, compensation, and resettlement benefits.

66. Prior to LIP/MEP appraisal and again prior to the start of resettlement activities, LPA officials will step up the information campaign and will publish a Public Information Brochure (PIB) in Lao on the Project's compensation policy, compensation payment procedures, and land

acquisition and plantation development schedule aimed at social preparation for relocation and resettlement of the affected persons (including reference to enhancement and mitigation measures such as land titling). LPA will be responsible for distribution of the brochures through the resettlement committees at various levels (refer to Section 4).

67. The APs will participate throughout the various stages of the implementation of the RP. To ensure that information about the Project, entitlements, compensation and rehabilitation options and grievance mechanisms are in place, the PIB shall be translated into the Lao language, and wherever possible into ethnic minority languages. The draft PIB should be written in way that is easily understood by the affected communities and includes:

- (i) Objectives of the Project;
- (ii) Project policies on entitlement and compensation;
- (iii) Mitigation and enhancement measures;
- (iv) Project schedule and activities;
- (v) Grievance redressal;
- (vi) Monitoring; and
- (vii) Importance of ongoing community participation.

68. Copies will also be available at concerned offices and local administrative authorities.

69. During the implementation stage, resettlement committees will be formed at various levels to seek inputs from stakeholders in the decision-making and implementation of the RP. APs and minority groups will also be represented in those committees and be involved in any grievance resolutions (refer to item [d] below) concerning compensation and other resettlement benefits.

70. The RP will be posted on the ADB's web site.

71. The Provincial Resettlement Committee (PRC) will have the responsibility of explaining to district and village leaders, the mechanisms and procedures of the consultation program and how APs will be engaged in resettlement activities and the overall process, and they, in turn, will explain it to APs. Consultations with affected households will be conducted to determine their preferences for relocation, compensation, and payment scheme and compensation rates, and to keep them up to date on progress and other related matters. Notices based on the RP will be printed and distributed to affected villages and households.

72. Finally, there will be continuous on-site consultation through the Social and Community Development Specialists and staff of the Land Use Division that are the team which during the implementation stage will ensure that APs receive due entitlements and benefits.

#### **e. Complaints and Grievances Resolution**

73. APs will have the right to file complaints and/or queries on any aspects of land acquisition and resettlement such as inventories, valuation, and entitlements. Any AP who has had land or their structure expropriated or altered and believes that they have not been compensated or assisted in compliance with their entitlements will be able to express their grievances to the VRC. Each village also has its own grievance mechanism through its district council. Such complaints shall be discussed with the staff of the Land Use Division who shall assist the AP in documentation (if required) the complaint and submitting it first with the VRC. The VRC is obliged to reply and explain the decision within 15 days. If APs are not satisfied, the grievance applications will be forwarded to DRC for resolution within 15 days from the date of

filing the complaint with DRC. Any APs who are still not satisfied can go up to PRC/LPA /MAF, which will issue a final decision within 30 days.

74. Appeals regarding any aspect of relocation or compensation will be lodged with the district council, which must act on it within 30 days. If they are not satisfied at this level, they can bring it to the resettlement committee for appropriate action within 30 days. Those who are still not satisfied can lodge their complaint with the LPA which will issue a final decision within 30 days.

75. Attempts should be made to settle the issues at the village level through community consultation, involvement of the staff of the LPA's Land Use division and Social Impact/Community Development Specialists, as required, the LWU and any other concerned local-based organizations.

76. All complaints and resolutions will be properly documented by the concerned RC and be available for review for monitoring purposes. As part of the post-evaluation and monitoring, the grievances will be reviewed by the Social Impact/Community Development Specialists, under the RP policy framework and decisions regarding grievances shall be consistent with approved policies and entitlements.

#### **f. LIP/MEP Appraisal**

77. One of the criteria for the LIP/MEP appraisal is that a RP is prepared where applicable. If it is prepared, it must be prepared either by, or in consultation with, LPA and submitted to MAF and ADB, together with any other studies carried out for the subproject (a community development plan for example). The RPs will be forwarded to ADB (English translation) for review and approval before the subproject appraisal in accordance with ADB's *Policy on Involuntary Resettlement* (1995) and before implementing the RP. If the IOL/DMS for subprojects identify new categories of APs and types of loss that are not represented in the Entitlement Matrix (Table 5) in this RF, the RPs for all subprojects processed under the Project will need to be revised accordingly by LPA.

## **2. Preparation of Ethnic Minority Development Plans**

78. Ethnic minority development plans will be prepared wherever deemed necessary in conjunction with the EMDF prepared under the Project.

#### **a. Preliminary Screening and Assessment of Needs**

79. During the identification of social and resettlement impacts, if issues (adverse effects or constraints) specifically related to ethnic minority households or communities have been identified, an ethnic minority development plan will be required to address the specific issues of vulnerability in those villages. If it has been determined that ethnic minorities are likely to be affected by a subproject, or that ethnic minority communities are vulnerable because of their social and cultural identity, or that ethnic minority communities face constraints that will not enable them to be participate in, or benefit from, the Project, measures need to be identified to address these issues.

80. The LPA's Social and Community Development Specialists, Lao Front for National Construction (LFNC), Lao Women's Union (LWU) will visit the villages potentially affected by the Project's LIP/MEP development in the respective provinces. Prior to the visit, the LPA's Land

use division will send a letter to the Village Chairman and ethnic minority leaders advising them that the visit is forthcoming and the basic issues that need to be identified and discussed. The letter will request that the village invite to the meeting representatives of local villages based organizations (farmers and women associations etc), village leaders, ethnic minority leaders and key staff from important facilities in the village (i.e. health clinic, school, shop-owners, market).

81. During the visit the village leaders and other participants will present their views with regards to the problems that face the general socio-economic development of the village (and how they relate to access and transportation issues in particular), the specific issues and problems facing the different ethnic minority groups that are present in the village, and their development needs.

82. At this visit, the local LWU staff and LPA Social Specialists and staff of the Land Use Division of LPA will undertake a screening of basic characteristics and issues associated with the ethnic minority groups with the help of ethnic minority leaders. The screening will check for the following:

- (i) Names of ethnic groups in the village (and their location in respect of the road);
- (ii) Total number of ethnic minority groups in the village;
- (iii) Proportion of ethnic minority groups (as a percentage of village population);
- (iv) Number and proportion of ethnic minority households in the Project area; and
- (v) Inventory of issues and needs of ethnic minority groups.

83. An assessment then needs to address the project-specific issues. The assessment will gather relevant information on demographic data; social, cultural and economic situation; and the anticipated positive and negative social, cultural, and economic impacts of subprojects.

84. Information will be gathered from separate group meetings involving ethnic minority leaders; ethnic minority men; and ethnic minority women, especially those living in the Project area of the proposed LIP/MEP. Discussion will focus on the potential positive and negative impacts and recommendations for project design or complementary activities that LIPs/MEPs could support or facilitate.

85. The LPA specialists along with LFNC and LWU staff will be responsible for initially recording and analysing the SA forms, and for leading the preparation of the development plan with the ethnic minority leaders, and other staff. If the assessment indicates that the potential impact of the proposed LIP/MEP will be significantly adverse or the ethnic minority community rejects the LIP/MEP (in whole) the proposal will be eliminated from further consideration and therefore no further action will be required.

86. If the ethnic minority groups support the development of the proposed LIP/MEP, an ethnic minorities development plan will be prepared prior to the implementation of the subproject.

#### **b. Ethnic Minority Development Plan**

87. The ethnic minority development plan will be prepared in conjunction with the EMDF prepared under the Project. It will consist of a number of items and activities including mitigation measures for all potentially negative impacts identified in the assessment, any requirements for modification of subproject design, measures to assist ethnic minorities to benefit from the Project, and an outline of the supporting or development assistance.

88. Where land clearance and acquisition is required that will affect ethnic minority communities, the Project will ensure that their rights will not be violated and that they are appropriately and adequately compensated (as per the requirements of this RF) for the clearance, taking or use of any part of their land, provided that the clearance, taking or use is undertaken in a manner that is culturally acceptable to them. The compensation will follow the process established in this R/CDF.

89. The ethnic minorities development plan will outline the characteristics of ethnic minority households and communities in the Project area, identify the risks or constraints that need to be addressed, and provide the details (including costs, implementation arrangements, and monitoring requirements) of the measures proposed. The ethnic minorities development plan will therefore:

- (i) Identify how the Project will affect the ethnic minority people;
- (ii) Identify how they are disadvantaged or vulnerable because of their social or cultural identity and how the ADB's safeguard policy is triggered by this; and
- (iii) Develop a plan for addressing the significant adverse impacts and their vulnerability (the interventions should be described in a way that will show how they meet the requirements of ADB's policy).

90. As with the RPs, the ethnic minorities development plan needs to be a time-bound action plan that includes all of the financial and institutional arrangements required to implement the measures being recommended.

### **3. Reporting, Database, and Monitoring**

#### **a. Resettlement and Community Database**

91. The IOL/DMS, resettlement-related and households data from ethnic minority communities will need to be computerized by the social/community development consultants onto a database that can be updated and used by LPA when required.

92. The database will be updated during RP and ethnic minorities development plan implementation.

93. The databases will act as the key source of information for implementation and monitoring. Individual files for each affected households will be prepared for checking and verification purposes. Each file will contain detailed socioeconomic and demographic data on individual households, lost assets, compensation entitlements and payments, relocation, collected during the final IOL/DMS, AP census, and activities and measures being proposed in the community development plan. The database will enhance institutional capacity of LPA in resettlement management for this Project and other projects.

#### **b. Reporting and Documentation**

94. The RPs and ethnic minorities development plan will be prepared by the LPA social/community development consultants (with assistance as required from LWU and LFNC) and submitted to LPA for review by LPA, MAF, and ADB. When LPA submits the final annual work program (for the LIP/MEPs) to ADB for approval, it can also submit an integrated RP and

ethnic minorities development plan report for the annual work program with an overall summary, relevant tables, and individual summary for subprojects.

95. The summary reports (RP and ethnic minorities development plan)<sup>13</sup> should be about five to six pages and address the strategy, entitlements, impacts and measures to mitigate impacts, and the costs, and implementation arrangements.

### **c. Monitoring**

96. Implementation of the RPs and ethnic minorities development plan will be supervised and monitored by the LPA's Social and Resettlement Specialists in the first instance with support as required from LFNC, LWU, and DOR. The findings will be recorded in quarterly reports to be furnished to LPA. LPA will forward a yearly monitoring report to ADB.

97. At this stage it has been determined that external monitoring for the resettlement and ethnic minorities development plan aspects of the Project will not be required because:

- (i) The overall numbers of APs are low;
- (ii) The Land Use Division team will include full-time national and part-time international Social and Community Development Specialists, who together will be responsible for internal monitoring and reporting;
- (iii) There will be a separate poverty monitoring program that will include affected villages in its sample;
- (iv) The social/community development consultants will be responsible for post-resettlement and community development evaluation; and
- (v) There are precedents on other projects for excluding an external monitoring component when the social/community development consultants have a strong role in project implementation (as proposed with the Project).

## **IV. ADMINISTRATIVE, RESOURCE, AND FINANCIAL ARRANGEMENTS**

### **1. Resettlement Organizations and Framework**

#### **a. Role of LPA CEO**

98. The CEO of LPA will be responsible for overall coordination of all relevant departments and agencies involved in resettlement activities (including the resettlement committees at various levels) and supervision/monitoring of the RP implementation. A Land Use Division senior staff member will be deputed to the Project on a full-time basis as the Chief Resettlement Officer (CRO) to oversee the activities related to resettlement implementation.

99. The CRO will be responsible for organizing the affected districts and villages to carry out the designated activities of the RP.

100. The LPA CEO will monitor, directly and/or through the CRO and Provincial/District Resettlement Committees, the progress of land acquisition and resettlement management along the Project road.

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<sup>13</sup> Refer to paragraph 87 for explanation of this. Please refer to the EMDF developed for the Project for guiding principles for the EMDPs.

101. As required, the social/community development consultants can be brought in to provide technical support to the LPA in the implementation of the RP.

102. The main responsibilities of the LPA through the Land Use Division and CRO are as follows:

- (i) Ensure that the RP process, policies, and principles are disclosed to the affected community (i.e. during RP preparation and before resettlement implementation) in order to maintain participation and transparency;
- (ii) Ensure that compensation unit rates have been established at replacement cost at current market value for all categories of lost assets, and that the rates have been developed in full consultation with and agreement of APs;
- (iii) Periodically supervise RP progress and activities;
- (iv) Coordinate and work with Provincial and District Resettlement Committees and concerned government authorities;
- (v) Work closely with other LPA staff and LIP/MEP developers and schedule and integrate resettlement activities and schedule;
- (vi) Conduct consultation with APs;
- (vii) Carry out census, inventories of assets, detailed measurement survey, socioeconomic surveys;
- (viii) Establish database for APs for each LIP/MEP, and be responsible for internal monitoring, reporting, and action in response to findings of internal monitoring;
- (ix) Provide assistance to APs during compensation and relocation;
- (x) Prepare report regularly on progress and outstanding issues;
- (xi) Work closely with the APs, concerned local administrative authorities, and local-based organizations;
- (xii) Together with social/community development consultants, validate that resettlement activities have been satisfactorily completed as a condition found leases to be provided to LIP/MEP developers.

#### **b. Provincial Resettlement Committee**

103. The Vice-Governor of the province in which the subproject is located will chair the Provincial Resettlement Committee (PRC). Other members include officials from relevant agencies and departments such as LPA, Agriculture and Forestry, Information and Culture, Social Service, and relevant District Governors. The PRC will be responsible for coordination of all resettlement activities including the information campaign and consultation with APs, payments of cash compensation, and grievance resolution. Further, PRC will monitor physical progress of all resettlement components under the Project and ensure that the program is completed within the agreed time schedule.

104. Assisted by the District Resettlement Committee (and Village Resettlement Committee where appropriate), its responsibilities include:

- (i) Verification of the loss of land and other assets due to project implementation;
- (ii) Determine the market rates/replacement cost for all kinds of loss incurred, and validate that rates are acceptable to APs;
- (iii) Hold consultation meetings with the affected people;
- (iv) Pay cash compensation, allowances;
- (v) Act as grievance officers;
- (vi) With assistance from LWU, implement rehabilitation measures; and
- (vii) Monitor and report on all RP activities.

### **c. District Resettlement Committee**

105. The District Resettlement Committee (DRC) is pivotal in the implementation of the RP. The District Governor (*Chao Muang*) will chair the Committee. DRC members shall include representative from LPA, Agriculture and Forestry, LWU, LFNC, APs, and minority groups.

106. The DRC will carry out consultation among the affected households and communities regarding resettlement, prepare the final inventory, valuation of assets, identify and allocate replacement land, and organize and coordinate with LWU in the implementation of rehabilitation measures and other enhancement measures for poverty reduction.

107. DRC will also supervise and monitor the activities of the Village Resettlement Committees (VRCs) and resolve grievances.

108. The actual acquisition, land transfer, and compensation will be carried out under the supervision of the DRC at the district level. Village Chiefs (through the VRCs) may also be involved in the negotiations with individual and family land users.

### **d. Village Resettlement Committee**

109. The Village Resettlement Committees (VRCs) can either be formed by individual villages or by a cluster of small villages that consider they share similar characteristics to form one, rather than individual committees. The VRC will choose its own chair. In the cases of villages with a high proportion of ethnic minority population, a person from the ethnic minority group *must* head the VRC.

110. Other members of the VRC shall be from the affected households and other relevant stakeholders. The VRC will consult with the affected households on resettlement issues, identify replacement land, assist the DRC and LWU, LFNC in the implementation of RP, and social development/poverty reduction programs.

111. Local-based organizations such as LWU, LFNC, Farmers, Elders, Youth, and Trade Unions will be represented. They will actively participate in the planning and implementation of the RP and in the community education, public information and consultation process. The local village authorities will be responsible for informing residents not to construct houses/structures in the ROW during land clearance and construction.

112. The types of tasks handled at this level will include:

- (i) Coordination with PRC and DRC, and LPA and the CRO when required, in relation to conducting consultation, census, and social surveys and resettlement-related activities;
- (ii) Acting as ‘first step’ grievance officers and ensure that grievance are resolved;
- (iii) Assisting APs during the negotiation and compensation activities;
- (iv) Involving the local-based organizations to carry out the RP activities;
- (v) Certifying the list of APs and sign compensation documents;
- (vi) Identifying replacement land;
- (vii) Facilitating village assistance to relocating households, food-for-work for preparation of paddy land, household and village fencing; and
- (viii) Monitoring and registering relocation and land title transfer data.

113. The resettlement team shall consist of:

- (i) An international social impact and community development specialist (12 person-months);
- (ii) Three national social impact and community development specialists (48 person-months).

114. The main duties of the international and national social and community development specialists will be to assist with resettlement implementation, including preparation of subproject RPs, and provide overall guidance and quality control of the resettlement planning, implementation, monitoring, and reporting process. It will also be the responsibility of the Resettlement Specialists to undertake any additional survey required for identifying APs due to alignment changes for shape correction or realignments, following inclusion of additional APs the RP will be updated and forwarded to ADB. Reporting of resettlement activities is also under the ambit of the LPA's Land Use Division team. The Social and Community Development Specialists together with the CRO will validate satisfactory completion of all resettlement activities as a condition for award of civil works contract.

115. The main tasks of the Land Use Division staff include:

- (i) Assist the Social and Resettlement Specialists with surveys and R/CDP activities;
- (ii) Liaise between the villages and works' contractors—particularly in respect of community consultation regarding alignment design and mitigation and ensuring that any adverse effects or damages caused during plantation development are remediated;
- (iii) Assist the village with identification of replacement land, preparation of replacement land, food-for-work to prepare paddy land, household, and community fencing, village assistance to relocating households;
- (iv) Assist the village identify livelihood development opportunities;
- (v) Assist with the grievance redressal process; and
- (vi) Assist with the land titling of villages adjoining the LIPs/MEPs.

116. The specific measures for rehabilitation or livelihood development identified during consultation with APs will dictate the nature and structure of organizations to be involved in the implementation of the RP. The RP should at least identify the types of agencies that could undertake the measures recommended in the plan, and hold initial consultations with those agencies to develop the measures to a level that can be costed. The RP will set out the institutional arrangements for implementation of the plan.

## **2. Ethnic Minority Development Institutional Framework**

117. While LPA will have overall responsibility for the EMDP process, wherever possible initial identification of issues and measures, oversight and monitoring of the implementation of community development activities will be part of the social and community development consultants' responsibility.

118. The social/community development consultant with the relevant agencies (identified in relation to specific measures to be implemented) will be responsible for coordinating, planning, and supervising the work for community development plan. The social/community development consultants can provide training, as required, to LPA, LFNC, and LWU (or a similar social organization) to undertake the work of consultation, screening, assessment, analysis, and implementation.

119. In view of the fact that there are significant links between the resettlement and community development plan activities, assistance can be provided on an as required basis by PRC, DRC, and VRC and ethnic minority leaders.

120. There are a number of agencies that have a mandate for ethnic minority development and these agencies should be consulted and included in the community development plan process wherever possible.

- (i) LFNC has overall responsibility for ethnic minority development and preparation of action plans (in coordination with various sectors in implementation of the Resolution). LFNC also has the duty to monitor and encourage implementation of the policy and action plans, and report to Party Central Committee and Government on strengths, constraints, and lessons learnt;
- (ii) The Propaganda and Training Committee (of the Central Committee) is responsible for training and information dissemination through culturally appropriate methods via the Ministry of Information and Culture;
- (iii) The Party Central Committee Organization Board in collaboration with the Committee for Building Political Administrative Grass Roots is responsible for improving the grassroots communication and resolving personnel problems;
- (iv) The Ministry of Defence must raise awareness of the policy amongst military personnel especially those who are stationed in ethnic areas;
- (v) Ministry of Interior has the duty to prepare plans for peace keeping in politically sensitive areas; and
- (vi) There was a general requirement on central level agencies to devote attention to coordination with LFNC in implementation of the Resolution in order to develop a viable socioeconomy in ethnic minority areas.

121. The specific measures identified during consultation will dictate the nature and structure of organizations to be involved in the implementation of the community development plan. The ethnic minorities development plan should at least identify the types of agencies that could undertake the measures recommended in the plan, and hold initial consultations with those agencies to develop the measures to a level that can be costed.

122. The ethnic minorities development plan will set out the institutional arrangements for implementation of the plan.

### **3. Implementation Schedule**

123. Should resettlement and ethnic minority development activities be necessary as part of LIP/MEP design, a schedule for implementation, including payment of compensation, rehabilitation measures and community development plan activities, must be agreed and settled by all stakeholders and a satisfactory RP/CDP approved by ADB before any resettlement or community development plan activities begin.

124. All resettlement and community development plan activities will be coordinated with the land acquisition and plantation development schedule. No land lease for a part of the LIP/MEP will be awarded unless Government has completed satisfactorily and in accordance with the approved RP and ethnic minority development plan, compensation payment and resettlement, and ensured rehabilitation assistance in place and the area for the plantation development has become clear of all encumbrances.

125. In the event of a dispute or grievance, and to avoid lengthy delays in any construction season, construction may still proceed so long as all undisputed amounts are paid. During the social mobilization, all potential APs will be given the opportunity to look at the various options available, agree upon compensation rates, and develop an implementation schedule that results in the least possible disruption to their households.

126. It will not be necessary for all community development plan activities, rehabilitation, restoration, and enhancement to have been made prior to subproject commencement, as these are likely to be ongoing. In order to ensure the coordination with the civil works schedule, schedules for resettlement implementation and community development plan activities will have to be included as part of the RP and community development plan.

127. The schedule will be itemised in the subproject RP and community development plan in sufficient detail so as to identify all of the tasks and their timing for each activity.

128. The process for resettlement includes the following steps; marking out of the construction corridor following detailed design, undertaking the census/IOL/DMS, preparing the RP/CDP and determining replacement cost, ADB approval of the plan, implementation of resettlement activities (following which is the award of land leases). The schedule for all resettlement activities must be agreed and settled by all stakeholders before resettlement activities begin.

#### **4. Budget Issues**

129. Cost estimates provided in the plans must be as detailed as possible, and linked with specific activities (i.e. compensation, monitoring, rehabilitation measures). A 20% contingency should be included.

##### **a. Resettlement**

130. The RP must itemize the costs of all assets to be compensated along with the costs of any rehabilitation measures and internal monitoring. The level of costs borne by each level of LIP/MEP project promoter, Government will be determined according to the Government guidelines. The social and community development specialists and project promoters will have to ensure that the costs of resettlement and land acquisition will be included in the overall cost estimate to be presented to LPA.

131. The RP will include the process for documentation of disbursement of all compensation monies and this will be monitored.

##### **b. Ethnic Minority Development**

132. The Ethnic Minorities Development Plan will include detailed costs in mitigating adverse cultural effects or removing any constraints to ethnic minority groups enjoying project benefits that have been identified through consultation.

### Attachment 1: Outline for Short Resettlement Plan

TOPIC	CONTENTS
Scope of land acquisition and resettlement	<ul style="list-style-type: none"> <li>• Describe alternative options, if and considered to minimize land acquisition and its effects, and why the remaining effects are unavoidable.</li> <li>• Summarize key effects in terms of land acquired, assets lost, and people displaced from homes or livelihoods.</li> </ul>
Objectives, policy framework, and entitlements	<ul style="list-style-type: none"> <li>• Describe key national and local land, compensation and resettlement policies, laws, and guidelines that apply to Project</li> <li>• Explain how ADB policy on Involuntary Resettlement will be achieved.</li> </ul>
Consultation, and grievance redress participation	<ul style="list-style-type: none"> <li>• Describe consultation processes and procedures for redress of grievances.</li> </ul>
Compensation, relocation, and income restoration	<ul style="list-style-type: none"> <li>• Describe arrangements for valuing and disbursing compensation.</li> <li>• Describe arrangements for housing relocation, including transfer and establishment.</li> <li>• Describe arrangements for identification of alternative forest lands for NTFPs</li> <li>• Describe income restoration measures to be implemented.</li> <li>• Identify any environmental risks, describe management and monitoring steps.</li> </ul>
Institutional framework	<ul style="list-style-type: none"> <li>• Identify main tasks and responsibilities in planning, managing, and monitoring land acquisition and resettlement.</li> </ul>
Resettlement budget and financing	<ul style="list-style-type: none"> <li>• Identify land acquisition and resettlement costs and funding sources.</li> </ul>
Implementation schedule	<ul style="list-style-type: none"> <li>• Provide time schedule showing how people affected will be provided for before demolition begins.</li> </ul>
Monitoring and evaluation	<ul style="list-style-type: none"> <li>• Specify arrangements for M&amp;E.</li> </ul>

### Attachment 2: Outline for Full Resettlement Plan

Topic	Contents
Scope of land acquisition and resettlement	<ul style="list-style-type: none"> <li>• Describe, with the aid of maps, scope of land acquisition and why it is necessary for main investment project.</li> <li>• Describe alternative options, if any, considered to minimize land acquisition and its effects, and why remaining effects are unavoidable.</li> <li>• Summarize key effects in terms of land acquired, assets lost, and people displaced from homes or livelihoods.</li> <li>• Specify primary responsibilities for land acquisition and resettlement.</li> </ul>
Socio-economic information	<ul style="list-style-type: none"> <li>• Define, identify and enumerate people to be affected.</li> <li>• Describe likely impact of land acquisition on people affected, taking into account social, cultural, and economic parameters.</li> <li>• Identify all losses for people affected by land acquisition.</li> <li>• Provide details of any common property resources.</li> <li>• Specify how Project will impact on the poor, indigenous people, ethnic minorities, and other vulnerable groups, including women, and any special measures needed to restore fully, or enhance their economic and social base.</li> </ul>
Objectives, policy framework, and entitlements	<ul style="list-style-type: none"> <li>• Describe purpose and objectives of land acquisition and resettlement.</li> <li>• Describe key national and local land, compensation and resettlement policies, laws, and guidelines that apply to Project.</li> <li>• Explain how ADB Policy on Involuntary Resettlement will be achieved.</li> <li>• State principles, legal, and policy commitments from borrower executing agency for different categories of project impacts.</li> <li>• Prepare an eligibility policy and entitlement matrix for all categories of loss, including compensation rates.</li> </ul>
Consultation, and grievance redress participation	<ul style="list-style-type: none"> <li>• Identify project stakeholders.</li> <li>• Describe mechanisms for stakeholder participation in planning, management, monitoring, and evaluation.</li> <li>• Identify local institutions or organizations to support people affected.</li> <li>• Review potential role of NGOs and community-based organizations (CBOs)</li> <li>• Establish procedures for redress of grievances by people affected.</li> </ul>
Relocation of housing and settlements	<ul style="list-style-type: none"> <li>• Identify options for relocation of housing and other structures, including replacement housing, replacement cash compensation, and self selection.</li> <li>• Specify measures to assist with transfer and establishment at new sites.</li> <li>• Review options for developing relocation sites, if required, in terms of location, quality of site, and development needs.</li> <li>• Provide a plan for layout, design, and social infrastructure for each site.</li> <li>• Specify means for safeguarding income and livelihoods.</li> <li>• Specify measures for planned integration with host communities.</li> <li>• Identify special measures for addressing gender issues and those related to vulnerable groups.</li> <li>• Identify any environmental risks and show how these will be managed and monitored.</li> </ul>
Income restoration strategy	<ul style="list-style-type: none"> <li>• Identify livelihoods at risk.</li> <li>• Develop an income restoration strategy with options to restore all</li> </ul>

Topic	Contents
	<p>types of livelihoods.</p> <ul style="list-style-type: none"> <li>• Specify job opportunities in a job creation plan, including provisions for income substitution, retraining, self-employment and pensions, where required.</li> <li>• Identify any environmental risks and show how these will be managed and monitored.</li> </ul>
Institutional framework	<ul style="list-style-type: none"> <li>• Identify main tasks and responsibilities in planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement.</li> <li>• Review the mandate of the land acquisition and resettlement agencies and their capacity to plan and manage these tasks.</li> <li>• Provide for capacity building, including technical assistance, if required.</li> <li>• Specify role of NGOs, if involved, and organizations of APs in resettlement planning and management.</li> </ul>
Resettlement budget and financing	<ul style="list-style-type: none"> <li>• Identify land acquisition and resettlement costs.</li> <li>• Prepare an annual budget and specify timing for release of funds.</li> <li>• Specify sources of funding for all land acquisition and resettlement activities.</li> </ul>
Implementation schedule	<ul style="list-style-type: none"> <li>• Provide a time schedule showing start and finish dates for major resettlement tasks.</li> <li>• Show how people affected will be provided for before demolition begins.</li> </ul>
Monitoring and evaluation	<ul style="list-style-type: none"> <li>• Prepare a plan for internal monitoring of resettlement targets, specifying key indicators of progress, mechanisms for reporting, and resource requirements.</li> <li>• Prepare an evaluation plan, with provision for external, independent evaluation of extent to which policy objectives have been achieved.</li> <li>• Specify participation for people affected in BME.</li> </ul>

### Attachment 3: Outline for Community Development Plan

Topic	Contents
Scope of ethnic minority development and issues	<ul style="list-style-type: none"> <li>• Describe, with the aid of maps, relevant ethnic minority issues and why it is necessary for intervention as a result of the main investment project.</li> <li>• Summarize key effects in terms of project</li> <li>• Specify primary responsibilities ethnic minority development</li> <li>• Link with resettlement aspects where necessary</li> </ul>
Socioeconomic information	<ul style="list-style-type: none"> <li>• Define, identify, and enumerate people to be affected.</li> <li>• Set out main socioeconomic characteristics of communities affected</li> <li>• Provide details of any common property resources.</li> <li>• Specify how Project will impact on the ethnic minorities, poor, and other vulnerable groups, including women</li> </ul>
Objectives, policy framework, and entitlements	<ul style="list-style-type: none"> <li>• Describe purpose and objectives of ethnic minority development.</li> <li>• Describe key national policies, laws, and guidelines that apply to Project.</li> <li>• Explain how ADB Policy on Indigenous People will be achieved.</li> <li>• State principles, legal and policy commitments from borrower executing agency</li> </ul>
Consultation and participation	<ul style="list-style-type: none"> <li>• Identify project stakeholders.</li> <li>• Describe mechanisms for stakeholder participation in planning, management, monitoring, and evaluation.</li> <li>• Identify local institutions or organizations to support the various elements of the plan</li> <li>• Review potential role of NGOs and CBOs</li> </ul>
Development strategy	<ul style="list-style-type: none"> <li>• Identify livelihoods and any aspects of culture or traditions at risk.</li> <li>• Develop a strategy, with options, to restore all types of livelihoods and protect culture and traditions.</li> <li>• Identify any environmental risks and show how these will be managed and monitored.</li> </ul>
Institutional framework	<ul style="list-style-type: none"> <li>• Identify main tasks and responsibilities in planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating ethnic minority development as set out in the plan</li> <li>• Provide for capacity building, including technical assistance, if required.</li> <li>• Specify role of NGOs, if involved, and organizations of ethnic minority groups</li> </ul>
Budget and financing	<ul style="list-style-type: none"> <li>• Identify costs associated with all measures recommended.</li> <li>• Prepare a cost estimate</li> <li>• Specify sources of funding for all plan activities.</li> </ul>
Implementation schedule	<ul style="list-style-type: none"> <li>• Provide a time schedule showing start and finish dates for major ethnic minority development tasks.</li> <li>• Link with civil works schedule and resettlement activities</li> </ul>
Monitoring and evaluation	<ul style="list-style-type: none"> <li>• Prepare a plan for internal monitoring,</li> <li>• If required, prepare an evaluation plan, with provision for external, independent evaluation of extent to which policy objectives have been achieved.</li> <li>• Specify participation for people affected in BME.</li> </ul>