

# Resettlement Framework

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## Viet Nam: GMS- Sustainable Tourism Development Project

**March 2008**

Viet Nam Ministry of Culture, Sports, and Tourism

The Resettlement Framework is a document of the borrower. The views expressed herein do not necessarily represent those of the ADB Board of Directors, Management, or staff, and may be preliminary in nature.

## **CURRENCY EQUIVALENTS**

(as of 31 March 2008)

Currency Unit	–	Dong (D)
\$1.00	=	D 16,000

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
AP	–	Affected persons
CARB	–	Compensation, Assistance and Resettlement Board
CCMB	–	Commune/Ward Community Management Board
CPC	–	commune people's committee
DCRB	–	District Compensation & Resettlement Board
DMS	–	detailed measurement survey
DPC	–	District people's committee
DRC	–	district resettlement committee
EA	–	Executing Agency
MoCST	–	Ministry of Culture, Sports and Tourism
PCU	–	project coordinating unit
PIB	–	public information booklet
PIU	–	project implementation unit
PPC	–	Provincial People's Committee
RC	–	resettlement committee
RCS	–	replacement cost survey
RF	–	resettlement framework
RP	–	Resettlement Plan
SES	–	socioeconomic survey
VRC	–	village resettlement committee
VWU	–	Viet Nam Women's Union

## Definition of Terms

**Project Affected People** (APs) includes any person or entity or organization affected by the Project, who, on account of the involuntary acquisition of assets in support of the implementation of the Project, would have their (i) standard of living adversely affected; (ii) right, title or interest in all or any part of a house and buildings, land (including residential, commercial, agricultural, plantations, forest and grazing land) water resources, fish ponds, communal fishing grounds, annual or perennial crops and trees, or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily; and (iii) business, profession, work or source of income and livelihood lost partly or totally, permanently or temporarily.

**Compensation** is payment in cash or in-kind at replacement cost for an asset to be acquired by the Project.

**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 as APs. The cut-off date for this Project will be the final day of the detailed measurement survey (DMS) in each subproject.

**Entitlement** means a range of measures comprising compensation in cash or in kind, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and business restoration which are due to APs, depending on the type and degree of their losses, to restore their social and economic base.

**Household** means all persons living and eating together as a single social unit. The census used this definition and the data generated by the census forms the basis for identifying the household unit.

**Income restoration** means re-establishing income sources and livelihoods of APs to their pre-project levels.

**Land Acquisition** is the process whereby a person is compelled by the Government through the Executing Agency of the Project to alienate all or part of the land s/he owns or possesses in favor of the State in the implementation of the Project or any of its components in return for fair compensation.

**Rehabilitation** means assistance provided to severely affected APs due to the loss of 10% or more productive assets (i.e., farmland, fishpond, vegetable garden, etc.), incomes, employment or sources of living such as shops and place of employment have to be reconstructed and/or relocated. The livelihood support may be given in cash or in kind or a combination of the two in order to improve, or at least achieve full restoration of living standards to pre-project levels.

**Relocation** is the physical shifting of an AP from his/her pre-project place of residence and/or business.

**Replacement Cost** is the amount in cash or in-kind needed to replace an asset and is the value determined as compensation for:

- a. Agricultural land and fishpond based on market prices that reflect recent land sales prior to the commencement of the subproject or displacement, and in the absence of such recent sales, based on productive value;

- b. Residential land based on market prices that reflect recent land sales prior to the commencement of the subproject or displacement, and in the absence of such recent land sales, based on similar location attributes;
- c. Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;
- d. Annual crops based equivalent to the highest production of crop over last three years multiplied by the current market value of crops;
- e. Perennials crops and trees and other based on current market value based on type, age, diameter at breast height and productive capacity; and
- f. Other assets (i.e., cultural, aesthetic) current market value for repairing and/or replacing assets or the cost of mitigating measures.

**Resettlement** refers to all measures taken by the Project proponents to mitigate any and all adverse social impacts of the Project on the APs, including compensation for lost assets and incomes, and the provision of other entitlements, income restoration assistance, and relocation as needed.

**Severely Affected Person** means a person who will (i) lose 10% or more of their productive assets, such as agriculture/aquaculture land holding, and/or (ii) physically displaced from housing and/or (iii) lose 10% or more of total income sources due to the Project.

**Vulnerable Groups** are distinct groups of people who might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement and specifically include: (i) households headed by women, the elderly or disabled, (ii) households living below the poverty threshold, (iii) the landless, and (iv) indigenous peoples.

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## I. Introduction

### A. The Project

1. The Greater Mekong Subregional (GMS) Sustainable Tourism Development Project will have 5 outputs: (i) development of sustainable tourism development projects designed to (a) help protect natural heritage sites of importance to tourism;(Phong Nha-Ke Bang National Park in Quang Binh Province); (b) protect cultural heritage of ethnic minorities of importance to tourism (Bac Kan Province); and (c) improve the environment of key urban tourism centers (in Laos); (ii) Implementation of pro-poor community-based and supply-chain tourism projects in 5 provinces; (iii) tourist facilities and services along the East-West Economic Corridors in Quang Tri Province to tap new opportunities and mitigate risks by developing community-based operated and maintained tourist attractions at strategic locations; (iv) human resource development to create a pool of trainers to train skilled staff in small-scale hospitality enterprises and public sector officials responsible for tourism management at the provincial and site level; and (v) project management.

### B. Scope and Scale of Resettlement

2. A short Resettlement Plan (RP) has been prepared for the infrastructure improvements in Phong Nha-Ke Bang National Park in Quang Binh Province where land acquisition will affect 1 household in Chai Lap village. Proposed infrastructure improvements include the allocation and compensation of village public land for the new market area and parking lot, a cultural and interpretation centre, and a river bank embarkation and disembarkation point.

3. No RP is necessary for the Bac Kan Interpretation/Cultural Center, as it will not cause any resettlement or land acquisition impact.

**Table SAB2.1: Summary Initial Assessment of Land Acquisition and Resettlement Issues**

<b>Sites</b>	<b>Estimated Land Acquisition (square meters)</b>	<b>Affected Households</b>	<b>Affected population</b>	<b>Households to be relocated</b>
<b>Chai Lap village</b>	900	1	6	0

4. For the pro-poor community-based and supply chain tourism projects, the Viet Nam Ministry of Tourism has proposed interventions in five provinces of Central and North Viet Nam (Bac Kan, Cao Bang, Hue, Quang Binh, Quang Tri). Community-operated facilities tourist and services along the GMS economic corridors will be implemented for the East-West Corridor in Quang Tri Province. The prioritization and selection of the interventions for inclusion in components 2 and 3 will follow a sector approach and will be done during project implementation. Therefore, this Resettlement Framework (RF) has been prepared to guide in preparation and implementation of RPs and due diligence for all of these interventions. It is envisaged that since these interventions will be small-scale and priority will be given to avoiding or minimizing resettlement, resettlement impacts will not be significant. Few if any people will be severely affected by land acquisition. Some minimal resettlement or land acquisition may be necessary, such as relocation of a few households, effects on farmland or garden plots and crops, the utilization of public or communal land for the construction of small markets, parking lots, covered bus stops, river landings and stairs, embankment protection, cultural and interpretation centers, refreshment stands, and in scenic spots, walkways, foot bridges, sanitary

toilets with water supply, ticket booths, lodges, prayer pavilions, and signage. As all impacts are expected to be minimal, it is likely that only short RPs will be prepared for this Project.

## II. Legal and Policy Framework

5. This RF was prepared based on laws, regulations, and policies of the Government of Viet Nam and Asian Development Bank (ADB) policies and guidelines.

### A. Laws Regarding Land Acquisition and Resettlement in Viet Nam

6. There are a number of laws, regulations, and decrees that are relevant to land acquisition and resettlement: the Constitution (1992) that confirms the right of citizens to own and protect the ownership of a house; Land Law No. 13/2003/QH11, providing Viet Nam with a comprehensive land administration law; Decree No. 197/2004/ND-CP, on compensation, rehabilitation and resettlement in the event of land recovery by the State, as amended by Decree No. 17/2006/ND-CP; Decrees No. 188/2004/ND-CP and 123/2007, specifying the methods for land pricing and land price frameworks in the event of land recovery by the State. Provisions and principles adopted in this Project will supplement the provisions of relevant decrees currently in force in Viet Nam wherever a gap exists, consistent with Decree No. 131/2006/ND-CP which provides that in case of “discrepancy between any provision in an international treaty on Official Development Assistance (ODA), to which the Socialist Republic of Viet Nam is a signatory, and the Vietnamese Law, the provision in the international treaty on ODA shall take precedence” (Article 2, Item 5).

### B. ADB Policies

7. The aim of the ADB **Policy on Involuntary Resettlement** (ADB, 1995) is to avoid or minimize the impacts on people, households, businesses and others affected by the land acquisition required by a project. Where resettlement is not avoidable, the overall goal of the ADB policy is to compensate and assist affected people to restore their living standards to levels equal to, if not better than, that they had before the Project.

8. The main objectives and principles of the ADB Policy on Involuntary Resettlement are as follows:

- (i) Involuntary resettlement should be avoided where feasible;
- (ii) Where population displacement is unavoidable, it should be minimized by exploring all viable project options;
- (iii) People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the Project;
- (iv) Affected people (APs) should be informed fully and closely consulted in resettlement and compensation options;
- (v) Existing social and cultural institutions of APs who must relocate should be supported and used to the greatest extent possible, and APs should be integrated economically and socially into host communities;
- (vi) Lack of legal rights to the assets lost or adversely affected will not prevent APs from entitlement to compensation and rehabilitation measures. Those without legal title to land occupied or used by them (e.g., non-titled APs) will be entitled to various kinds of resettlement assistance to improve their socioeconomic status;
- (vii) Particular attention must be paid to the needs of the poorest APs and other vulnerable groups that may be at high risk of impoverishment. This may include APs without legal title to land or other assets, households

- headed by females, the elderly or disabled and other vulnerable groups, particularly ethnic minorities. Appropriate assistance must be provided to help them improve their socioeconomic status;
- (viii) All stages of resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and land-use rights; and to ensure the restoration of their income and living standards;
  - (ix) As far as possible, involuntary resettlement should be conceived and executed as part of the Project. Involuntary resettlement is to be treated as a development opportunity;
  - (x) The full costs of resettlement and compensation should be included in the presentation of project costs and benefits;
  - (xi) The costs of resettlement and compensation may be funded by counterpart funds and/or considered for inclusion in the Bank loan for financing of the Project.

9. The ADB **Policy on Indigenous Peoples** (ADB, 1998) defines indigenous or ethnic minority peoples as “those with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development.” The Policy recognizes the potential vulnerability of ethnic minorities in the development process; that ethnic minorities must be afforded opportunities to participate in and benefit from development equally with other segments of society; and, have a role and be able to participate in the design of development interventions that affect them. The anticipated impact (positive and negative) and mitigation measures are incorporated in the Project's Ethnic Minorities Development Framework. Social analysis of a project or subproject will assess whether indigenous or ethnic minority people are likely to be affected by the Project or subproject. If a project or subproject is likely to have impacts caused by land acquisition only, specific action for ethnic minorities, specified in the project or subproject RP is required to address the impacts. If ethnic minorities population affected by a subproject exceeds 20% of all the affected persons, small-scale livelihood activities, which shall be prepared in consultation with ethnic minorities populations, shall be incorporated in subproject RPs as a special rehabilitation program.

10. The ADB **Policy on Gender and Development** (ADB, 1998) adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women participate and that their needs are explicitly addressed in the decision-making process for development activities. ADB's OM F2/OP requires that the findings of a gender analysis be included in the RP, and at all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and land-use rights; and to ensure the restoration of their income and living standards.

11. The ADB **Public Communications Policy** (ADB, 2005) seeks to encourage the participation and understanding of stakeholders and people affected by ADB-assisted activities. Information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, in order to facilitate dialogue with APs and other stakeholders. The Executing Agency (EA) should, as necessary, develop a project communications plan and designate a focal point to maintain contact with AP. With respect to land acquisition, compensation and resettlement, information should be distributed to APs and publicly in the following manner: (i) the draft RP prior to loan appraisal;,(ii) the final RP following

its completion; and (iii) the revised RP, following any revisions. This information can be in the form of brochures, leaflets or booklets, in the local language(s) as well as English, the working language of the ADB. When APs include non-literate people, other appropriate methods of communications will be used. The policy also requires disclosure of social monitoring reports.

### III. Resolving Inconsistencies on Involuntary Resettlement

12. With the promulgation of Decree 197/2004/ND/CP (3/12/2004) and relevant decrees stated above, the policies and practices of the Government have become more consistent with ADB's social safeguards policies. Nonetheless, provisions and principles adopted in this RF will supersede the provisions of the relevant decrees currently in force in Viet Nam wherever a gap exists, as provided for under Decree 131/2006/ND-CP (November 2006), which regulates the management and use of official development assistance. It should also be noted that as per Decree 197/2004, Article 32, it states "*Apart from the supports prescribed in Articles 27, 28, 29, 30 and 31 of this Decree, basing themselves on the local realities, the provincial-level People's Committee presidents shall decide on other supporting measures to stabilize life and production of persons who have land recovered; special cases shall be submitted to the Prime Minister for decision.*"

13. The differences between the Government's Laws and Decrees and ADB Policy with regard to resettlement and compensation, and how to address these gaps are shown in Table 2 below.

**Table SAB2.2: Gaps Between National Laws and ADB Policy**

Key Issues	National Laws	ADB Policy	Project Policy
Non-titled users	Decree 197/2004, Articles 6 and 121, the Peoples' Committees of the provinces or centrally-run cities shall consider providing such support on case-by-case basis.	Non-titled APs, including displaced tenants, sharecroppers and squatters, are not entitled to compensation for land but are entitled to payment for non-land assets and assistance to restore their pre-project living standards. If they are poor and vulnerable, appropriate assistance must be provided to help them improve their socio-economic status.	Poor and vulnerable non-titled users will be provided appropriate assistance to help them improve their socio-economic status. The type of assistance will be identified during RP preparation as per consultation with APs.
Compensation of land at replacement cost	Decree 123/2007 which amends Decree 188/2004, sets price limits of land and authorizes Provincial People's Committees to set local land prices by establishing ranges for all categories of land and land prices in each category. The price limit would not be allowed to exceed a benchmark price by more than 20 per cent nor undercut the benchmark price by more than 20 per cent. However, in a remote isolated areas, or an area with socio-economically difficult conditions,	All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market value, plus any transaction costs such as administrative charges, taxes, registration and titling costs. In the absence of functions markets, a compensation structure is required that enables affected people to restore their livelihoods to level at least equivalent to those maintained at the time of dispossession,	Payment for land will be based on the principle of replacement cost.

Key Issues	National Laws	ADB Policy	Project Policy
	poor infrastructure, when the actual price of land in the market is lower than minimum price limit in the Decree, the provincial people's committee will adjust the specific price to be applied locally and report it to the Ministry of Finance.	displacement, or restricted access.	
Houses and structures	Decree 197/2004, Articles 18-20: Houses and structures constructed prior to land use plans or the right of way announcements will be assisted at 80% of replacement cost. Houses and structures constructed after land use plans or the right of way announcements will be provided assistance on case-by-case basis.	For non-land assets, all eligible affected people, whether titled, legitimate, or non-titled, need to be compensated at replacement cost, through cash or replacement assets.	Payment for structures, regardless of tenure status, will be compensated at full replacement cost. Additional cash or in-kind assistance will be provided on a case-by-case basis.
Non-registered business	Decree 187/2004, Articles 26-28: Only registered businesses are eligible for assistance.	For non-land assets, all eligible affected people, whether titled, legitimate, or non-titled, need to be compensated at replacement cost, through cash or replacement assets. Included among these APs are renters of buildings, tenants and employees of affected businesses.	Non-registered businesses will be eligible for cash or in-kind assistance
Provision of rehabilitation assistance	Decree 187/2004, Articles 28-29: APs losing more than 30% of productive land will be entitled to living stabilization and training/job creation assistance. Decree 17/2006 strengthens this provision and provides for the long term assistance to poor households.	Rehabilitation assistance is required for those who lose 10% or more of their productive income generating assets and/or being physically displaced. Focus on strategies to avoid further impoverishment and create new opportunities to improve status of the poor and vulnerable people.	Rehabilitation assistance will be provided to those who lose 10% or more of their productive income generating assets and/or being physically displaced. The Project will focus on strategies to avoid further impoverishment and create new opportunities to improve status of the poor and vulnerable people.

#### IV. Project Principles, Eligibility and Entitlements

##### A. Project Principles

14. The basic principles of this Project are the following:

- (i) Involuntary resettlement and impacts on land, structures and other fixed assets will be avoided or minimized where possible by exploring all alternative options;
- (ii) APs residing, working, doing business and cultivating land within the required project area as of the completion date of the census and detailed measurement survey will be entitled to compensation and rehabilitation assistance to assist them in improving, or at least maintaining, their pre-project living standards and productive capacities. The Project will ensure that APs are able to find alternative sites or income sources;

- (iii) Lack of formal legal title or rights will not be a bar to eligibility for compensation and assistance under the Project. APs will not be displaced from affected land until the village allocates suitable alternative land or compensation is paid that is sufficient to purchase suitable land within the same or neighbouring village;
- (iv) All compensation will be based on the principle of replacement cost at the time of compensation. For houses and other structures, this will involve the costs for materials and labour at the time of acquisition, with no deduction for depreciation or for salvageable materials. Compensation for land will be replacement land cash adequate to purchase land locally of equivalent size and quality, and where required to improve land to achieve suitable quality;
- (v) The process and timing of land and other asset acquisition will be determined in consultation with APs to minimize disturbance;
- (vi) Where houses and structures are partially affected to the degree that the remaining portion is not viable for its intended use, the Project will acquire the entire asset, and APs will be entitled to compensation at replacement cost for the entire asset;
- (vii) APs will be systematically informed and consulted about the Project, the rights and options available to them and proposed mitigating measures. The comments and suggestions of APs and communities will be taken into account;
- (viii) The key information in the RP such as measurement of losses, detailed asset valuation, compensation and resettlement options, detailed entitlements and special provisions, grievance procedures, timing of payments and displacement schedule will be disclosed to APs in an understandable format such as the distribution of public information booklets (PIBs) prior to submission to ADB for review and approval;
- (ix) Resettlement identification, planning and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and land-use rights, and to ensure the restoration of their income and living standards;
- (x) Existing cultural and religious practices will be respected and, to the maximum extent practical, preserved;
- (xi) Special measures will be incorporated in the RP to protect socially and economically vulnerable groups such as ethnic minorities, women-headed households, children, households headed by the disabled, the elderly, landless and people living below the generally accepted poverty line. Vulnerable APs will be provided with appropriate assistance to help them improve their standard of living through asset building strategies such as provision of land, replacement housing of minimum standards and increased security of tenure;
- (xii) There will be effective mechanisms for hearing and resolving grievances during updating and implementation of the RP. Resettlement committees (RCs) will include representatives from APs especially women and vulnerable groups;
- (xiii) Institutional arrangements will be in place to timely and effectively design, plan, consult and implement the land acquisition, compensation, resettlement, and rehabilitation programs;
- (xiv) Adequate budgetary support will be fully committed and made available to cover the costs of land acquisition and resettlement within the agreed implementation period;
- (xv) Appropriate reporting, monitoring and evaluation mechanisms will be identified and set in place as part of the resettlement management system. Monitoring and

- evaluation of the land acquisition, resettlement and rehabilitation processes and the final outcomes will be conducted by an independent monitor;
- (xvi) Voluntary donation will not be applied for any assets except very minor losses of residential land. Voluntary donation of small strips of residential land will be according to the following criteria that will be strictly complied with, i.e., (i) the AP's total residential land area is not less than 300 m<sup>2</sup>; (ii) if the AP's total residential land area is more than 300 m<sup>2</sup>, the strip of land that can be donated cannot be more than 5% of the total land area; and (iii) there are no houses, structures or fixed assets on the affected portion of land.;
  - (xvii) Civil works contracts will not be awarded for a specific subproject or geographic area until (i) compensation payment and relocation to new sites have been satisfactorily completed for that subproject or geographic area; (ii) agreed rehabilitation program is in place; and (iii) the area is free from all encumbrances as per approved RP;
  - (xviii) Cash compensation or replacement land for affected households losing entire residential land will be made available well ahead of civil works to allow the affected households sufficient lead time to reconstruct their houses;
  - (xix) No demolition of assets and/or entry to properties will be done until the affected household is fully compensated and relocated.

## **B. Eligibility and Entitlements**

15. **Eligibility.** All APs who are identified in the project-impacted areas on the cut-off date, will be entitled to compensation for their affected assets and to rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels. The cut-off date will be the final day of the detailed measurement survey (DMS) in each subproject. Those who encroach into the subproject area after the cut-off date will not be entitled to compensation or any other assistance.

16. **Entitlements.** The entitlement matrix in Table 3 includes the main types of losses and the corresponding nature and scope of entitlements. Following detailed design, DMS and socioeconomic surveys (SES) will be the basis for determining actual impacts, and replacement cost surveys (RCS) will be carried out to determine actual replacement costs and rates. Standards described will not be lowered but can be enhanced in the subproject RPs as required.

17. As much as practicable, subprojects will be located on vacant and idle public or communal reserve land. For public land or communal land identified, the Commune/Ward Community Management Board (CCMB) and District/Town Resettlement Committees (RCs) will confirm that the identified land is free of any encumbrances, habitation, dispute or controversy. The certification of the CCMB and RCs will be verified by a third party such as Viet Nam Women's Union (VWU).

18. Voluntary donation will not be applied for any assets except very minor losses of residential land. For small strips of residential land, the following criteria will be strictly complied with: (i) the AP's total residential land area is not less than 300 m<sup>2</sup>; (ii) if the AP's total residential land area is more than 300 m<sup>2</sup>, the strip of land that can be donated cannot be more than 5% of the total land area; and (iii) there are no houses, structures or fixed assets on the affected portion of land.

**Table SAB2.3: Project Entitlement Matrix**

Type of Losses	Entitled Persons	Entitlements	Implementation Issues
Productive Land (paddy, garden, and Teak Plantation)	Legal owner or occupant identified during DMS.	<ul style="list-style-type: none"> <li>• For marginal loss of land, cash compensation at replacement cost which is equivalent to the current market value of land within the village, of similar type, category and productive capacity, free from transaction costs (taxes, administration fees),</li> <li>• If the impacts on the total productive land is 10 % or more, as a priority, replacement land of similar type, category and productive capacity of land within the village OR at the request of AP, cash compensation at replacement cost plus assistance to purchase and register land</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary donation of productive land will not be allowed by the Project.</li> </ul>
Residential Land	Legal owner or occupant identified during DMS.	<ul style="list-style-type: none"> <li>• <u>With</u> remaining land sufficient to rebuild houses/structures: (i) Cash compensation at replacement cost which is equivalent to the current market value of land of similar type and category, and free from transaction costs (taxes, administration fees) and (ii) Project contractor to improve remaining residential land at no cost to APs (e.g. filling and levelling) so APs can move back on remaining plot.</li> <li>• <u>Without</u> remaining land sufficient to rebuild houses/structures: (i) Replacement land equal in area, same type and category, without charge for taxes, registration and land OR (ii) cash compensation at replacement cost which is equivalent to the current market value of land of similar type and category, free from transaction costs (taxes, administration fees) plus assistance to purchase and register land.</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary donation of minor strips of residential land will only be allowed by the Project provided that the following criteria are strictly complied with: (i) the AP's total residential land area is not less than 300 m<sup>2</sup>; (ii) if the AP's total residential land area is more than 300 m<sup>2</sup>, the strip of land that can be donated cannot be more than 5% of the total land area; and (iii) there are no houses, structures or fixed assets on the affected portion of land.</li> <li>• Voluntary donation according to these criteria will follow the process in accordance with ADB's Operations Manual (OM) F2.</li> </ul>
Fish Pond	Owner of affected fishpond	<ul style="list-style-type: none"> <li>• Cash compensation of affected portion at replacement cost which is equivalent to the current market value of fish pond, labor and rent of equipment to excavate fishpond, free from transaction costs (taxes, administration fees)</li> <li>• If the currently held fish stocks will not be harvested before the project takes possession of the fishpond, then cash compensation for the projected mature value of fish stock held at the time of compensation.</li> <li>• Construction contractor to restore/repair remaining fishpond.</li> </ul>	<ul style="list-style-type: none"> <li>• Adequate time provided for AP to harvest fish stocks</li> <li>• Voluntary donation of fishpond land, will not be allowed by the Project</li> </ul>

Type of Losses	Entitled Persons	Entitlements	Implementation Issues
		If support cannot be provided by the contractor, the AP will be entitled to cash assistance to cover for payment of labour and rent of equipment to restore/repair fishpond.	
<p>Totally Affected Houses/Shops, and Secondary Structures (kitchen, rice bins)</p> <p>Partially Affected Houses/Shops but no longer viable (Will require relocation)</p>	Owners of affected houses whether or not land is owned	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for the entire structure equivalent to current market prices of (i) materials, with no deduction for depreciation of the structure or salvageable materials; (ii) materials transport; and (iii) labour cost to cover cost for dismantling, transfer and rebuild; and</li> <li>• Excluding those who will move back to their residual land, timely provision of dump trucks for hauling personal belongings at no cost to the APs.</li> </ul>	<ul style="list-style-type: none"> <li>• Adequate time provided for APs to rebuild/repair their structures</li> <li>• Affected houses and shops that are no longer viable are those whose remaining affected portion are no longer usable/habitable.</li> </ul>
Temporary Use of Land	Legal owner or occupant	<ul style="list-style-type: none"> <li>• For agricultural and residential land to be used by the civil works contractor as by-pass routes or for contractor's working space, (i) rent to be agreed between the landowner and the civil works contractor but should not be less than the unrealized income and revenue that could be generated by the property during the period of temporary use of the land; (ii) cash compensation at replacement cost for affected fixed assets (e.g., structures, trees, crops); and (iii) restoration of the temporarily used land within 1 month after closure of the by-pass route or removal of equipment and materials from contractor's working space subject to the conditions agreed between the landowner and the civil works contractor.</li> </ul>	<ul style="list-style-type: none"> <li>• The construction supervision consultant will ensure that the (i) location and alignment of the by-pass route to be proposed by the civil works will have the least adverse social impacts; (ii) that the landowner is adequately informed of his/her rights and entitlements as per the Project resettlement policy; and (iii) agreement reached between the landowner and the civil works contractor are carried out.</li> </ul>
Partially Affected Houses and Shops and secondary structures  (Will not require relocation)	Owners of affected houses whether or not land is owned	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for the affected portion of structure equivalent to current market prices of (i) materials and labour, with no deduction for depreciation of the structure or for salvageable materials (ii) materials transport, and (iii) cost of repair of the unaffected portion;</li> </ul>	
Loss of business income during relocation or during dismantling/repair of affected portion	Owners of shops	<ul style="list-style-type: none"> <li>• Cash compensation equivalent to the daily wage rate multiplied by the number of days of business disruption.</li> <li>• Transportation assistance, if needed</li> <li>• A guaranteed stall in newly</li> </ul>	

Type of Losses	Entitled Persons	Entitlements	Implementation Issues
		constructed market, when applicable	
Crops and Trees	Owner of crops and trees whether or not land is owned	<ul style="list-style-type: none"> <li>• If standing annual crops are ripening and cannot be harvested, cash compensation at replacement cost equivalent to the highest production of crop over the last three years multiplied by the current market value of crops</li> <li>• For perennial crops and trees, cash compensation at replacement cost equivalent to current market value based on type, age, and productive capacity.</li> <li>• For timber trees, cash compensation at replacement cost equivalent to current market value based on type, age and diameter at breast height (DBH) of trees</li> </ul>	
Electricity Poles	Electricity Companies	<ul style="list-style-type: none"> <li>• Cash compensation for cost to dismantle, transfer and rebuild</li> </ul>	
Transition subsistence allowance	<p>Relocating households – relocating on residual land or to other sites</p> <p>Severely affected APs losing 10% or more of their productive land</p>	<ul style="list-style-type: none"> <li>• Relocating APs without any impact on business or source of incomes will be provided with cash or in-kind assistance equivalent to 16 kg of rice at current market value for 3 months per household member</li> <li>• Relocating APs with main source of income affected (i.e., from businesses) or APs losing more than 10% of their productive land will be provided with cash or in-kind assistance equivalent to 16 kg of rice at current market value for 6 months per household member</li> </ul>	
Transportation allowance	Relocating households – to other sites	Provision of dump trucks to haul all old and new building materials and personal possessions	APs may also opt for cash assistance. The amount (cost of labour and distance from relocation site) to be determined during implementation
Severe impacts on vulnerable APs  (Relocating APs and those losing 10% or more of their productive assets)	Severely affected vulnerable APs such as the poorest, or households headed by women, the elderly or disabled, and ethnic minorities	<ul style="list-style-type: none"> <li>• An additional allowance of 1 month supply of rice per person in the household.</li> <li>• The contractors will make all reasonable efforts to recruit severely affected and vulnerable APs as labourers civil works</li> </ul>	The poorest will be those below the national poverty line (urban or rural as applicable)

## V. Relocation and Income Restoration Strategy

19. Households that have to relocate will participate in identifying and selecting options to relocate on their existing plots, to move to plots provided by the district, or to receive cash compensation and to make their own arrangements for relocation. In the case that any businesses have to relocate, they will be assisted to find viable new sites. Households who are severely affected through the loss of 10% or more productive assets will be provided with replacement land, assisted to purchase replacement land or receive cash compensation. APs will also be compensated for losses of harvest and receive transition subsistence allowances. Severely affected vulnerable APs will receive additional allowances equal to 1 month supply of rice per person in the household. If needed, appropriate livelihood restoration programs will be designed and implemented during project implementation in consultation with APs. APs will not be displaced until the village allocates land within the same or neighboring village.

## VI. Vulnerability, Gender and Ethnicity

20. The RF recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels; and therefore, at greater risk of impoverishment when their land and other assets are affected. The Project will identify any specific needs or concerns that need to be considered for the indigenous peoples groups/ethnic minorities and other vulnerable groups such as landless, poor, and households headed by women, disabled, elderly or children without means of support. A gender strategy and ethnic minorities specific actions will be included in the RP when applicable.

### A. Indigenous Peoples Specific Actions

21. To ensure that the indigenous peoples/ethnic minorities APs receive full benefit of resettlement activities related to land acquisition and compensation, the following specific activities will be integral to the RP:

- (i) In villages with indigenous peoples/ethnic minorities, one man and one woman representative from each indigenous peoples group will be included in each of the RCs [District Resettlement Committees (DRC) and Village Resettlement Committees (VRC)] level;
- (ii) During the final DMS both men and women, and female-headed ethnic minority households will participate in the DMS, and will be accompanied by a DRC or VRC member who will provide translation as needed to ensure APs understand and are in agreement with the DMS results;
- (iii) Compensation will be given to both men and women from ethnic minority households;
- (iv) Where ethnic minority households are required to rebuild or relocate, rehabilitation options and sites will be acceptable to the household and ensure they are able to continue their existing livelihood and lifestyle, and remain within their community (if they so choose);
- (v) Where land is allocated or use rights assigned, registration will be in the name of husband or wife if the affected land was acquired prior to marriage and joint registration in the names of both husband and wife for ethnic minority APs if the land was acquired by both husband and wife;
- (vi) All public information and consultation meetings in ethnic minority villages will include local translation in their languages so that information and exchange of views is facilitated for all men and women APs. Village meetings will be held to raise AP awareness and understanding of resettlement related issues such as

- project timing, entitlements, compensation determination and payments, grievance process, support for relocation/ rebuilding etc., and specific women focus groups will also be held to cover the same issues;
- (vii) Rehabilitation measures for businesses will ensure that ethnic minority households and/or female headed households as well as other APs are treated equitably in terms of assistance to find and/or allocation of replacement land, and in the provision of allowances (including business income loss, transition and vulnerability allowances);
  - (viii) Where ethnic minority households live within villages of another ethnicity, RCs will pay special attention to their compensation and transition. External monitoring will also review these cases;
  - (ix) Monitoring of RP preparation, consultation and awareness, implementation, and AP rehabilitation and satisfaction will all be undertaken using ethnicity disaggregated data;
  - (x) Internal monitoring will ensure consultation incorporates translation to ethnic minority languages in minority villages and for minorities living in villages of other ethnicity;
  - (xi) Both males and females from ethnic minorities will be able to participate in the jobs that are created during construction and maintenance in the Project area

## **B. Gender Strategies**

22. A number of strategies will be adopted to ensure gender-sensitive resettlement and rehabilitation measures and, to engage women actively in the planning and implementation of the resettlement program as well as other programs. The RCs, resettlement and gender specialists will be directly involved in all aspects of the development and implementation of the gender strategy, to ensure that these measures are adequately implemented.

23. The strategies for APs that will relocate from, or rebuild on residential and/or commercial land they occupy in the subproject areas will be made gender-sensitive in the following ways:

- (i) The RCs will make concerted efforts to consult with female APs (household heads and women in AP households). This will be done through individual and women focus group discussions. The role of local VWU representatives will be crucial in facilitating these consultations and ensuring women's specific needs are met;
- (ii) In addition to village forums, specific women's focus group meetings will be held to raise awareness and understanding of resettlement related issues such as project timing, entitlements, compensation determination and payments, grievance process, support for relocation/rebuilding etc;
- (iii) Women will be consulted specifically to establish criteria for replacement land or improvements to existing lands, particularly in relation to the planning of available lands and maintenance of the household utility areas, as well as issues relating to access to community services and facilities such as schools, health facilities and markets, as well as their economic activities;
- (iv) Consultations with APs regarding arrangements for secure tenure will ensure that women including women-headed households and other female household members understand clearly what their options and obligations are; and, that the views of women are considered in making decisions;

- (v) New land registrations will be made in both spouse's names if the land acquired by the Project was acquired by husband and wife during marriage, or in the case of female headed households, in the women's name;
- (vi) Compensation payments will be signed off by both spouses, or in the case of female headed households, by the women;
- (vii) The civil works contracts will include employment targets for the poor, and women from the Project affected villages and local area. They will also include commitments to gender equity including: i) ensuring that no child labour or trafficked labour will be used; ii) no discrimination against the employment of qualified women; and iii) no differential wages paid to men and women for work of equal value;
- (viii) Special measures will be taken in disseminating information to and consulting with women to ensure that they understand clearly the policies, entitlements and other procedures of the resettlement program, and are able to make informed decisions;
- (ix) The VWU in affected villages will monitor vulnerable APs, including female headed households for signs of stress or health impacts due to resettlement activities. If noted, these will be reported to the RCs and project implementation unit (PIU) for assistance;
- (x) The resettlement information system for the Project will ensure that all databases and monitoring indicators are disaggregated by gender;
- (xi) The PIU will provide training for all RCs to build capacity in resettlement administration and to enhance gender and ethnicity sensitivity in resettlement management.

## **VII. PREPARATION AND IMPLEMENTATION OF RPs**

24. This chapter provides the guidelines for screening and RP preparation and implementation.

### **A. Screening**

25. Resettlement screening for subprojects will be carried out as soon as the sub-projects are finally selected for inclusion in the Project. The concerned RCs and project staff will determine the requirements for preparation of resettlement plans, using the screening and categorization form in Appendix 1 to determine the nature and significance of resettlement effects. The screening criteria based on the degree of resettlement impacts are:

- (i) Not significant (Category B) - as a result of the subproject, fewer than 200 people will be physically displaced from housing or lose less than 10% of their productive (income-generating) assets. A short RP will be required; or
- (ii) No resettlement effect (Category C) - the subproject does not require temporary or permanent land acquisition, and there are no impacts involving the loss of land, structures, crops and trees, businesses or income. No RP is required.

### **B. RP Preparation**

26. If resettlement impacts are unavoidable and preparation of a RP is therefore required, a short RP will be prepared using the following procedures:

- (i) Undertake a census of all APs;

- (ii) Undertake (DMS)<sup>1</sup> of all losses of all APs. At the same time, inform potential APs (without discrimination) of the subproject, its likely impacts, and principles and entitlements as per the RF;
- (iii) Undertake a SES<sup>2</sup> of at least 10% of all APs, 20% of severely affected APs and indigenous peoples population;
- (iv) Undertake a RCS for various types of affected assets as a basis for determining compensation rates at replacement cost. Determine the losses in accordance with the entitlement matrix.<sup>3</sup>;
- (v) Provide project and resettlement information to all persons affected in a form and language that are understandable to them, and closely consult them on compensation and resettlement options, including relocation sites and economic rehabilitation;
- (vi) Prepare the draft RP with time-bound implementation schedule, procedures for grievance mechanism and monitoring and evaluation, and a budget;
- (vii) Finalize the subproject RP and translate to local language;
- (viii) Disclose the draft and final RP in accordance with ADB's policy on public communications<sup>4</sup> to the affected communities and on ADB's website. The draft RP will be disclosed to APs prior to submission to ADB for approval. The final RP will be disclosed after approval.

**Table SAB2.4: Surveys for RP Preparation**

<b>Detailed Measurement Survey (DMS)</b>	<p>The <b>census</b> and <b>detailed measurement survey</b> (DMS) of lost assets will collect data on the affected assets from 100% of APs following detailed engineering design. The data collected during the DMS will constitute the formal basis for determining AP entitlements and levels of compensation. For each AP, the scope of the data will include:</p> <ul style="list-style-type: none"> <li>(i) Total and affected areas of land, by type of land assets;</li> <li>(ii) Total and affected areas of structures, by type of structure (main or secondary);</li> <li>(iii) Legal status of affected land and structure assets, and duration of tenure and ownership;</li> <li>(iv) Quantity and types of affected crops and trees;</li> <li>(v) Quantity of other losses, e.g., business or other income, jobs or other productive assets; estimated daily net income from informal shops;</li> <li>(vi) Quantity/area of affected common property, community or public assets, by type;</li> <li>(vii) Summary data on AP households, by ethnicity, gender of head of household, household size, primary and secondary source of household income viz-a-viz poverty line, income level, whether household is headed by women, elderly, disabled, poor or indigenous peoples;</li> <li>(viii) Identify whether affected land or source of income is primary source of income; and</li> <li>(ix) AP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures.</li> </ul>
<b>Socioeconomic Survey</b>	<p>At a minimum, the SES will collect information from a sample of 10% of affected people and 20% of severely affected APs, disaggregated by gender and ethnicity. The purpose of the SES is to provide baseline data on APs to assess resettlement impacts, and to be sure proposed entitlements are appropriate, and to be used for resettlement monitoring. The scope of data to be collected includes:</p> <ul style="list-style-type: none"> <li>a. Household head: name, sex, age, livelihood or occupation, income, education and ethnicity;</li> <li>b. Household members: number, livelihood or occupation, school age children and school attendance, and literacy, disaggregated by gender;</li> <li>c. Living conditions: access to water, sanitation and energy for cooking and lighting; ownership of durable goods; and</li> </ul>

<sup>1</sup> Data will be gender and indigenous peoples disaggregated.

<sup>2</sup> It will include gender analysis and data will be gender and ethnic minority disaggregated.

<sup>3</sup> If there are new categories of APs and/or losses identified during the DMS (other than those described in the entitlement matrix), the entitlements will be derived in accordance with ADB's policy and guidelines.

<sup>4</sup> ADB, 2005, Public Communications Policy. Manila.

	d. Access to basic services and facilities.
<b>Replacement Cost Survey</b>	The RCS will be done in parallel with DMS and SES activities by collecting information from both secondary sources and primary sources (direct interviews with people in the affected area, material suppliers, house contractors), and from both those affected and those not affected. The government rates will be adjusted, as necessary, based on the findings of a RCS. Compensation rates will be continuously updated to ensure that APs receive compensation at replacement cost at the time of compensation payment.

### C. RP Implementation

27. Land acquisition, compensation and relocation of APs cannot commence until the RP has been reviewed and approved by ADB. Commencement of civil works may commence in sections where there are no resettlement impacts. All resettlement activities will be coordinated with the civil works schedule. ADB will not allow construction activities in specific sites until all resettlement activities have been satisfactorily completed, agreed rehabilitation assistance is in place, and the site is free of all encumbrances.

## VIII. Institutional Arrangements

28. Responsibility for resettlement spans various levels of government and project contractors, and these include the Ministry of Tourism, the Provincial People Committees (PPCs). The District People Committees (DPCs), Project implementation consultants, and specifically formed provincial, district and village RCs. The role and functions of each of these organizations is detailed in this section.

### A. Ministry of Culture, Sports and Tourism (MoCST)

29. Management responsibility for the Project resides with the MoCST as EA. A central Project Coordination Unit (PCU) will be established in Hanoi, with a field office in Hue. The PCU will be responsible for the day-to-day management and monitoring of all project activities including coordination with the PCU in Lao PDR and at the subregional level with the Mekong Tourism Coordination Office (MTCO). The PCU will be headed by a Project Director based in Hanoi and six staff, including a project manager (Hue), a financial controller (Hanoi), a social development specialist (Hue), an environment specialist (Hue) an accountant (Hue), and a monitoring and evaluation officer (Hue). The PCU will be supported by international and national consultants. MoCST will endorse the RPs approved by the provinces and send them to ADB for approval.

### B. Provincial Peoples Committees

30. The PPCs will be responsible for implementing, coordinating, monitoring, and reporting activities at the provincial level and will establish Provincial Project Implementation Units (PIUs) at the provincial level to undertake the actual delivery of subprojects. For subprojects that will require the preparation of short RPs, the PIU will be responsible for resettlement planning and implementation within its administrative jurisdiction and for securing approval of the RPs as required. It will further be overall responsible for ensuring RP updating and implementation activities are consistent with those described in the RP and will also be responsible for internal monitoring of resettlement activities. The PIUs will appoint a Social Development Specialist who will be primarily responsible for resettlement for this Project.

### C. Local Administrative Authorities

31. The local administrative authorities will play a significant role in the planning and implementation of resettlement-related activities. Their roles will include working closely with the

concerned PIUs and resettlement committees in the conduct of surveys and consultations; act as grievance officers and ensure that any grievances are resolved; assist APs during the compensation activities; involve local organizations in carrying out the resettlement activities; certify the list of APs and sign certification documents; monitor and register new settlers in the area and inform them not to construct houses or other structures in the areas where project infrastructure will be constructed.

#### **D. Project Implementation Consultants**

32. The Project will contract an international resettlement specialist for 1.5 person-months to support the PCU and PIUs in handling resettlement issues. The consultant will also be responsible for training the local social development consultant and the PIU social development specialists in resettlement planning, implementation, monitoring, and evaluation. The resettlement consultant will have experience in both planning and implementation of resettlement plans in Viet Nam.

33. In addition to the resettlement specialist, one international and one national social and gender specialist will be mobilized for 4 person-months and 18 person-months, respectively. The specific tasks of these consultants include:

- (i) Ensuring that due diligence is carried out for all subprojects;
- (ii) Operationalize the gender strategy; develop capacity building training modules and conduct workshop and capacity building training on resettlement activities for the RCs, Women's Union, and youths;
- (iii) Conduct workshop/training for men and women from AP households on: (i) village level consultation process; (ii) leadership skills; (iii) resettlement, rehabilitation and relocation-related issues;
- (iv) Ensure that men and women from ethnic minorities groups and affected women headed households are consulted effectively and have access to fair compensation and timely compensation;
- (v) Monitor grievance process for the women from the affected households;
- (vi) Develop disaggregated monitoring indicators by gender and ethnicity (together with Monitoring & Evaluation (M&E) specialist);
- (vii) Prepare progress report on gender strategy as part of the quarterly progress report on resettlement;
- (viii) Ensure that representatives of ethnic minorities are included in the RCs;
- (ix) Ensure that appropriate consultation process is carried out for ethnic minorities AP households;
- (x) Ensure that ethnic minority AP households receive capacity building training/workshop on resettlement related activities;
- (xi) Ensure that indigenous peoples AP households receive fair compensation and land title or land use certificates where applicable;
- (xii) Ensure that ethnic minority AP households have access to fair grievance process;
- (xiii) Provide inputs to gender specialist and M&E specialist on disaggregated monitoring indicators by ethnic groups;
- (xiv) Prepare progress report on indigenous peoples specific actions as part of the quarterly progress report on resettlement.

## **IX. Consultation, Grievance Redress, and Disclosure**

### **A. Consultation and Disclosure**

34. Consultation with the AP will be carried out as soon as the PIUs are mobilized so that their needs and preferences can be incorporated into the design arrangements where practicable. They will also participate in the various RP processes: DMS, RCS, identification of sites, hand over of entitlements, monitoring of impacts and benefits, and discussion and settlement of grievances. The scope of information to be provided to APs includes: (i) description of Project and overall schedule, (b) DMS and RCS results, (c) policy principles and entitlements and special provisions, (d) grievance procedures, (e) timing for payments and displacement schedule, and (f) institutional responsibilities.

35. The RCs and PIUs will be responsible for the disclosure of the RP to the APs prior to submission to ADB. ADB will upload the final RP on ADB's resettlement website. Monitoring reports on any resettlement will also be uploaded on ADB's website.

### **B. Grievance Redress**

36. It is the responsibilities of local authorities and the PPCs to help to resolve confusion, misunderstandings or problems about land acquisition, compensation rates, rehabilitation and relocation. To ensure that all grievances of those affected on any aspect of land acquisition, compensation, relocation, and determination and payment of entitlements are resolved in a timely and satisfactory manner, and that all avenues for airing grievances are available, detailed procedures for hearing and redressing grievances, including appeal processes, will be made public through an effective public information campaign. The affected individuals will be made fully aware of their rights (both verbally and in writing) during consultations and at each phase of the resettlement process. A four-stage procedure for redress of grievances is presented below:

- (a) Stage 1: An aggrieved affected household may bring his/her complaint before any member of the Commune People's Committee (CPC), either through the Village Chief, a project staff, or directly to the CPC, in writing or verbally. It is incumbent upon said member of CPC or the village chief to notify the CPC about the complaint. The CPC will meet personally with the aggrieved affected household and will have 15 days following the lodging of the complaint to resolve it. The CPC secretariat is responsible for documenting and keeping file of all complaints that it handles.
- (b) Stage 2: If after 15 days the aggrieved affected household does not hear from the CPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing or verbally, to any member of the District People's Committee (DPC). The DPC in turn will have 15 days following the lodging of the complaint to resolve the case. The DPC is responsible for documenting and keeping file of all complaints that it handles.
- (c) Stage 3: If after 15 days the aggrieved affected household does not hear from the DPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing or verbally, to any member of the PPC. The PPC has 15 days within which to resolve the complaint to the satisfaction of all concerned. The PPC is responsible for documenting and keeping file of all complaints that reaches the same.

(d) Stage 4: If the complainant is not satisfied with the decision taken on his/her complaint at the provincial level, the case may be brought to the People’s court for adjudication. Under no circumstance will the affected household be evicted from his/her property or for the Government to take over his/her property without the explicit permission of the court. Pending the settlement of their complaints, the AP will abide by the decision, hand over their land according to plan and deadline already decided by the People’s Court.

**X. Monitoring and Evaluation**

37. Monitoring and evaluation of the RP allows project owners to ensure smooth progress of RP implementation by providing for a review of information on the progress of implementation of RP activities. Importantly, monitoring must also address the degree to which the resettlement activities have achieved their desired outcomes, particularly where this involves the rehabilitation of AP’s housing, livelihoods and lifestyles.

38. These two monitoring objectives will be addressed through two mechanisms: (a) internal monitoring by the MoCST and PPCs and (b) external monitoring and evaluation by an independent monitor.

**A. Internal Monitoring**

39. The role of internal monitoring and evaluation is to ensure that resettlement institutions are well-functioning during the course of project implementation, and that resettlement activities are undertaken in accordance with the implementation schedule described in the RP. In this way, the protection of APs’ interests and the schedule for civil works can be assured.

40. Primary responsibility for internal monitoring lies with MoCST as the project EA. MoCST will be responsible for overseeing the formation, function, and activities of the PPCs, and through quarterly monitoring reports, summarize this progress. The MoCST will ensure that information on resettlement progress flows from PPCs, PIUs and the staff working with the resettlement consultants. All monitoring data will be collected to ensure gender and ethnicity disaggregation. The quarterly progress reports will also include resettlement audit statements to show disbursement of loan funds for resettlement.

41. The indicators that will be monitored regularly will include:

**Table SAB2.5: Monitoring and Evaluation Indicators**

Type	Indicator	Examples of Variables
<b>INPUTS INDICATORS</b>	Staffing and Equipment	<ul style="list-style-type: none"> <li>• Number of project dedicated MoCST staff</li> <li>• Confirmation of each PRC, DRC and VRC</li> <li>• Number of PRC and DRC members and job function</li> <li>• Adequate equipment for performing functions (including grievance recording)</li> <li>• Trainings undertaken</li> <li>• External monitor contracted and mobilized</li> <li>• Construction Contractor meeting local employment targets for unskilled labour</li> </ul>

Type	Indicator	Examples of Variables
	Finance	<ul style="list-style-type: none"> <li>Funds disbursed to APs in a timely manner (compensation for non-land assets, land acquisition and allowances)</li> <li>Funds disbursed to develop relocation sites, improvement of land to make it productive; administration costs; external monitoring</li> </ul>
<b>PROCESS INDICATORS</b>	Consultation, Participation, and Grievance Resolution	<ul style="list-style-type: none"> <li>Distribution of PIB to all APs</li> <li>Summary RP available in all districts</li> <li>Translation of materials in indigenous peoples villages and for individual minority APs in villages of other ethnicity</li> <li>Consultations and participation undertaken as scheduled in the RP</li> <li>Grievances by type and resolution</li> <li>Number of local-based organizations participating in project</li> </ul>
<b>OUTPUT INDICATORS</b>	Acquisition of Land	<ul style="list-style-type: none"> <li>Area of cultivation land acquired</li> <li>Area of residential land acquired</li> <li>Fishponds acquired</li> </ul>
	Buildings	<ul style="list-style-type: none"> <li>Number, type and size of private houses/structures acquired</li> <li>Number, type and size of community buildings acquired</li> <li>Number, type and size of government assets affected</li> </ul>
	Trees and Crops	<ul style="list-style-type: none"> <li>Number and type of private trees acquired</li> <li>Number and type of government/community trees acquired</li> <li>Number and type of crops acquired</li> <li>Crops destroyed by area, type and number of owners</li> </ul>
	Compensation and Rehabilitation	<ul style="list-style-type: none"> <li>Number of households affected (land, buildings, trees, crops)</li> <li>Number of owners compensated by type of loss</li> <li>Amount compensated by type and owner</li> <li>Number and amount of payment paid</li> <li>Compensation payments made on time</li> <li>Compensation payments according to agreed rates</li> <li>Number of houses demolished</li> <li>Number of porches/kitchens dismantled</li> <li>Number of replacement houses built by APs on the same plot</li> <li>Number of replacement houses built by APs on other plots they own</li> <li>Number of replacement houses built by APs on allocated plots</li> <li>Number of replacement businesses constructed by APs</li> <li>Number of owners requesting assistance for additional replacement land</li> <li>Number of replacement land purchases effected</li> <li>Number of land titles and land survey certificates issued</li> <li>Number of vulnerable groups provided additional assistance</li> </ul>
	Reestablishment of Community Resources	<ul style="list-style-type: none"> <li>Number of community buildings repaired or replaced</li> <li>Number of seedlings supplied by type</li> </ul>

## B. External Monitoring

42. While internal monitoring focuses on the implementation of scheduled tasks, external monitoring provides an independent avenue to verify these results, and also to take a more qualitative assessment of the success of these measures to meet their intended objectives. As such, the external monitor is required to ascertain whether APs have been able to restore their living standards and their livelihoods, and have not become worse off due to the Project. All monitoring data will be collected so as to allow disaggregation by gender and ethnicity.

43. These indicators and the mechanisms used to measure them are detailed in Table below. Importantly, the external monitor will be required to review plans for and implementation of the Contractors involvement in providing civil works support for replacement land improvement.

44. The external monitor will come from an independent organization, such as an academic or research institute or consultant firm in Vietnam, with experience in resettlement monitoring and social assessment. They will be contracted by MoCST and commence in advance of resettlement implementation, so as to assess the process of the DMS and RP updating and develop the formats for their monitoring missions. They will further conduct monitoring mission's end of Project. The final report will be a post-evaluation report to be prepared 6 months following completion of resettlement activities. These reports will be provided to the MoCST and to the ADB for uploading on ADB's resettlement website.

45. The external monitor's reports will include any identified issues and recommendations for rectifying outstanding matters. The monitor will also highlight any significant successes and commendable approaches or methods used in the Project which may provide a learning opportunity to the MoCST and other projects encountering resettlement.

**Table SAB2.6: External Monitoring Indicators, Methods and Schedule**

<b>Indicators</b>	<b>Variables</b>	<b>Mechanism for Assessment</b>	<b>Timing of Assessment</b>
<b>RP Implementation</b>	<ul style="list-style-type: none"> <li>Resettlement staffing</li> <li>Compensation Disbursements</li> <li>Land and assets acquired</li> <li>Preparation of replacement land</li> <li>Loan funds disbursement</li> <li>Government funds disbursement</li> <li>Public information and consultation</li> <li>AP asset replacement</li> </ul>	<ul style="list-style-type: none"> <li>Review of internal monitoring reports</li> <li>Review Contractor plans and actions</li> <li>Interviews with and observation of implementing agencies at each level</li> <li>Random sample of interviews with APs</li> </ul>	<ul style="list-style-type: none"> <li>Every monitoring mission</li> </ul>
<b>Restoration of Living Standards and Livelihoods</b>	<ul style="list-style-type: none"> <li>Compensation at replacement cost</li> <li>Compensation with no depreciation or fees/taxes</li> <li>Adequacy and suitability of replacement land</li> <li>Adequacy of moving costs</li> <li>Adequate timing for asset acquisition/replacement</li> <li>Tenure security of APs</li> </ul>	<ul style="list-style-type: none"> <li>Interviews with APs – stratified sample for those relocating, and those being allocated land, indigenous peoples and women</li> <li>Review of internal monitoring reports</li> <li>Review of revised compensation costs and materials costs</li> <li>Interviews with Provincial Lands Departments for land records</li> </ul>	<ul style="list-style-type: none"> <li>Every monitoring mission</li> </ul>
	<ul style="list-style-type: none"> <li>Changes in AP income levels, and sources of income</li> <li>Changes in AP access to services and utilities</li> <li>AP participation in community organizations</li> <li>AP participation in associated social action programs related to the project</li> <li>Vulnerable groups rehabilitation</li> </ul>	<ul style="list-style-type: none"> <li>Replicate SES of a sample of APs</li> <li>Comparison with original SES and with later results</li> <li>Village level focus group discussions, including women and indigenous peoples</li> <li>Interviews with vulnerable APs</li> </ul>	<ul style="list-style-type: none"> <li>At the commencement of resettlement implementation and project completion</li> </ul>
<b>AP Satisfaction</b>	<ul style="list-style-type: none"> <li>AP awareness of resettlement procedures and entitlements</li> <li>AP awareness and use of grievance system</li> <li>AP satisfaction with the resettlement process</li> </ul>	<ul style="list-style-type: none"> <li>Review records of grievance lodging and redress</li> <li>Random sample of interviews with APs</li> <li>Community meetings</li> <li>Focus Groups discussions</li> </ul>	<ul style="list-style-type: none"> <li>Every monitoring mission</li> </ul>

Indicators	Variables	Mechanism for Assessment	Timing of Assessment
		with various categories of APs	
<b>Effectiveness of Resettlement Planning</b>	<ul style="list-style-type: none"> <li>• Accuracy of DMS for AP and asset loss recoding and planning</li> <li>• Adequacy of budget for implementation</li> <li>• Adequacy of implementation schedule to undertake required tasks</li> <li>• Occurrence of unforeseen problems</li> </ul>	<ul style="list-style-type: none"> <li>• Review records of grievances and redress</li> <li>• Random sample of interviews with APs</li> <li>• Interviews with implementing agencies at each level</li> </ul>	<ul style="list-style-type: none"> <li>• Every monitoring mission</li> </ul>
<b>Resettlement Impacts</b>	<ul style="list-style-type: none"> <li>• Re-occupation of cleared land</li> <li>• Migration to the project area</li> </ul>	<ul style="list-style-type: none"> <li>• Village chief meetings</li> <li>• Random AP interviews</li> <li>• Observation</li> </ul>	<ul style="list-style-type: none"> <li>• Every monitoring mission</li> </ul>

## XI. Implementation and Schedule Budget

46. Adequate budgetary support will be fully committed and made available to cover the costs of land acquisition and resettlement within the agreed implementation period. The budget will cover compensation costs, allowances and rehabilitation measures, administration costs, and contingency and will be part of the Government's counterpart fund. The Ministry of Finance will be responsible for the disbursement of funds. The Government will ensure timely provision of counterpart funds for resettlement to meet any unforeseen obligations in excess of the resettlement budget estimates in order to satisfy resettlement requirements and objectives. The RPs will identify key activities for which funds will be used, any disbursement milestones and auditing requirements that will facilitate appropriate and timely delivery.

50. The Project will be for a period of five years from 2008.

**Table SAB2.7: Implementation Schedule**

RP Updating Activities	Schedule
Consultation, DMS, SES and Disclosure by subproject	Quarter 1 and 2, 2009
Approval of updated subproject RP by ADB	Quarter 2, 2009
Implementation of Updated subproject RP	Quarter 3, 2009 onwards
Award of civil works contracts for subproject or geographic area	Quarter 4, 2009
Internal monitoring	Continuous
Clearance of acquired land	Quarter 3, 2009
Handover of site to contractors, start of civil works	Quarter 1, 2010 - onwards

## INVOLUNTARY RESETTLEMENT CATEGORIZATION

### A. Introduction

1. Each subproject is assigned an involuntary resettlement category depending on the **significance** of the probable involuntary resettlement impacts.

### B. Information on Subproject

- a. Name of Subproject: \_\_\_\_\_
- b. Location: \_\_\_\_\_
- c. Technical Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### C. Screening Questions for Resettlement Categorization

2. Initial screening for involuntary resettlement is to be conducted following detailed design:

Involuntary Resettlement Effects	Yes	No	Remarks
Does the subproject include upgrading or rehabilitation of existing physical facilities?			
Will it require permanent land acquisition?			
Is the ownership status and current usage of the land known?			
Are there any non-titled people who live or earn their livelihood at the site or within the COI / Right of Way?			
Will there be loss of housing?			
Will there be loss of agricultural plots?			
Will there be losses of crops, trees, and fixed assets?			
Will there be loss of businesses or enterprises?			
Will there be loss of incomes and livelihoods?			
Will people lose access to facilities, services, or natural resources?			
Will any social or economic activities be affected by land use-related changes?			

### D. Involuntary Resettlement Category

3. After reviewing the answers above, the CCMB and CARB confirm that the subproject project is a:

- Significant (Category A) - 200 or more people will experience major impacts, that is, being physically displaced from housing, or losing 10% or more of their productive (income-generating) assets.

**Action to be Taken: This subproject will be excluded as it will not be eligible for funding.**

- Category B, Not Significant\* resettlement impact, Less than 200 people will experience major impacts which are defined as being physically displaced from housing ore losing 10% or more of their productive assets (income generating).

**Action to be Taken: A short Resettlement Plan will be prepared in accordance with the approved Resettlement Framework. The short RP will be submitted to ADB for review and approval no later than \_\_\_\_\_.**

- Category C, No resettlement impact.

**Action to be Taken. None. Resettlement Plan is not required.**

<b>**If Category B: Please provide information on Affected Persons</b>	
1. Any estimate of the likely number of households that will be affected by the Project?	
<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A. If yes, approximately how many? _____	
2. Are any of them poor, female-headed households, or vulnerable to poverty risks?	
<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A. If yes, please briefly describe their situation.	
3. Are any APs from indigenous or ethnic minority groups?	
<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A. If yes, please briefly describe their situation:	

Prepared By:	Verified by:
Signature:	Signature:
Name:	Name:
Position:	Position:
Date:	Date:

**Voluntary Contribution Consent Form**

Date: \_\_\_\_\_

I am fully aware that I/We will be affected by the \_\_\_\_\_ project and that the CCMB and local authorities have informed me/us of my/our right to receive compensation at replacement cost for all my/our affected assets, i.e., land, house, structures, trees and crops.

The total compensation payment that I/we will be receiving is \_\_\_\_\_ D. Details attached (as per DMS).

However, I/We voluntary donate the following:

- 1. \_\_\_\_\_ = Amount in D \_\_\_\_\_
- 2. \_\_\_\_\_ = Amount in D \_\_\_\_\_

Furthermore, I/we confirm that:

- Land is free from any legal disputes or controversies
- I/We do not belong to any poor and vulnerable households
- there are no houses, structures or fixed assets on the land to be donated; and
- it will not severely affect my/our living standards and I/we will directly benefit from the subproject.
- I am fully aware that the equivalent amount in cash of the assets that will be donated is \_\_\_\_\_ D.

I hereby certify that the information stated herein

- was read and explained to me carefully by the CCMB and local authorities
- I read it myself.

Name and Signature (or thumbmark) : \_\_\_\_\_

Commune : \_\_\_\_\_

If land being donated is conjugal property, spouse to sign below:

Name and signature/ thumbmark of spouse : \_\_\_\_\_

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Witnessed By : \_\_\_\_\_  
Signature over printed name Position/Organization

Name & Signature of Commune/Ward Chief: \_\_\_\_\_ Date: \_\_\_\_\_

Name & Signature of CCMB Staff : \_\_\_\_\_ Date: \_\_\_\_\_

**Resettlement Plan**  
**Sample Public Information Booklet**  
**Sustainable Tourism Development Project**  
**Viet Nam Ministry of Culture, Sports and Tourism**  
**Chai Lap Village, Phong Nga Khe Bang**

***What is the Sustainable Tourism Development Project?***

The proposed Sustainable Tourism Development Project will develop sustainable, culturally and environmentally sound pro-poor tourism approaches in Laos and Vietnam. In Chai Lap village, the project will develop a Chai Lap boat landing and market area for locally-produced goods. The Lao National Tourism Administration is implementing the Project, with financing assistance from the Asian Development Bank (ADB).

***How extensive is the need to acquire land and other assets for the Project?***

The Project will acquire 900 m<sup>2</sup> from one households in the village for the construction of the boatlanding and market place. It will also acquire some district land for a small drop-off area near the entrance of the village.

***What will happen to the people losing assets and sources of livelihood?***

Compensation will be paid at **replacement cost** in cash or in-kind (for example, land-for-land) for all assets affected, including sources of livelihood. Other forms of assistance will also be provided to households depending on the severity of Project impacts.

***What is “replacement cost”?***

This is the amount needed to replace an affected asset without deductions for taxes or costs of transactions. Replacement costs relevant for this project are calculated as follows:

- Residential land based on market prices that reflect recent land sales, and in the absence of such recent land sales, based on similar location attributes;
- Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;

***What are the key principles for helping affected households under the Project?***

- Avoid, if not minimize, land acquisition and relocation, and impacts on sources of livelihoods of people;
- Restore the standard of living of affected households;
- Replace and compensate lost assets at replacement cost, on top of providing allowances and income restoration support, as warranted;
- Inform and consult the affected households about the Project, impacts, options for compensation and assistance, and grievance redress mechanism;
- Protect social/cultural institutions;
- Non-titled affected households (those who have no title to the land or customary rights) have rights to receive Project entitlements provided that they meet the cut-off date for eligibility;
- Identify and assist vulnerable groups at high risk of impoverishment, such as female-headed households with dependents, disabled household heads, households falling under the generally accepted indicator for poverty, children and the elderly households who are landless and with no other means of support, landless households, and ethnic minorities; and
- No demolition of assets/entry to properties will be done until the affected household is fully compensated and relocated.

***Who are eligible to be compensated and assisted under the Project?***

All affected people, households, and institutions/organizations that satisfy the **cut-off date for eligibility** are eligible to be compensated and assisted under the Project. The cut-off date coincides with the period the census of affected persons (regardless of tenure status) and the inventory of losses (IOL) were conducted in March 2008, to be validated and updated later during the detailed measurement survey (DMS). Persons not covered in the census are not eligible for compensation and other entitlements, unless they can show proof that

(i) they have been inadvertently missed out during the census and the IOL; or (ii) they have been included among the affected due to changes in project design.

**What are the entitlements of affected households?**

Project entitlements listed in Table 1 are based on the impacts identified during the census and IOL. Said entitlements will be adjusted and updated, as needed consistent with the Project resettlement policy, based on the results of the DMS to reflect a more precise inventory and assessment of impacts on assets and on the people.

**Table 1-Summary Project Entitlements**

Type of Losses	Entitled Persons	Entitlements	Implementation Issues
Productive Land (paddy, garden, and Teak Plantation)	Legal owner or occupant identified during DMS.	<ul style="list-style-type: none"> <li>• For marginal loss of land, cash compensation at replacement cost which is equivalent to the current market value of land within the village, of similar type, category and productive capacity, free from transaction costs (taxes, administration fees),</li> <li>• If the impacts on the total productive land is 10 % or more, as a priority, replacement land of similar type, category and productive capacity of land within the village OR at the request of AP, cash compensation at replacement cost plus assistance to purchase and register land</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary donation of productive land will not be allowed by the Project.</li> </ul>
Transition subsistence allowance	Relocating households – relocating on residual land or to other sites  Severely affected APs losing 10% or more of their productive land	<ul style="list-style-type: none"> <li>• Relocating APs without any impact on business or source of incomes will be provided with cash or in-kind assistance equivalent to 16 kg of rice at current market value for 3 months per household member</li> <li>• Relocating APs with main source of income affected (i.e., from businesses) or APs losing more than 10% of their productive land will be provided with cash or in-kind assistance equivalent to 16 kg of rice at current market value for 6 months per household member</li> </ul>	

***How are the grievances of affected persons (or households) heard and resolved?***

34. An aggrieved affected household may bring his/her complaint before any member of the Commune People's Committee, either through the Village Chief, a project staff, or directly to the CPC, in writing or verbally. The CPC will meet personally with the aggrieved person (or household) and will have 15 days to resolve the complaint. If the affected person (or household) is not satisfied with the action taken by CPC on his/her complaint, the aggrieved person (or household) may bring the case, either in writing or verbally, to any member of the District People's Committee (DPC). The DPC has 15 days to resolve the case. If the affected person (or household) is not satisfied with the action taken by DPC on his/her complaint, the aggrieved person (or household) may bring the case, either in writing or verbally, to any member of the Provincial People's Committee (PPC). The PPC has 15 days to resolve the case. If the affected person (or household) is not satisfied with the action taken by PPC on his/her complaint, the aggrieved person (or household) may bring the case to a court of law for adjudication. All legal and administrative costs incurred by an affected person/household and their representatives are to be covered by the Project.

***What is the tentative schedule for implementing resettlement?***

<b>Tasks</b>	<b>Schedule</b>
Establish Project Implementation Units	January 2009
Undertake consultation and participation programs	February 2009
Establish Compensation and Resettlement Committees at all Levels	February 2009
Implement internal monitoring activities	Continuous
Mobilize External Monitor (random visits, observations)	February 2009
Carry out joint verification of Assets and detailed measurement survey	February 2009
Update compensation rates and apply Project entitlements	March 2009
Update RP and obtain ADB concurrence	March 2009
Present Compensation Payment to APs	March 2009
Assist in developing new land for APs	March 2009
Start of civil works	April 2009

***How can an affected person or household participate in the Project?***

All affected persons or households are encouraged to participate in all consultation meetings and other project related activities in order to ensure that they are fully informed and consulted. Their active participation during the DMS and implementation of the Resettlement Plan will help MoCST determine the appropriate measures to mitigate impacts, identify problems or potentials problems, and identify ways of responding expeditiously to solve any problems.

***Where can affected households get additional information about resettlement related information?***

The full RP, detailed project entitlements and compensation unit rates are available from the CPC, DPC, and PPC, and from the office of the Provincial Implementation Unit.

***Who might be contacted for any inquiries about the Project?***

Mr. Ngoi, Ministry of Culture, Sports and Tourism. Phone number:

Provincial/District/Village


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**Asian Development Bank, Vietnam Resident Mission**

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