

Resettlement Planning Document

Resettlement Framework
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Prepared by the Ministry of Agriculture and Rural Development.

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**Ministry of Agriculture and Rural Development (MARD)
Socialist Republic of Vietnam**

Central Region Water Supply and Sanitation (RWSS) Project

**RESETTLEMENT FRAMEWORK
August 2009**

A. Introduction

13. The Asian Development Bank (ADB) intends to provide an investment project that will contribute to the Government's goal of providing safe water supplies and improved sanitary facilities for rural households in Vietnam. The Central Region Water Supply and Sanitation (RWSS) Project aims to improve the rural environment and enhance poverty reduction activities in six provinces of the Central Region of Vietnam, namely, Thanh Hoa, Nghe An, Ha Tinh, Quang Binh, Quang Nam and Binh Dinh provinces, located in the North and South Central Coast Region.

14. The Executing Agency (EA) for the RWSS is the Ministry of Agriculture and Rural Development (MARD), with responsibility delegated to the National Centre for Water Supply and Sanitation (NCERWASS). The Implementing Agencies are the Provincial Centres for Water Supply and Sanitation (PCERWASS) established in each of the 6 provinces.

15. Six project components in six target provinces were selected during project preparation in January 2009, each of which involves improvements to water supply and sanitation systems. All policies, entitlements and implementation arrangements are the same for each project component, however exact impacts, and the institution responsible for implementation, differ for each location. A separate Draft Resettlement Plan has been prepared for each of the six project components, in the following locations:

- In Thanh Hoa province, Tien Loc commune, Hau Loc district.
- In Nghe An province, Dien Yen commune, Dien Chau district.
- In Ha Tinh province, Thach Bang and Thach Kim communes, Loc Ha district.
- In Quang Binh province, Thanh Trach commune, Bo Trach district.
- In Quang Nam province, To Vieng commune, Tay Giang district
- In Binh Dinh province, Tay Thuan and Tay Giang commune, Tay Son district.

16. This Resettlement Framework provides policies and entitlements for subsequent project components which may include water treatment facilities, distribution pipelines and drainage structures and sewage treatment facilities. Physically, future project components will comprise small pipelines from the main water line, buried underground, along roads and to houses requiring water supply, and similar drainage pipes to septic tanks or settlement ponds. Construction of pipelines for water supply and drainage involves trenching or cut and cover for placement of pipes, and temporary access roads during construction.

17. This resettlement framework has been prepared for the Project because the final location of water distribution pipelines and drainage pipelines has not been agreed yet and there is no technical design available. This is also true for any subsequent sector project components.

18. The resettlement framework sets out the resettlement policy, screening and planning procedures that the Project office will follow when preparing a resettlement plan, if any, following detailed design.

B. Legal and Policy Framework

II. LEGAL AND POLICY FRAMEWORK

A. Relevant Vietnamese Legislation

7. The Constitution of the Socialist Republic of Viet Nam (1992) confirms the right of citizens to own and protect the ownership of a house. In addition, Government has enacted a number of laws, decrees and regulations that constitute the legal framework for land acquisition, compensation and resettlement. The principal documents include:

- a. The Land Law No. 13/2003/QH11, providing Viet Nam with a comprehensive land administration law. The 2003 Land Law supersedes earlier versions of 1987 and 1993.
- b. Decree No. 181/2004/ND-CP, guiding the implementation of the Land Law.
- c. Decree No. 197/2004/ND-CP, on compensation, rehabilitation and resettlement in the event of land recovery by the State.
- d. Circular 116/2204/TT-BTC, guiding the implementation of Decree 197
- e. Decree No. 17/2006/ND-CP, amending Decree No. 181/2004/ND-CP, Decree No. 197/2004/ND-CP and other decrees.
- f. Decree No. 188/2004/ND-CP, specifying methods for land pricing and land price frameworks in the event of land recovery by the State.
- g. Circular 114/2004/TT-BTC, guiding the implementation of Decree 188
- h. Decree No. 17/2003/ND-CP, promulgating the regulation on the exercise of democracy in communes, including requirements for consultation with and participation of people in communes.
- i. Decree No. 131/2006/ND-CP, on the management and use of Official Development Assistance (ODA).
- j. Decree No. 84/2007/ND-CP, Supplementary stipulations on issue of LURC, land acquisition, land use right implementation, procedure of compensation, assistance in the event of land recovery by the state and grievance redress.
- k. Decree No. 123/2007/ND-CP, amending and supplementing Decree 188/2004/ND-CP that gives Provincial People's Committees the authority to set local land prices by establishing ranges for all categories of land.

8. Under the 2003 Land Law, ownership of land in Viet Nam resides with the State. The State exercises the right to assign and lease land to land users, including individuals, households and organizations. In the case of assigned land, the State delegates to the Provincial People's Committees (PPCs) the authority to grant land use rights certificates (LURC) to land users. With respect to land acquisition, resettlement and compensation, the Land Law makes the following provisions:

- a. The State reserves the right to "recover" land for purposes of defense, security and national and public interests (Article 38). Decree No. 181/2004/ND-CP defines "national and public interest" to include infrastructure projects such as the Rural Water Supply and Sanitation Project.
- b. Individuals, households and organizations that have or are eligible to be granted land use right certificates for recovered land will receive compensation for the loss of these assets (Article 42[1]).
- c. Before land is recovered, the user must be informed of the reasons for recovery; the schedule and plans for resettlement, if necessary; and, options for compensation. This must occur at least 3 months prior to the recovery of agricultural land and 6 months prior to the recovery of non-agricultural land (Article 39).
- d. Compensation for recovered agricultural and rural residential land will be in the form of new land of the same purpose of use or, if no new land is available, cash equivalent to the land use right value of the recovered land (Article 42[2] and [3]). In the latter case, the land use right value is established as the value of similar land under normal market conditions, as determined on an annual basis by PPCs (Article 56).

- e. Recovery of land from people directly involved in agricultural production but having no land available for continued production will receive cash compensation and, in addition, support from the State to stabilize their lives (Article 42[4]).
 - f. Where the use right value of recovered residential land is greater than that of the land given as compensation, affected people will receive cash equal to the difference in the values (Article 42[3]).
 - g. Resettlement zones will be developed for people having residential land recovered and having to move their places of residence. Resettlement zones will be developed for many projects in the same area and will provide living conditions that are equal to or better than the conditions in the former places of residence. In areas where there is no established resettlement zone, people will receive cash for recovered residential land and priority to purchase or lease State-owned dwellings (Article 42[3]).
 - h. Recovery of land will occur without compensation in the following cases, among others: (i) land is recovered from organizations that use State funds to pay land use levies for assigned land or land rents for leased land, or are assigned land without having to pay land use levies; (ii) recovered land has been illegally encroached or occupied, or the occupants are not eligible to be granted land use right certificates; (iii) recovered land is rented from the State; and, (iv) recovered land is road or canal, or used for cemeteries or graveyards (Article 43[1]).
 - i. Structures and other fixed assets on recovered land will not be compensated in cases where they have been constructed without permission; in contravention of permitted uses in land use plans; or, when structures are located on illegally encroached land (Article 43[2]).
 - j. In the event of temporary recovery of land, for example during construction, upon the expiry of temporary land acquisition the State will return the land and pay compensation for any damages (Article 45).
9. Decree No. 197/2004/ND-CP regulates the eligibility and procedures for compensation, assistance and resettlement in the event of State recovery of land. The principles underlying compensation are: (i) recovery of land from eligible persons shall be compensated; (ii) in the event the affected person is not eligible for compensation, consideration will be given to forms of assistance; (iii) compensation for affected land will be in the form new land allocation with the same purpose of use or, if no such land is available, cash compensation equal to the value of land use rights at the time of recovery; and, (iv) outstanding financial liabilities associated with land to be recovered will be deducted from the amount of compensation or assistance money. The Decree and Circular No. 116/2004 TT-BTC set out in detail the types of compensation for different types of users and losses; assistance policies; provisions for individual and group resettlement; and, the roles and responsibilities for implementation of resettlement projects.
10. Decree No. 17/2006/ND-CP amends Decree 197 to strengthen several aspects of the provisions for compensation, assistance and resettlement, including: (i) a requirement to update official PPC prices, as necessary, to reflect market values for affected assets; (ii) life stabilization assistance for poor households that must be provided for not less than three years and not more than ten years; and, (iii) assistance for occupational change and job creation for affected households losing significant portions of their productive assets, as well as for affected households that relocate to resettlement sites.
11. Decree No. 188/2004/ND-CP regulates the methodology for determining land prices and price frames for State recovery of land, as well as for taxation on land use and the transfer of land use rights and for land rents for government lands. It establishes the minimum and maximum prices for different types and categories of land. The principle underlying the determination of land prices is the actual transfer price on the market under normal conditions between a willing seller and buyer without regard to factors such as speculation, changes in planning, forceful transfer or blood relationship. Circular No. 114/2004/TT-BTC elaborates in detail the methods (direct comparison and income methods) for determining land prices. Decree

123/2007/ND-CP amends Decree 188/2007/ND-CP giving the Provincial People's Committees the authority to set local land prices by establishing ranges for all categories of land.

12. Decree No. 131/2006/ND-CP provides that in case of "discrepancy between any provision in an international treaty on Official Development Assistance, 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).

13. Other laws, decrees and regulations relevant to land management, land acquisition and resettlement include:

- a. Construction Law No. 16/2003/QH11, on compensation and relocation of people affected by ground clearance for investment projects.
- b. Decree No. 16/2005/ND-CP, on the implementation of the Construction Law.
- c. Decree No. 182/2004/ND-CP, on penalties for administrative violations in land issues.
- d. Decree No. 198/2004/ND-CP, on land use fees.
- e. Circular 117/2004/TT-BTC, guiding the implementation of Decree 198.
- f. Decree No.60/1994/CP, on property ownership and the right to use urban residential land, ensuring the right to own residential structures and use residential land.
- g. Decree No.45/1996/CP, regulates the amendment of Article 10 of Decree No. 60/1994/CP, allowing land use rights to those not eligible under Decree No. 60.
- h. Decree No.70 that stipulates that all documents registering family assets and land use rights must be in the names of both husband and wife.

14. Laws, decrees and decisions relevant to public disclosure of information include:

- a. Land Law, No. 13/2003/QH11, Article 39, requiring disclosure of information to affected people prior to recovery of agricultural and non-agricultural land of, respectively, 90 and 180 days minimum.

15. Decrees relevant to protection and preservation of cultural property include Decree No. 172/1999/ND-CP, Article 25, requiring that sites currently recognized for cultural and historical preservation and that are situated within the boundaries of waterway safety corridors, should be kept intact according to current legal regulations.

B. ADB Policies on Involuntary Resettlement and other Relevant Policies

16. The applicable ADB safeguards policies for addressing the adverse social impacts of the Rural Water Supply and Sanitation Project are the (i) Involuntary Resettlement (1995) and Operations Manual F2/BP (September 2006), and (ii) Indigenous People (1998) and Operations Manual F3/BP (September 2006). Closely linked with the two social safeguards policies is the Bank's Policy on Gender and Development (1998).

17. The aim of ADB Policy on Involuntary Resettlement is to avoid or minimize the impacts on people, households, businesses and others affected by the acquisition of land and other assets, including livelihood and income, in the implementation of development project, such as the Rural Water Supply and Sanitation Project. Where resettlement is not avoidable, the overall goal of the ADB policy is to help restore the living standards of the affected people to at least their pre-Project levels by compensating for lost assets at replacement costs and by providing, as necessary, various forms of support. Significant efforts have been taken to minimise the need for land acquisition, including use of land held by the commune rather than by individual households, and by locating pipelines under roads and other public areas.

18. The main objectives and principles of the policy on involuntary resettlement are as follows:

- a. Involuntary resettlement should be avoided where feasible.
- b. Where population displacement is unavoidable, it should be minimized by exploring all viable project options.
- c. All compensation is based on the principle of replacement cost.

- d. Each involuntary resettlement is conceived and executed as part of a development project or program
- e. Affected people should be fully informed and consulted on compensation and/or resettlement options.
- f. Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- g. The absence of a formal legal title to land is not a bar to ADB policy entitlements.
- h. Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cut-off date, preferably at the project identification stage, to prevent a subsequent influx of encroachers of others who wish to take advance of such benefits.
- i. Particular attention must be paid to the needs of the poorest affected households and other vulnerable groups that may be at high risk of impoverishment. This may include affected households without legal title to land or other assets, households headed by women, the elderly or disabled, and ethnic minority peoples. Appropriate assistance must be provided to help them improve their socio-economic status.
- j. The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.
- k. Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and ensure compliance with involuntary resettlement procedures during implementation.

19. ADB's Policy on Indigenous Peoples defines "indigenous peoples" as "those with a social or cultural identity distinct from the dominant or mainstream society". "Indigenous peoples" is a generic concept that includes cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, natives, and aboriginals. 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.

20. The policy on indigenous peoples is "designed to promote the participation of indigenous peoples in project preparation and implementation, to ensure that they benefit from development interventions that would affect them, and to provide effective safeguards against any adverse impacts". In any ADB interventions, the approaches to be used are as follows: (i) to achieve the greatest possible reduction of poverty among the affected indigenous peoples; (ii) when negative impacts are unavoidable, they should be minimized as much as possible, and appropriate measures will be taken to mitigate the adverse impacts; (iii) in enhancing the benefits of a development intervention for indigenous peoples or reducing negative impacts of a development intervention, clear mechanisms for accurate and objective analysis of their circumstances will be prepared; and (iv) the mechanisms for any intervention must be transparent and should ensure accountability.

21. ADB's Policy on Gender and Development 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 projects that have the potential to have substantial gender impacts, a gender plan is prepared to identify strategies to address gender concerns and the involvement of women in the design, implementation and monitoring of the project.

22. Other policies of the ADB that have bearing on resettlement planning and implementation are the (i) Public Communications Policy (March 2005) and OM Section L3/BP

(September 2005), and (ii) Accountability Mechanism (OM Section L1/BP, dated 29 October 2003).

23. With the promulgation of the 2003 Land Law and the adoption of Decrees No. 197/2004/ND-CP and No. 188/2004/ND-CP, the policies and practices of the Government have become more consistent with ADB's social safeguards policies. Nonetheless, provisions and principles adopted in the RP for the Rural Water Supply and Sanitation Project will supersede the provisions of relevant decrees currently in force in Viet Nam wherever a gap exists, consistent with Decree No. 131/2006/ND-CP.

C. Key Differences between GoV and ADB Policies on Involuntary Resettlement

24. Key differences between GoV and ADB resettlement policies include the following:

- a. Non-titled land users: With the exception of affected households with customary rights over their affected land, affected households that are not eligible to obtain use rights to the land they occupy are not entitled under the Government framework to compensation for the land and may not be entitled to compensation or full compensation for assets on the affected land. Under the Project, however, affected households without legal or legalizable land use rights will not be compensated for the land but are entitled to compensation for lost crops, houses and other assets found thereat, including cash assistance for improvements introduced to the land to make it habitable and/or productive, as the case may be, which should be not less than 30% of the replacement cost of the land. If these affected households have to relocate but have no land on which to shift, they will be allocated replacement plots in a group resettlement site, if available, or at individual sites either for free or for a fee at an affordable repayment schedule and with secure tenure. Affected households losing 10% or more of productive land are entitled to participate in an income restoration program.
- b. Lessees of land: The Government recognizes lessees of land assigned by the local government. The decree provides compensation for investment on the land without specifying the amount for the investment on the land. Under this Project, affected lessees will receive cash assistance for improvements introduced to the land to make it productive and which should not be less than 30% of the replacement cost of the land, cash assistance for permanent loss of 3 years future production regardless of severity of impact, transition subsistence allowance and participation in the income restoration program for severely affected lessees.
- c. Small, non-registered businesses: Affected households that operate small, non-registered businesses are not entitled to any assistance under Government framework. Under the Project, however, all affected households will be compensated for income loss as a result of disruption or cessation of business due to the Project, in addition to other forms of assistance, as needed and in a manner consistent with their requirements, to help restore living standards to pre-Project levels.
- d. Compensation pricing for affected assets: Government framework recognizes the principle of compensation at rates equal to the value of land use rights under normal market conditions. The annual Provincial People's Committee (PPC) prices for different types of land are used to establish compensation. Decree No. 17/2006/ND-CP stipulates that if PPC prices are not close to market values, the PPC must determine an appropriate market value for compensation rates. In this Project, after approval of detail design a replacement cost study (RCS) will be conducted to ensure that compensation rates are sufficient to replace the affected assets without deductions for taxes and transaction fees in the case of acquired land, and without depreciation or deduction for salvaged materials for affected structures.
- e. Income restoration: Severely affected households as defined by the Government are those losing more than 30% of their productive assets. Under the Project, affected households losing 10% or more of total productive assets and source of livelihood are

considered severely affected and will be entitled to participate in an income restoration program that will be planned out with them and which will be consistent with their needs and capabilities.

- f. Vulnerable groups and ethnic minorities: Government acknowledges the need to provide poor households additional assistance but does not explicitly recognize other vulnerable groups due to ethnicity or other criteria. Under the Project, specific measures will be defined to ensure that all affected vulnerable groups, which includes the poor, ethnic minorities, the elderly, the disabled, etc., are assisted to improve or at least restore living standards to pre-project levels and in a manner that is consistent with their socio-economic culture and practices.
- g. Consultation, public disclosure and grievance redress: The Project will strengthen existing provisions of relevant Government policies on these concerns to ensure that all affected households are fully consulted and informed in a timely manner, have appropriate opportunities to participate in decisions regarding compensation and resettlement, and are provided the avenue to have their complaints heard and resolved.
- h. Monitoring. The Project will establish indicators and procedures to ensure effective and transparent monitoring of resettlement implementation and, using independent monitors, to evaluate whether the Project is able to achieve resettlement objectives.

D. Project Principles

25. The following principles have been adopted for the Project to guide the compensation and entitlement policy:

- a. Acquisition of land and other assets, and resettlement of people will be avoided or minimized as much as possible by identifying possible alternative project designs and appropriate social, economic, operation and engineering solutions that have the least impact on populations in the project area.
- b. No land acquisition or site clearing will be done for the project area of a component of the Rural Water Supply and Sanitation Project in anticipation or ahead of it being considered for inclusion in the Project.
- c. Affected households residing, working, doing business and/or cultivating land within the project impacted areas during the conduct of the inventory of losses (IOL), to be validated or updated during the detailed measurement survey (DMS), are entitled to be compensated for their lost assets, incomes and businesses at replacement cost, and will be provided with rehabilitation measures to improve or restore their pre-Project living standards, income-earning capacity and production levels.
- d. Affected households will be eligible for compensation and rehabilitation assistance, irrespective of tenure status, social or economic standing and any such factors that may discriminate against achievement of the resettlement objectives explained above. Lack of legal rights to lost assets or adversely affected tenure status and social or economic status will not bar the affected households from entitlements to such compensation and rehabilitation measures or resettlement objectives.
- e. Affected households will be fully consulted and given the opportunity to participate in matters that will have adverse impacts on their lives during the design, implementation and operation of the Project. Moreover, plans for the acquisition of land and other assets will be carried out in consultation with the affected households who will receive prior information of the compensation, relocation and other assistance available to them.
- f. Any acquisition of, or restriction on access to, resources owned or managed by the affected households as a common property, e.g., communal forest, communal farm, will be mitigated by arrangements that will ensure access of those affected households to equivalent resources on a continuing basis.

- g. There will be no deductions in compensation payments for land, structures or other affected assets for salvage value, depreciation, taxes, stamp duties, fees or other payments.
- h. Shop owners and operators will be allowed to construct a replacement of their stalls before demolishing the existing ones in order to minimize, if not avoid, income loss arising from the disruption of business operation.
- i. If ownership over any affected asset is under dispute, the compensation for the same will be held in a court designated bank until its lawful owner is decided by competent legal authorities.
- j. Affected households that lose only part of their physical assets will not be left with a portion that will be inadequate to sustain their current standard of living. The minimum size of remaining land and structures will be agreed between Project authorities and the affected households during the resettlement planning process.
- k. Temporarily affected land and communal infrastructure will be restored to pre-Project conditions.
- l. There shall be effective mechanisms for hearing and resolving grievances during the planning, updating and implementation of the RP.
- m. Existing cultural and religious practices shall be respected and, to the maximum extent possible, preserved.
- n. Special measures will be incorporated in complementary mitigation and enhancement activities to protect socially and economically vulnerable groups at high risk of impoverishment, such as ethnic minorities, female-headed families, disabled-headed households, landless households, children and elderly people without support structures, and people living in poverty. Appropriate assistance will be provided to help them improve their socio-economic status.
- o. Adequate resources will be identified and committed during the preparation of the RP. This includes adequate budgetary support fully committed and made available to cover the costs of land acquisition, compensation, resettlement and rehabilitation within the agreed implementation period for the Project; and, adequate human resources for supervision, liaison and monitoring of land acquisition, resettlement and rehabilitation activities.
- p. 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 monitoring agency.
- q. The RP or its summary will be translated into Vietnamese and, where necessary, other local languages and placed in commune offices for the reference of affected households as well as other interested groups.
- r. Civil works contractors will not be issued a notice of possession or notice to proceed (NTP) for any given geographic location in accordance with the approved RP until (i) compensation payment and relocation to new sites have been satisfactorily completed for that area; (ii) agreed rehabilitation program is in place; and (iii) the area is free from all encumbrances.
- s. Cash compensation or replacement land for affected households losing entire residential land that are covered with LURC and other recognized proof of ownership, or home plot in a group relocation site or individual sites for landless affected households needing to shift, will be made available well ahead of civil works to allow the affected households sufficient lead time to reconstruct their houses.
- t. No demolition of assets and/or entry to properties will be done until the affected household is fully compensated and relocated.

E. PROCESS FOR RESETTLEMENT PLAN PREPARATION

26. Based on detailed design, the Project will determine the requirements for preparation of a resettlement plan. The detailed design will, to the extent feasible, explore all viable options to reduce the requirements for land acquisition and resettlement.

27. As a priority, construction of water supply and sanitation infrastructure will be located on vacant and idle public or communal reserve land. For public land or communal land identified, the Project office and resettlement committees (RCs) will confirm that the identified land is free of any encumbrances, habitation, dispute or controversy. The certification of the Project office and RC will be verified by a third party such as the Vietnam Women's Union. In the event that no vacant public land is available and that private land is identified, the following criteria will be used: (a) land acquisition and resettlement must fall under Category B or not significant impacts¹; (b) the land is free from any legal disputes or controversies, c) the land does not belong to any vulnerable households, and d) there will be no built houses on land to avoid relocation of people.

28. Contractors will be required through provisions in the construction contracts to utilise practices which minimise damage to assets. Pipelines can be easily placed to avoid structures or other items of significance. In general pipelines are placed under the road or footpaths and have minimal impact on the surrounding land use. Where pipelines are carried from the road to a house, home owners can generally specify whether the contractor's desired location is acceptable to them or suggest an alternative (for example to avoid a fruit tree).

29. If resettlement impacts are unavoidable and preparation of a resettlement plan is required, the procedure for resettlement plan preparation is given below. The Project will:

- (i) Provide project- and resettlement-related information to all APs and closely consult APs on compensation and/or resettlement options, including relocation sites, and socio-economic rehabilitation;
- (ii) Undertake a joint census of all APs;
- (iii) Undertake an inventory and detailed measurement survey of all losses of all APs;
- (iv) Identify and record people requiring particular assistance such as the poor and the vulnerable, to plan specific measures to mitigate hardships and to assist them in improving their livelihoods;
- (v) Undertake a socio-economic survey of at least 10% sample of APs and 20% of severely affected;
- (vi) Undertake a replacement cost survey for various types of affected assets as a basis for determining compensation rates at replacement cost;
- (vii) Apply the various types of losses on the agreed entitlements as set out in Section F, Table 1. If there are new categories of AP and types of losses identified, the entitlements will be included in accordance with ADB's Policy on Involuntary Resettlement;
- (viii) Formulate a time-bound action plan or schedule for resettlement plan implementation, procedures for grievance redress, monitoring and evaluation procedures and a budget;
- (ix) Prepare a resettlement plan. Present the draft during consultation and public meetings for comments. The final resettlement plan will incorporate the comments and suggestions of the affected communities;
- (x) Submit the final resettlement plan to ADB for approval. After ADB's approval, disclose the final resettlement plan to the affected communities;
- (xi) Implement the approved resettlement plan and submit progress reports to ADB as part of the monitoring activities.

F. SURVEYS FOR RESETTLEMENT PLAN PREPARATION

¹ Fewer than 200 people will be physically displaced from housing or lose less than 10 per cent of their productive (income-generating) assets. A short resettlement plan will be required.

30. The inventory and detailed measurement survey (DMS) of lost assets will collect data on the affected assets from 100 per cent of APs following detailed engineering design. For each AP, the scope of the data will include:

- Total and affected areas of land, by type of land assets;
- Total and affected areas of structures, by type of structure (main or secondary) and construction material;
- Legal status of affected land and structure assets, and duration of tenure and ownership;
- Quantity and types of affected crops and trees;
- Quantity of other losses, e.g., business or other income, jobs or other productive assets;
- Quantity/area of affected common property, community or public assets, by type;
- 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 or disabled;
- Identify whether affected land or source of income is primary source of income;
- AP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures; and
- AP preferences for training/livelihood restoration skills (from the household head and another household member).

31. The data collected during the DMS will constitute the formal basis for determining AP entitlements and levels of compensation.

32. Together with local-level impact data, information will be collected on existing and social condition of the APs, including poverty assessment and a socio-economic survey from a sample of at least 10% of APs and 20% of seriously affected APs, disaggregated by gender and ethnicity. The purpose of the socio-economic survey is to provide baseline data on APs to assess resettlement impacts, design rehabilitation measures, and to be used for resettlement monitoring. The scope of data to be collected includes:

- Household head: name, sex, age, livelihood or occupation, income, education and ethnicity;
- Household members: number, employment status, school age children and school attendance, and literacy, disaggregated by gender;
- Living conditions: access to water, sanitation and energy for cooking and lighting; ownership of durable goods;
- Asset ownership: Type of buildings and construction materials, other assets such as electrical equipment, motorcycles etc; and
- Access to basic services and facilities.

F. PROJECT ENTITLEMENTS

33. Entitlements were designed to cover compensation for all losses at replacement cost to restore or enhance the livelihoods of all APs as shown in the table below:

Table 1: Project Entitlements

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
1A.	Productive Land (Agricultural, Aquaculture, Forest, Garden)	Marginal loss (i.e., remaining land is still economically viable for use or meets the expected personal yield)	Owners with LURC; in the process of acquiring LURC; are eligible to acquire LURC; and those covered by customary rights, such as members of ethnic minority	<ul style="list-style-type: none"> • For the portion to be acquired permanently: Cash compensation at replacement cost (free from taxes and transaction costs). • For the portion to be used temporarily during construction: (i) rental in cash which will be no less than the net income that would have been derived

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
		This will be determined by the Compensation, Assistance and Resettlement Board or CARB and concurred with by the affected household during the detailed measurement survey or DMS)	groups.	<p>from the affected property during disruption; (ii) restoration of the land within 3 months after use; PCERWASS will pay full replacement cost if contractor fails to restore the affected land within 3 months after end of use.</p> <ul style="list-style-type: none"> • For non-land assets, see Items 3-5 below. • Affected households to be notified at least 4 months prior to the date that acquisition will occur.
1B		Same application as above	Affected households with lease agreement over the affected land	<ul style="list-style-type: none"> • For the portion to be acquired permanently: (i) cash assistance equivalent to 30% of the replacement cost of the land for any improvements (e.g., landscaping, filling, levelling, etc.) invested on the affected property to make it productive; (ii) cash assistance for permanent loss of production equivalent to market value of produce on affected land per year multiplied by 3 years. • For the portion to be used temporarily during construction: (i) rental in cash which will be no less than the net income that would have been derived from the affected property during disruption; (ii) restoration of the land within 3 months after use; Government will pay 30% of the replacement cost of the property if contractor fails to restore the affected land within 3 months after end of use. • For non-land assets, see Items 3-5 below • Affected households to be notified at least 4 months prior to the date that the acquisition will occur.
1C		<p>Severe loss (i.e., remaining land no longer viable for continued use or does not meet the expected personal yield, therefore the entire property to be acquired.)</p> <p>This will be determined by the CARB and concurred with by the affected household during DMS)</p>	Owners with LURC; in the process of acquiring LURC; is eligible to acquired LURC; and those covered by customary rights, such as members of ethnic minority groups.	<ul style="list-style-type: none"> • Cash compensation at replacement cost (free from transaction costs) for the entire land, or land-for-land of equivalent productive value and with secure tenure. • For non-land assets, see Items 3-5 below • For allowances due to severe loss, see Items 9 and 11 below • Entitled to take part in the income restoration program • Affected households to be notified at least 4 months prior to the date that the acquisition will occur.

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
1D		Same application as above	Affected households with lease agreement over the affected land	<ul style="list-style-type: none"> • Cash compensation equivalent to 30% of the replacement cost of the entire land for lost investments or land-for-land of equal productive value and with same lease agreement, plus cash assistance for permanent loss of production equivalent to market value of produce on affected land per year multiplied by 3 years. • For non-land assets, see Items 3-5 below • For allowances due to severe loss, see Items 9 and 11 below • Entitled to income restoration program • Affected households to be notified at least 4 months prior to the date that the acquisition will occur.
2A.	Residential Land	<p>Marginal loss (i.e., remaining land is still viable for use and not requiring relocation)</p> <p>This will be determined by the CARB and concurred with by the affected household during the DMS</p>	Owners with LURC; in the process of acquiring LURC; are eligible to acquire LURC; and those covered by customary rights, such as members of ethnic minority groups.	<ul style="list-style-type: none"> • For the portion to be acquired permanently: Cash compensation at replacement cost (free from taxes and/or transaction costs). • For the portion to be used temporarily during construction: (i) rental in cash to be negotiated by CARB with the affected households; (ii) restoration of the land within 3 months after use; Government will pay replacement cost if contractor fails to restore the affected land within 3 months after end of use. • For non-land assets, see Items 3-5 below • Affected household to be notified at least 6 months prior to the date that the acquisition will occur.
2B		<p>Severe loss (i.e., remaining land no longer viable for continued use and the entire property to be acquired).</p> <p>This will be determined by the CARB and concurred with by the affected household during DMS</p>	Owners with LURC; in the process of acquiring LURC; is eligible to acquire LURC; and those covered by customary rights, such as members of ethnic minority groups.	<ul style="list-style-type: none"> • Cash compensation at replacement cost (free from taxes and transaction costs) for the entire land, or land-for-land of similar attributes with secure tenure • For non-land assets, see Items 3-5 below • For allowances due to relocation of house, see Item 10 below • Affected households to be notified at least 6 months on the date that the Project will actually be acquired by the Project <p>The Project, through the CARB and the Commune People's Committee (CPC), will acquire and develop a group relocation site if at least 8 affected households losing entire residential land in a village are willing to shift to said relocation site in lieu of cash compensation for their lost residential land. Each home plot will be not less than 200 m²</p>

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
				in rural areas and not less than 100 m ² in urban areas and will have its own latrine. Relocation site will have basic facilities.
3A.	House and Shops	<p>Marginal impact (i.e., unaffected portion of the house is still viable for use and require no relocation)</p> <p>This will be determined by the CARB and concurred with by the affected household during the DMS.</p>	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	<ul style="list-style-type: none"> • Cash compensation at replacement cost (i.e., no depreciation and no deduction for salvage materials) for the affected portion. • Repair allowance not less than 20% of replacement cost of the affected portion or equivalent to the actual cost of repair.
3B		<p>Severe impact (i.e., house is no longer viable for continued use and the entire structure is to be acquired)</p> <p>This will be determined by the CARB and concurred with by the affected household during DMS.</p>	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	<ul style="list-style-type: none"> • Cash compensation based on current market prices of materials and labour without depreciation or deductions for salvaged building materials for the entire structure. • For allowances see Item 10 below
4.	Secondary Structures (kitchen, latrine, etc)	Loss of, or damage to, assets	Owners of the structures with or without acceptable proof of ownership over the land; with or without building permit	Cash compensation based on current market prices of materials and labour without depreciation or deductions for salvaged building materials
5.	Crops and Trees, aquaculture products	Loss of, or damage to, assets	Owners regardless of tenure status	<ul style="list-style-type: none"> • Annual crops and aquaculture products equivalent to current market value of crops/aquaculture products at the time of compensation; • For perennial crops trees, cash compensation at replacement cost equivalent to current market value given the type, age and productive value (future production) at the time of compensation. • Timber trees based on diameter at breast height at current market value
6.	Public Facilities (Electric poles, telecom,	Loss of, or damage to, assets	EVN, Telecom,	Cash compensation to cover the cost of restoring the facilities
7.	Communal-owned irrigation system	Loss of, or damage to, assets	Irrigators' Association	Cash compensation to cover the cost of restoring the irrigation system

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
8	Graves	Damage to graves	Affected households	<p>All costs of excavation, relocation and reburial will be reimbursed in cash to the affected family.</p> <p>Graves to be exhumed and relocated in culturally sensitive and appropriate ways</p>
9	Loss of Income/Livelihood due to loss of productive land	Severe impacts due to loss of 10% or more of their total productive land and income sources	Owners with LURC; in the process of acquiring LURC; are eligible to acquire LURC; and those covered by customary rights, such as members of ethnic minority groups and affected households with lease agreement over the affected land	<ul style="list-style-type: none"> Transition subsistence allowance of VND24,000,000 per household, sufficient to provide minimum basic needs of the household for 2 years and which amount will be given in tranches every 6 months to coincide with the cropping season while affected households are taking part in the income restoration program in order to restore their pre-project income/livelihood.
10	Impacts on Houses and Will Require Relocation	Severe impacts on houses	Relocating households (houses) regardless of tenure status	<ul style="list-style-type: none"> Materials transport allowance not less than VND 3,000,000/ household or equivalent to the actual cost of relocation expenses (labour, transport) if relocating within the district. Affected households opting to transfer to another province will be provided not less than VND 5,000,000/ household or equivalent to the actual cost of relocation expenses (labour, transport). Transition subsistence allowance of not less than 6 months VND 6,000,000/household. This will cover miscellaneous/ living expenses costs rebuilding of house for a period of six months.
11	Loss of Income/ Livelihood due to relocation of business	Severe impacts on shops	Relocating shop owners) regardless of tenure status	<ul style="list-style-type: none"> Materials transport allowance not less than VND 3,000,000/ shop owner if relocating within the district or equivalent to the actual cost of relocation expenses (labour, transport). Affected shop owner opting to transfer to another province will be provided not less than VND 5,000,000/ household or equivalent to the actual cost of relocation expenses (labour, transport). Business disruption allowance of not less than 6 months VND 6,000,000/household to cover the loss of income during re-establishing of shops which is reckoned to take six months
12	Higher risks of impoverishment /hardship due to loss of resource base	Loss of Land and Non-Land Assets	Affected vulnerable groups regardless of severity of impacts	<ul style="list-style-type: none"> Additional support allowance of not less than VND 1,200,000 per household for 12 months to cover for additional human resources to help them rebuild their houses and re-establish their livelihood. Entitled to take part in Income

No.	Type of Loss/Impacts	Application	Eligible Persons	Entitlements
				Restoration Program

G. ETHNICITY, VULNERABILITY, AND GENDER ISSUES

34. The Project will identify any specific needs or concerns that need to be considered for ethnic minority groups and other vulnerable groups such as landless, poor, and households headed by women, disabled, elderly or children without means of support. A gender strategy will be included in the resettlement plan.

35. The following provides a framework for addressing these issues:

36. Vulnerable households in the context of this project include female headed, labour-poor or supporting a large number of child/elderly/disabled dependants, ethnic minority or otherwise severely poor households. Continuing analysis of PAHs as this RP is monitored and updated is intended to identify such groups and ensure that appropriate impact mitigation measures are implemented.

Specific Measures for Gender

37. The following have been identified as the specific measures for gender.

- All future socio-economic data collected for the project is to be disaggregated by gender and ethnic group, including monitoring indicators.
- Where the project involves granting of new land or house titles as replacement for acquired land or houses, the title will be in the name of both spouses; Compensation money will given to both both spouses.
- Local representatives of the District Women’s Union will be included in the DCARB mechanism.
- Where project information is disseminated to PAFs, every effort should be made to have husbands and wives present at meetings, and information will be given/discussed orally using local languages with information booklets given as a secondary measure.
- As appropriate separate or additional consultation sessions to discuss important aspects of the project should be held with women including ethnic minority women and women from poor and vulnerable groups, especially where these groups are under-represented in village or community meetings.

Ethnic Minority Specific Actions

- To ensure that the ethnic minority affected people are not marginalized during the process of resettlement activities the following specific measures are included in the resettlement Plan:
 Separate consultation meetings will be conducted with affected households on specific resettlement concerns, such as compensation process, entitlements, income restoration program, implementation plan, grievance redress mechanism. All public information and consultation meetings will be include local translation in ethnic minority languages, so that information and exchange is facilitated for all men and women in affected ethnic minority households. In-depth interviews and specific group discussions with ethnic households on the resettlement and income restoration related issues will be conducted.

- During the DMS, both men and women of ethnic minority households will participate and discuss the issues related to land acquisition and other resettlement concerns. The DMS results must be posed in the Communal house and other public places. The Inventory Team should be available in the area for some weeks to deal with any inquiry or question of APs on the DMS results. It is all to ensure that the ethnic minority households understand and are in agreement with the DMS results.
- The District Resettlement Committee will have representatives from Provincial Committee of Ethnicity and at least one male and one female representative from affected ethnic minority households.
- The delivery of compensation payments will be monitored specifically to ensure that they are paid out fully and directly to affected ethnic minority households and that no discrimination is exercised against them. Compensation will be provided to both men and women from affected ethnic minority households.
- Disaggregated monitoring indicators by ethnicity will be developed for better monitoring of the implementation and effectiveness of resettlement

Vulnerable Households

38. Vulnerable households in the context of this project include female headed, labour-poor or supporting a large number of child/elderly/disabled dependants, ethnic minority or otherwise severely poor households..

39. The implementation of resettlement will be monitored regularly to help ensure that the RP is implemented as planned and that mitigating measures designed to address adverse social impacts are adequate and effective. Towards this end, resettlement monitoring will be done by an internal body and by an external organization.

H. PARTICIPATION AND GRIEVANCE REDRESS

40. Consultation will be undertaken prior to finalization of detailed design in order that APs' requests and suggestions to minimize resettlement impacts can be incorporated into the design as far as is practicable. During preparation of the resettlement plan, consultation activities such as distribution of project information booklets, community information dissemination and feedback, key informant interviews, individual and public meetings, focus group discussions, and separate consultations with severely affected and vulnerable APs will be carried out. Consultation and participation activities will continue throughout project implementation to ensure that information about the overall project and resettlement-related information is properly understood and accepted by the APs.

41. A grievance mechanism will be established to ensure that APs' concerns and grievances are addressed and resolved in a timely and satisfactory manner. APs will be made fully aware of their rights verbally and in writing during consultation, survey, and time of compensation. The APs will also be made aware of ADB's accountability mechanism policy by providing copies of the accountability field guide, which will be translated into the Vietnamese language.

I. IMPLEMENTATION ARRANGEMENTS

42. At the central level, the Project office of MARD will provide overall guidance and technical support to the Provincial People's Committee and District Compensation, Assistance & Resettlement Boards (CARBs). The Project office and CARBs will be assisted by the Supervision Consultants. A domestic resettlement specialist will provide full-time assistance during resettlement preparation and implementation.

J. MONITORING AND RESETTLEMENT BUDGET

43. The Project office will be responsible for internal monitoring of resettlement. Progress reports for resettlement and social impacts will be submitted to ADB on a quarterly basis. Such reports will be posted on the ADB website.

44. Every quarter, an External Monitoring Agency (EMA) will submit an external monitoring report to the Project office, as well as directly to ADB. The report will summarize the findings of the EMA, including: (i) progress of RP updating and implementation (including income restoration programs), citing any deviations from the provisions of the RP; (ii) identification of problem issues and recommended solutions so that implementing agencies are informed about the ongoing situation and can resolve problems in a timely manner; (iii) identification of specific ethnic minority issues, if any; and, (iv) status of resolution of issues and problems identified in previous reports.

45. The resettlement budget will cover compensation for land acquisition and rehabilitation costs, management costs, and contingency.

K. IMPLEMENTATION SCHEDULE

46. The resettlement plan will be disclosed to APs before submission to ADB for review and approval. All resettlement activities will be coordinated with the civil works schedule. ADB will not approve award of civil works contract until all resettlement activities has been satisfactorily completed and agreed rehabilitation assistance is in place and that the site is free of all encumbrances. Resettlement implementation cannot commence until the resettlement plan has been reviewed and approved by ADB.

L. DISCLOSURE OF RESETTLEMENT PLANNING DOCUMENTS

47. This resettlement framework will be uploaded on ADB website before appraisal. The Project office and CARBs will be responsible for the disclosure of the resettlement plan to the APs prior to submission to ADB. ADB will upload the final resettlement plan on ADB's resettlement website.