

Resettlement Framework

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ABBREVIATIONS

ADB	–	Asian Development Bank
AP/AH	–	Affected Person / Affected Household
CCR	–	Climate Change Resilience
CEM	–	Committee of Ethnic Minorities
CHP	–	Central Highland Province(s)
CPC	–	Commune People's Committee
CPO	–	Central Project Office
CSB	–	Community Supervision Board
CWU	–	Commune Women's Union
DARD	–	Department of Agriculture and Rural Development
DMS	–	Detailed Measurement Survey
DoF	–	Department of Finance
DOLISA	–	Department of Labour, Invalids and Social Assistance
DONRE	–	Department of Natural Resources and Environment
DP	–	Displaced person(s)
DPC	–	District People's Committee
DRCs	–	District Resettlement Committees
EA	–	Executing Agency
EMA	–	External Monitoring Agency
EMDF	–	Ethnic Minorities Development Framework
EMDP	–	Ethnic Minorities Development Plan
HH	–	Household
IoL	–	Inventory of Loss
IR	–	Involuntary Resettlement
IPP	–	Indigenous Peoples Plan
LURC	–	Land Use Rights Certificate
MARD	–	Ministry of Agriculture and Rural Development
MC	–	Main Canal
MoF	–	Ministry of Finance
MOLISA	–	Ministry of Labour, Invalids and Social Assistance
MONRE	–	Ministry of Natural Resources and Environment
NGO	–	Non-Governmental Organization
PCEM	–	Provincial Committee of Ethnic Minorities
PPC	–	Provincial People's Committee
PPMU	–	Provincial Project Management Unit
PPTA	–	Project Preparation Technical Assistance
PRA	–	Participatory Rural Appraisal
PRI / PRIDP	–	Productive Rural Infrastructure Development Project
PSRC	–	Provincial Steering Resettlement Committee
RP-PMU	–	Resettlement Provincial Project Management Unit
ROW	–	Right of Way
RP	–	Resettlement Plan
SAH	–	Seriously Affected Household
ToR	–	Terms of Reference
USD	–	United States Dollars
VND	–	Viet Nam Dong

GLOSSARY

Affected person (AP)	– Means any person or persons, household, firm, private or public institution that, on account of changes resulting from the Project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, salt mining and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement. In the case of a household, the term AP includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components. (Gradually AP are replaced by Displaced Persons (DP)).
Detailed Measurement Survey (DMS)	– With the aid of the approved detailed engineering design, this activity involves the finalisation and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of APs earlier done during RP preparation. The final cost of resettlement can be determined following completion of the DMS.
Compensation	– Means payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Cut-off date	– Means the date of completing DMS for which land and/or assets affected by the Project are measured. The APs will be informed of the cut-off date for each project component, and any people or assets settled or created in the project area after the cut-off date will not be entitled to compensation and assistance under the project.
Entitlements	– Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the APs, depending on the type and severity of their losses, to restore their economic and social base.
Eligibility	– Means any person who has settled in the project area before the cut-off date that suffers from (i) loss of shelter, (ii) loss of assets or ability to access such assets, permanently or temporarily, or (iii) loss of income sources or livelihood, regardless of relocation will be entitled to compensation and/or assistance.
Income restoration	– This is the re-establishment of sources of income and livelihood of the affected households.

Income restoration programme	– A programme designed with various activities that aim to support affected persons to recover their income / livelihood to pre-project levels. The programme is designed to address the specific needs of the affected persons based on the socio-economic survey and consultations.
Inventory of Losses (IOL)	– This is the process where all fixed assets (i.e., lands used for residence, commerce, agriculture, including ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the Project right-of-way (project area) are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact to the affected assets and the severity of impact to the livelihood and productive capacity of APs will be determined.
Land acquisition	– Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
Rehabilitation	– This refers to additional support provided to APs losing productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
Relocation	– This is the physical relocation of an AP from her/his pre-project place of residence and/or business.
Replacement cost	– Means the method of valuing assets at current market value, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Replacement Cost Study	– This refers to the process involved in determining replacement costs of affected assets based on empirical data.
Resettlement	– This includes all measures taken to mitigate any and all adverse impacts of a project on AP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
Resettlement Plan (RP)	– This is a time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Severely Affected Household (SAH)	– This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets or income sources, (ii) have to relocate due to the project.

- Vulnerable groups
- These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalised by the effects of resettlement and specifically include: (i) female headed households with dependents; (ii) disabled household heads; (iii) households falling under the national poverty standard; (iv) children and the elderly households who are no other means of support; and (v) landless households, and (vi) ethnic minorities.

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RESETTLEMENT FRAMEWORK

I. INTRODUCTION

A. Description of the Project

1. The proposed project (Project) aims to rehabilitate and upgrade existing but deteriorated critical productive rural infrastructure (PRI) in five central highland provinces (CHP) over a period of five years. It directly supports the Government of Viet Nam's (Government) National Target Program for New Rural Development (NRD). The PRI has deteriorated because of limited funding available for new investment and a constrained capacity to sustainably develop, manage and use the assets. This contributes to central highlands provinces' (CHP) poverty by constraining rural productivity. The Project would focus on sustainably improving approximately 30 medium scale irrigation systems, and associated PRI including rural access infrastructure and local markets. In consultation with the Ministry of Agriculture and Rural Development (MARD), the subprojects have been selected from the Socio-Economic Development Plans in five central highland provinces (Lam Dong, Gia Lai, Kon Tum, Dak Lak and Dak Nong). It is expected around three subprojects per province will be funded to a maximum amount of \$7 million for each subproject. The improved PRI is expected to: (i) enable communities to respond to market signals by increasing agricultural intensity and diversity; (ii) provide quicker and safer access to markets; (iii) promote employment opportunities; (iv) increase access to social services; and (v) reduce costs of rural production and marketing, as well as reducing food wastage. Improved PRI increases incomes from both on- and off-farm employment, decreases the burden of chores on women, and increases food availability even when yields are constant. The majority (84%) of the population of the CHP live in sparsely populated and dispersed villages where land is suitable for agriculture. The primary income source for nearly all rural CHP households is farming. While poverty has been reduced nationwide, from 18.1% in 2002 to 13.4% in 2008, equivalent figures in the CHP were 29.2% in 2004 and 21% in 2008, with women poorer than men. Poverty rates among some ethnic minorities in more isolated areas are as high as 70%–80%. These figures reflect the more difficult terrain, and the lack of commercial opportunities, social services and arable land. All this is compounded by poor quality PRI.

2. The Project advances two key Government-supported innovations. The first innovation enhances PRI sustainability and includes good practice, which has previously not been systematically implemented, by: (i) concentrating a critical mass of PRI investments in selected productive areas; (ii) having the communities prioritize the PRI improvements in and around the selected irrigation schemes; (iii) preparing PRI condition inventories and a program to update them; (iv) using whole asset life analysis with realistic maintenance assumptions as the basis for design and sustainable management; (v) improving trails and paths within the irrigation systems thus separating pedestrians and cyclists who are often women and children from motorized traffic and reducing the loss of productive land; and (vi) incorporating bio-engineering for soil and water conservation in the design thus stabilizing the local ecosystems and improving climate change resilience (CCR).

3. In case of subproject supported by ADB, the safeguards objectives will be (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of all affected or displaced persons in real terms relative to pre-project levels; and (iv) to improve the standards of living of the displaced poor and other vulnerable groups.

4. The involuntary resettlement safeguards covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land; or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.

5. The selection of subprojects to adhere to the project objective will also need to comply with conditions regarding land acquisition and resettlement. The criteria for eligibility of subproject under the Project is explained as below regarding social safeguard for involuntary resettlement: “Safeguards compliance with Government of Viet Nam and ADB guidelines – Subprojects should create least negative environmental impact, be located away from protected areas, and with minimal site clearance and resettlement requirement”.

6. Furthermore the Aide Memoire of ADB Review Mission conducted on 3 to 7 October 2012 specified (in para 9): “The Mission indicated that any subproject requiring major land acquisition would be ineligible; and asked that the table and list of eligible subprojects be revised accordingly”. Any subproject with significant impacts for involuntary resettlement (IR) (category A) will be excluded from the Project, and any impacts (temporary and permanent) will be minimized through subproject design and consultation with communities in target areas and other stakeholders.

7. As there is no major land acquisition (as defined in ADB policies) the subprojects will be categorized as B or C. The categorization as per ADB SPS and OM of March 2010 (para 8 and 9) will be followed.¹ The criteria to define the significance of the probable involuntary resettlement impacts are explained as follows:

- (i) **Category A.** A proposed project is classified as category A if it is likely to have significant involuntary resettlement impacts. A resettlement plan, including assessment of social impacts, is required.
- (ii) **Category B.** A proposed project is classified as category B if it includes involuntary resettlement impacts that are not deemed significant. A resettlement plan, including assessment of social impacts, is required.
- (iii) **Category C.** A proposed project is classified as category C if it has no involuntary resettlement impacts. No further action is required.
- (iv) **Category FI.** A proposed project is classified as category FI if it involves the investment of ADB funds to, or through, a financial intermediary (paras. 53–58).

8. A project’s involuntary resettlement category is determined by the category of its most sensitive component in terms of involuntary resettlement impacts. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing; or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan are commensurate with the significance of the potential impacts and risks.

9. Three subprojects that have been selected for feasibility study will serve as model to follow, respecting the overall project objective to make the forthcoming subprojects eligible for funding.

¹ <http://www.adb.org/site/safeguards/safeguard-categories#section1>

B. Short Description of the 3 Subprojects Selected for Feasibility Studies

1. Gia Lai Province, Upgrading and completion of Rural Infrastructure, Tan Son Irrigation Works in Nghia Hung – Chu Jor Commune, Chu Pah District

a. Subproject benefits and socio-economic conditions

10. The main beneficiaries from the Tan Son irrigation works subproject will be the farmers who work the fields in the command area of the scheme. Ethnic minority (EM) households represent 51.5% of the total within Chu Pah district and represent 86.8% and 55.6% of those classified as poor within Nghia Hung and Chu Jor communes, respectively. The number of beneficiaries is about 2,150 EM people (525 households). Approximately 9,600 people will benefit from transport component.

11. The inhabitants of the area have profuse human resources with traditional farming and animal breeding skills. Farmer skills have increased significantly during recent years. However, there is still room for improvement as they are still using many local and traditional indigenous methods which do not contribute to an increase in productivity. Farmers in the area have a limited awareness of advanced science and technology, which limits ability to apply advanced technology into modern agriculture production.

b. Involuntary resettlement impacts

12. The upgrade of the channels will be done within the existing areas and will not require any permanent land acquisition. It may include temporary land use during the construction depending on the final design of the particular subproject.

13. The Upgrading of rural roads: Route 1: Road connects community to focal point area to serve management and operation. The road crosses field of Nghia Hung commune, Chu Pah district. The design is based on the existing road alignment and will not cause any resettlement and/or land acquisition.

14. Route 2: Road connects communities to production areas, from S4 of the main channel to the Chu Jor – Chu Dang Ja road. The road crosses Chu Jor commune Chu Pah district. The design is according to rural road standard A, B or C (depending on the existing condition of the road width) based on the existing road alignment; and right of way (ROW) is sufficient. No new land required and no asset of communities to be affected.

2. Dak Lak Province: Rehabilitation and Upgrading of Ea Kao main canal system, Buon Ma Thuot city

a. Subproject benefits and Socio-economic conditions

15. The commune of Ea Kao has total natural area of 4696 ha. Its administrative boundary is divided into 14 units of hamlets and villages including seven villages of indigenous people, six hamlets of Kinh group and other ethnic minorities who have migrated from the north of the country. The total number of households in the commune is 3,544 including 15,878 heads of (mainly) seven ethnic groups.

16. The irrigation area has rather even terrain work items along main and sub channels are not complicated. As per design, Ea Kao irrigation scheme is responsible for supplying water for 730ha of two-seasoned rice area and 1,470ha of coffee but only 450ha of rice and 600ha of coffee now are watered. According to meeting held on collecting opinions about stabilizing the main canal, it shows the need to extend canal N2 to NH14, to provide water for coffee growing

in Khanh Xuan as their fields often dry up. This is a concern for the local community during the regular Nov-April cropping period.

17. Upgrading, rehabilitating and concreting total canal system in Ea Kao including 14.87km of main canals of N1 and N2 and numerous work items/facilities attached to the channels. Works will permit irrigation capability in Ea Kao to be brought up to the original design level. This will have a positive impact on socio-security and livelihood of the people in Ea Kao, Hoa Phu, Ea Tam communes.

b. Involuntary resettlement impacts

18. The subproject will rehabilitate the existing irrigation scheme (including canal system and structure). There will be no permanent land acquisition and impact on structure, but might have temporary needs for land use during the construction. The “willing buyer willing seller agreement” will need to be implemented and documented for one person in this project as his land is needed for the irrigation scheme and he has agreed to sell it. Only one household will be affected permanently. This has been confirmed during FFM.

3. KonTum Province, Repair and upgrading of Kon Trang Kla and Dak Trit irrigation system and the rural infrastructure in Dak La area, Dak Ha district

a. Subproject benefits and Socio-economic conditions

19. The subproject is located in four hamlets and villages (hamlet 2, 3, 4, and 5) of Dak La commune, Dak Ha district. The subproject is expected to directly benefit 8,650 people of 1,650 households, in which ethnic minority groups make up 56% (most of them are from Ro Ngao, Xe Dang, Gia Rai ethnic minorities).

20. The proposed works are: (i) in Dak Trit irrigation: building of new spillway for reservoir within the structure area; (ii) in Kon Trang irrigation: upgrading of canal N2-1 with total length of 440m, with reinforced concrete; and (iii) in Da Pen: upgrading irrigated canal, 620m, structure of reinforced concrete and an additional new drainage canal for 250m structure of reinforced concrete. This will be built within the existing alignment. In Hamlet 1A intake: upgrading irrigated canal 140m, structure of reinforced concrete. In Ba Tri irrigation: building three branch canals with length of 890m, structure of reinforced concrete on the existing alignment.

21. Upgrading length of 14,805km of earth road to cement concrete road, ROW is 5m, width of road surface 3.5m. Drainage system: Building new two bridges over the existing channel. The subproject will provide greater facilities and security for local people to stabilize cultivation area, especially for the cultivation area of wet rice in winter spring crop as it will reduce production cost. The upgraded subproject road will give a good chance for local people to travel and sell their agricultural products. This will boost economic activities and cultural exchanges between remote communes and Dak Ha district and Kon Tum city.

22. The subproject will benefit to sustain the production for about 290ha with two-crop of wet rice and 54ha of dry crop plants (such as coffee, maize, cassava, rubber, and other cash crops). Also the upgrading 14,805km of rural road will create a positive linkage with the production areas and the local market. In addition, neighbouring communes of the subproject area will directly benefit from the upgraded road.

b. Involuntary resettlement impacts

23. This subproject is to repair and upgrade three irrigation works (major dam, canal system, and items on channels over the existing alignment) and 14,805km of earth road to be upgraded with concrete pavement. The subproject will be designed follow the existing alignment within the ROW. The upgrading works will follow the existing alignment so there is no land acquisition, and no asset or structure to be negatively impacted. Therefore no IR impact is foreseen.

II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Objective of Resettlement Framework

24. This Framework prepared by the MARD provides the procedures and key involuntary resettlement principles that will govern all the work items of the Productive Rural Infrastructure Development Project in the Central Highlands, regardless of the financing sources, and implementation based on the provisions of the policy and legal framework of the Government of Viet Nam and ADB (requirement No. 2 of SPS 2009 and cross-cutting policy themes on social development).² The Framework will be translated into Vietnamese and distributed to the central and local agencies, affected households, and other individuals responsible for project preparation and implementation. It will also be submitted to the ADB for concurrence and posting on the ADB website.

B. Anticipated Involuntary Resettlement

25. Where construction of new channels is proposed (requiring excavated area, area for spoil, temporary land for construction, etc.) this has the potential for significant negative impact on affected people through changes in land and resources use, housing, livelihoods and access, while subsequent primary secondary and tertiary canals for water distribution are likely to have less negative impacts. Construction of subsequent canals may also lead to land losses for the local population, and some inhabitants may need to be partially resettled. Overall, it is expected that the negative impact of subsequent channels/roads in rural areas will be limited as many of the existing canals/roads will be upgraded and therefore will not require land acquisition.

26. Items that might need permanent land acquisition will be minimized during the design. These include:

- (i) New channels and structures on channels;
- (ii) New roads, structures and road widening beyond the ROW; and
- (iii) New dams, and those upgraded beyond the ROW.

27. Items that might need temporary land acquisition are as follows:

- (i) Construction site;
- (ii) Temporary access road;
- (iii) Borrow pits; and
- (iv) Disposal areas.

28. Design of subprojects will minimize the amount of land required for the subproject construction. Some temporary disruption of lands, structures and plants will inevitably affect the livelihoods of certain farmers. This will be compensated according to the entitlement matrix

² <http://www.adb.org/site/safeguards/involuntary-resettlement>

agreed by the government and ADB that it is reflected in this RF.³ Depending on the level of negative impacts and number of APs affected the project or subproject, Involuntary Resettlement (IR) will be categorized as per ADB policy (SPS and OM F1/BP dated March 2010). During FFM, it is confirmed that the current proposal of subprojects/feasibility studies are category C for IR in accordance with SPS 2009, and potentially a small number of subprojects will be in category B. Resettlement Plan will be prepared for those subprojects following the RF.

C. ADB Policy

29. The ADB SPS⁴ consolidates three existing safeguard policies: involuntary resettlement (IR), indigenous peoples (IP), and environment. The objectives of the IR policy are:

- (i) To avoid involuntary resettlement wherever possible;
- (ii) To minimise involuntary resettlement by exploring project and design alternatives;
- (iii) To enhance, or at least restore, the livelihoods of all displaced persons (DPs) in real terms relative to pre-project levels; and
- (iv) To improve the standards of living of the displaced poor and other vulnerable groups.

30. Involuntary Resettlement covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land; or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas regardless of whether such losses and involuntary restrictions are full or partial, permanent or temporary. Moreover, the policy also applies to associated facilities funded through other sources and involuntary resettlement actions conducted by the borrower/client in anticipation of ADB support.

31. Projects financed by ADB, including associated facilities that are financed by the government or other sources, are expected to observe the following policy principles:

- (i) Screen early to identify involuntary resettlement impacts and risks and determine the scope of resettlement planning through a survey and/or census of DPs, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with DPs, host communities, and concerned non-government organisations. Inform all DPs of their entitlements and resettlement options and ensure their participation in various stages of the project especially vulnerable and poor groups. Establish a grievance redress mechanism to receive and facilitate resolution of the DPs' concerns. Support the social and cultural institutions of displaced persons and their host population.
- (iii) Improve, or at least restore, the livelihoods of all DPs through (a) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation, assistance at replacement value for land when the loss of land does not undermine livelihoods; (b) prompt replacement of assets with access to assets of equal or higher value; (c) prompt compensation, assistance at full replacement cost for assets that cannot be restored; and (d) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically DPs with needed assistance, including the following: (a) if there is relocation, secured tenure to relocation land, better

³ Temporary impacts such as mentioned will be compensated based on the entitlement matrix. See Table 1.

⁴ <http://www.adb.org/site/safeguards/involuntary-resettlement>

housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (b) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (c) civic infrastructure and community services, as required.

- (v) Improve the standards of living of the displaced poor and other vulnerable groups, including women head of households, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that DPs without title to land, or any recognisable legal rights to land, are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on DPs' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose both the draft and final resettlement plan in a form and language understandable to DPs and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of DPs, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

32. Calculation of full replacement cost will be based on the following elements: (i) fair current market value at the time of compensation; (ii) transaction costs; (iii) interest accrued; (iv) transitional and restoration costs; and (v) other applicable payments, if any. In the calculation, structures will be compensated at replacement costs without deduction for the value of salvageable materials. It is expected that qualified and experienced experts will undertake the valuation of acquired assets⁵.

33. Persons or households without formal legal rights nor recognised or recognisable claims to the acquired land are still entitled to be compensated for their loss of assets other than land, such as dwellings or other improvements on the land at full replacement cost, provided that they have occupied/used the land or structures in the affected land prior to the cut-off date.

⁵ Refer to Appendix 2 (Involuntary Resettlement), Safeguards Policy Statement, June 2009, ADB.

D. Regulations of Viet Nam Government on Land acquisition and Involuntary Resettlement

34. 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, the government has enacted a number of laws, decrees and regulations that constitute the legal framework for land acquisition, compensation, assistance and resettlement. The principal documents include the Law on Land of 2003, providing Viet Nam with a comprehensive land administration law; Decree No. 197/2004/ND-CP, on compensation, assistance, rehabilitation and resettlement in the event of land recovery by the State, as amended by Decree No. 17/2006/NĐ-CP; Decrees No. 188/2004/ND-CP and 123/2007/ND-CP, Decree No. 84/2007/ND-CP specifying the methods for land pricing and land price frameworks in the event of land recovery by the State and Decree No. 69/2009/ND-CP⁶ dated 13/8/2009 providing additional guidelines on land use, compensation, assistances and resettlement.

35. Laws, decrees and decisions relevant to public disclosure of information include the Law on Land, No. 13/2003/QH11, Article 39, requiring disclosure of information to the DPs prior to recovery of agricultural and non-agricultural lands of a minimum of 90 and 180 days minimum respectively. MONRE also issued Circular No. 14/2009/TT-BTNMT on the allocation of new residential land or a resettlement house or monetary compensation for DPs that need to relocate and granting authority to People's Committees to determine whether certain structures built after 1 July 2004 violated approved land use.

36. At the local level, the provinces have issued a Provincial Decision, consolidating Decree 69/2009/ND-CP and other legal documents relevant to planning and implementation of resettlement at the provincial level. The Provincial Decision stipulates that compensation for land shall be at the market rate following the provincially regulated price-frame that is issued each January, and provides for assistance/allowances for relocation, livelihood and production stabilisation as well as occupational training and other changes.

37. There is basic congruence between Viet Nam's laws and ADB's Resettlement Policy especially with regard to the entitlement of persons with legal rights/titles. Existing legislation provides guidance in (i) determining market/replacement rates and payment of compensation, assistances for various types of affected assets; (ii) options for land-for-land and cash compensation assistance; (iii) provision of relocation assistance and support to displaced households during the transition; (iv) provision of resettlement land and housing with secure tenure; (v) additional assistance for severely affected and vulnerable households; (vi) Assistance to livelihood restoration and training; and (vii) notification/disclosure, consultation, and grievance mechanisms.

38. However, ADB Policy does not consider the absence of legal rights of DPs on the acquired land as an impediment to receiving compensation for other assets and for rehabilitation assistance. Non-registration of an AP's business also does not bar them from being assisted in restoring their business. Key differences between ADB Resettlement Policy and Viet Nam's resettlement legislation, including measures to address the differences, are outlined in the table below.

⁶ <http://vci-legal.com/publications/decreed-no-692009nd-cp>

Table 1: Discrepancies Between Decree 197/ND-CP, Decree 69/ND-CP and ADB SPS

	197/2004/ND-CP, 69/2009/ND-CP	Revised ADB Policy	Project Policy
Severely impacted APs losing productive land	Decree 69, Art 20: For significant APs, livelihood restoration measures are provided when AP loses at least 30% of productive agriculture land.	The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).	Losing 10% or more of the household's productive assets shall be considered as threshold.
APs without LURC	Decree 69: Article 23: Persons whose main income is derived from agricultural production whose land is acquired by the Government and cannot satisfy LURC and compensation conditions stipulated in Article 8 of Decree No. 197/2004/ND-CP and Articles 44, 45 and 46 of Decree No. 84/2007/ND-CP will be referred to the Provincial Peoples' Committee for consideration of the level of assistance to be provided in conformity with the locality's actual conditions	Those APs without legal title to land will be included in consultations. Ensure that APs without titles to land, or any recognisable legal rights to land, are eligible for resettlement assistance and compensation for loss of non-land assets including dwellings, structures and other improvements to land such as crops, irrigation, at full replacement cost. Safeguards cover involuntary restrictions on land use or on access to legally designated parks and protected areas. Covers temporary and partial losses.	Project affected people, without legal or recognisable legal claims to land acquired, will be equally entitled to participation in consultations and project benefit schemes where possible, and be compensated for their lost non-land assets such as dwellings and structures occupied before cut-off date. They will be entitled to resettlement assistance and other compensation and social support to assist them to improve or at least restore their pre-project living standards and income levels.
Compensation for lost land	Article 9, Decree 197: The compensation rates for land shall be determined by the PPC in accordance with the Government regulations for the type of land which has been used for at the time of land acquisition. Decree 69, Art 11, Art 16, Compensation is land for same-use land. If not available the AP can be compensated in cash based upon the market transfer price of such land at the time of the decision to acquire. Compensation limited to the allowable land quota, unless land over limit due to inheritance or legally transferred from other persons, or unused land developed according to the land use plan approved by the authorities. If not, compensation only for improvements on that land.	Land based livelihoods restoration based upon land based strategies where possible, or cash compensation at replacement value provided loss of land does not undermine livelihoods for those with legal rights to land. Provide adequate and appropriate replacement land. If land is not available non-land based options built around opportunities for employment, self-employment should be provided in addition to cash compensation for land and non-land assets lost.	Where appropriate land-based compensation is not viable replacement cost surveys have been carried out and will be carried out by the project staff to ensure that project rates for all categories of loss will be equivalent to replacement cost at current market value, to be updated at the time of compensation and combined with other assistance and livelihood restoration measures to ensure full restoration and improvements. Provided AP has legal or recognisable claim, compensation is for full amount of land acquired.

	197/2004/ND-CP, 69/2009/ND-CP	Revised ADB Policy	Project Policy
Differences between compensation rates and market rates	Dec 69 Art 14(2): If compensation is through new land or allocation of land at a resettlement area or by housing and the replacement is valued at less than the land acquired, the price difference will be paid in cash. Dec 69 Art 14(2a) If replacement residential land or the amount compensated to purchase a replacement house is more than the actual replacement cost, the AP still receives the full amount. Dec 69 Art 14(2b) if the compensated amount is less than the replacement residential land and house the AP will pay the difference themselves except for cases covered by Art 19(1) – this will not apply to (poor) APs who will be assisted by the State. If the AP does not receive land or house at the resettlement site the AP will receive the cash difference.	Provide physically and economically APs with needed assistance including i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of APs economically and socially into host communities, ii) transitional support and development assistance such as land development, credit facilities, training or employment opportunities, and, iii) civil infrastructure as required.	Physically displaced (relocated) APs are to receive relocation assistance, secured tenure to relocated land, with comparable access to production and employment opportunities, and civic infrastructure and community services as required, transitional support and development assistance such as land development, credit facilities, training or employment opportunities.
Compensation for structures	Dec 69 Art 24– Compensation for House, Structures on Acquired Land. Clause (1) – Compensation for APs residential structures based on value of newly constructed house/structure equal to technical standard issued by DOC and based on house area and unit prices issued by PPC. Clause(2) other structures compensation equal to: a) total present value using unit costs for newly constructed house/structure using DOC technical standards and depreciated to present value of acquired house/structure. Maximum value cannot exceed 100% of new value of acquired house/structure	Rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments.	Full compensation at replacement cost will be paid for all affected structures without any deductions for salvageable materials or depreciation, full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments
Compensation for registered businesses	Articles 26, Decree 197: Only registered businesses are eligible for assistance. Decree 69 Art20(2) if business must be suspended AP is compensated with max 30% of after tax income in one year, averaged over last 3 years as certified by Tax Dept.	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.
Compensation for non-registered businesses	Decree 69 only recognises formal registered businesses are entitled to compensation for lost income based upon Tax Office records	No distinction between registered or non-registered businesses in regards to compensation entitlement for lost income and other assistance.	APs affected by loss of income will be finalized during conduct of DMS. Compensation will be based on the minimum wage in the province and the number of days of business disruption.
Monitoring	No monitoring indicators indicated	Monitoring indicators specified for internal and external monitoring and reporting	The EA must undertake internal monitoring according to the critical indicators.

39. It should also be noted that as per Decree No. 197/2004 (i) Article 1, Item 2 states that for projects financed from ODA, if the compensation, assistance and resettlement required by the financiers are different from Decree 197/2004/ND-CP, before signing the international loan agreement, the project owner must report to the Prime Minister for his considerations and decision.

E. Project principles

40. To address the discrepancies between ADB SPS and relevant government regulations as described in the table above, the project principles on resettlement policy are as follows:

- (i) Involuntary resettlement and impacts on land, structures and other fixed assets will be avoided or minimised where possible by exploring all alternative options.
- (ii) Compensation and assistance will be based on the principle of replacement cost at the time of implementation.
- (iii) Severely affected household (SAH) is considered when they are losing 10% or more of the household's productive assets or are physically displaced from housing.
- (iv) Displaced persons (DPs) without title or any recognisable legal rights to land are eligible for compensation for non-land assets at replacement cost.
- (v) Residential and agricultural land for replacement should be close to the previous places as much as possible and be suitable to DPs.
- (vi) Meaningful consultation will be carried out with the DPs and concerned groups and ensure participation from planning up to implementation. The comments and suggestions of the APs and communities will be taken into account.
- (vii) The RP will be disclosed to APs in a form and language(s) understandable to them prior to submission to ADB.
- (viii) Resettlement identification, planning and management will ensure that gender concerns are incorporated.
- (ix) Special measures will be incorporated in the resettlement plan to protect socially and economically vulnerable groups such as households headed by women, children, disabled, the elderly, landless and people living below the generally accepted poverty line.
- (x) Existing cultural and religious practices will be respected and preserved, to the maximum extent practical.
- (xi) Culturally appropriate and gender-sensitive social impact assessment and monitoring will be carried out in various stages of the project.
- (xii) Resettlement transition stage should be minimised. Restoration measures will be provided to DPs before the expected starting date of construction in the specific location.
- (xiii) Budget for payment of compensation, assistance, and resettlement and support will be prepared sufficiently and made available during project implementation and by the provinces.
- (xiv) Reporting and independent monitoring should be defined clearly as part of the management system of resettlement. Independent assessment of the duration and results of the land recovery should be carried out.
- (xv) The CPMU will not issue notice of possession to contractors until the CPMU are officially confirmed in writing that (i) payment has been fully disbursed to the DPs and rehabilitation measures are in place (ii) already-compensated, assisted DPs have cleared the area in a timely manner; and (iii) the area is free from any encumbrances.
- (xvi) Cut-off date is the date of completing DMS for which land and/or assets affected by the Project are inventoried.

III. ELIGIBILITY AND ENTITLEMENTS

A. Eligibility

41. Eligibility will be determined with regard to the cut-off date, which is taken to be the date of completing DMS for which land and/or assets affected by the projects are measured. The APs will be informed of the cut-off date for each project component, and any people or assets settled or created in the project area after the cut-off date will not be entitled to compensation and/or assistance under the project.

42. In addition, legal rights to the land concerned determine the extent of eligibility for compensation with regard to land. There are three types of APs: i) persons with Land Use Rights Certificates (LURCs) to land lost in entirety or partially; ii) persons who lost land they occupy in its entirety or partially who do not currently possess a LURC but have a claim that is recognisable under national laws, or; iii) persons who lost land they occupy in its entirety or partially who do not have any recognisable claim to that land. APs included under i) and ii) above shall be compensated for the affected land and assets upon land. APs included under iii) shall not be compensated for the affected land, but for the affected assets upon land and are entitled to assistance if they have to relocate.

B. Entitlements

43. Households or individuals with sufficient basis for compensation will be compensated for land and structure losses equivalent to 100% of the market price of such assets. Those without sufficient legal rights are also assisted as described in the entitlement matrix below.

44. The unit rates or amount for allowances indicated in the entitlement matrix can be adjusted during RP updating to reflect actual situation at the time of implementation. However, the adjusted amounts and unit rates cannot be lower than the provisions in the entitlement matrix. Below is the entitlement matrix that should be following when preparing the Resettlement Plan.

Table 2: Entitlement Matrix

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
A. AGRICULTURAL LAND			
<i>A.1: Temporarily Affected Agricultural Land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC; and organizations	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Project will: a) Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. , b) Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land.	Project is responsible to restore the borrowed land or negotiates with APs to restore and pay restoration costs for them. PPMU and External monitoring agency (EMA) is in charge of monitoring on restoration of the affected land
	Loss of use of land exceeds 1 year.	No compensation for land; however, the Project will: a) Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. b) Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land.Or AP can ask the Project to acquire permanently that land affected and compensate at replacement cost.	
User with lease or temporary right	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Project will: a) Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. , b) Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land	Project is responsible to restore the borrowed land or negotiates with APs to restore and pay restoration costs for them. . PPMU and External monitoring agency (EMA) is in charge of monitoring on restoration of the affected land
	Loss of use of land exceeds 1 year.	No compensation for land if returned to original user; however, the Project will: a) Pay the rent in cash which will be no less than the net income that would have been derived from the affected property during disruption.	

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
		b) Restore of land before returning to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land. Or AP entitled to compensation for the remaining value of the lease contract.	
Non-titled user		No compensation for land; however, the Project will pay cash compensation for loss of standing crops and trees at market prices (see D, below).	
<i>A.2 Permanently affected agricultural land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Losing 10 percent or more of total productive landholding affected	<p>a) As a priority, allocation of replacement land: (i) equal in area to affected land up to a maximum of land quota in the locality; (ii) of same category (or productive capacity); (iii) at a location satisfactory to AP; (iv) with full title in the names of both the household head and his/her spouse; and (v) without charge for taxes, registration and land transfer charges;</p> <p>b) Cash compensation for standing crops at market price; and</p> <p>c) Economic rehabilitation package (see E, below);</p> <p>Or, if AP opts,</p> <p>a) Cash compensation at replacement cost for land and at market price for standing crops; and</p> <p>b) Economic rehabilitation package (see E, below); and job training/creation assistance equivalent to 1.5 to 5 time of acquired land value but not exceed quota of agricultural land allocation in locality, if the affected land is not within rural/urban resident area.</p>	<p>If remaining land area is not economically viable i.e. is too small to be economically cultivated, the Project will acquire the entire affected land parcel and compensate at replacement cost.</p> <p>Consensus on criteria to be used to decide whether affected land is no longer viable for continued use will be reached during consultations with the community and AHs.</p>
	Losing less than 10 percent of total productive landholding	<p>Cash compensation at replacement cost at current market prices for affected portion; if the remaining land is not viable cash compensation at replacement cost for entire affected land parcel; and</p> <p>Compensation for standing crops at market price; and job training/creation assistance equivalent to 1.5 to 5 time of acquired land value but not exceed quota of agricultural land allocation in locality, if the affected land is not within rural/urban resident area.</p>	Implemented by DRCs

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
	Affected landholding located in urban, peri-urban or rural residential area, as per approved land use plan	a) Cash compensation at replacement cost for affected land; and b) Additional cash allowance equal to 20 percent to 50% of the average residential land value in the area but the supported area is not exceeding 5 (five) times of the residential land allocation quota in the locality.	Implemented by DRCs
	Affected land lying intermixed with residential areas but un-certified as residential land; pond and garden land lying on the same residential area containing houses, or along canals and along transportation lines.	a) Cash compensation at replacement cost for affected land; and b) Additional cash allowance equal to 30-70 percent of the affected residential land value but the supported area is not exceeding five times of the residential land allocation quota in the locality.	Implemented by DRCs
	Affected landholding is under dispute.	Compensation (for land and all non-land affected assets on the affected land and relevant assistances) held in escrow account until land dispute is resolved.	Implemented by DRCs
User with lease or temporary rights		a) No compensation for land but cash compensation for standing crops at market price; and b) Cash compensation for loss of net income for the remaining leased or assigned period, OR remaining value of investment in the affected land and value of the remaining contract, depending whichever is higher.	Preceding note on viability of remaining (unaffected) portion of plot also applies Implemented by DRCs
Non-titled user		a) No compensation for land but compensation for standing crops on the affected land other affected non-land assets and investments on land; and b) Economic rehabilitation package (see E, below).	For non-titled APs with no other productive landholdings, local authorities will allocate replacement land with temporary or lease land rights, if land is available
Public organizations		a) No compensation for affected land but support equivalent with not exceeding 100% of compensation value of the affected land; and b) Cash compensation at current market prices for standing crops on the affected land, If any.	The compensation amount must be paid to account of affected commune and used for infrastructure improvement of the commune

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
B. RESIDENTIAL AND/OR NON-AGRICULTURAL LAND (e.g., commercial)			
<i>B.1. Temporarily Affected Residential and/or Non-Agricultural Land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Temporary loss of use of land	No compensation for land, however, a) The Project will pay rent to APs during temporary use; b) Compensation for any demolished structures at replacement cost and when rebuilding the structure, the building permit will be at no cost to the AH; and c) Restore land before returning to the affected user to its previous or better.	For commercial land, rent will be not less than the amount of income foregone due to the temporary loss of this land. For residential land, rent is based on the rent market price in locality, otherwise on negotiation with the user. PPMU and monitoring unit are in charge of monitoring contractors on restoration of the affected land.
User with lease or temporary right	Temporary loss of use of land	No compensation for land; however, the Project will pay: a/ rent to APs during the temporary use period or compensation for the remaining value of the contract; and b/ Compensation for any demolished structures at replacement cost and when rebuilding the structure, the building permit will be at no cost to the AH; and, c/ Restore land before returning to the user to its previous or better quality.	For commercial land, rent will be not less than the amount of income foregone due to the temporary loss of this land. For residential land, rent is based on the rent market price in locality, otherwise on negotiation with the user. PPMU and monitoring unit are in charge of monitoring contractors on restoration of the affected land.
<i>B.2. Permanently Affected Residential and/or Non-Agricultural Land</i>			

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Loss of residential and/or non-agricultural landholding without houses and structures built thereon	<p>As a priority, allocation of replacement land: (i) equal to area and same type of affected land up to a maximum of land quota in province of project at a location satisfactory to AP; (ii) with full title in the names of both the household head and his/her spouse; and (iii) without charge for taxes, registration and land transfer charges; or, if AP opts, Cash compensation at replacement cost for the affected land. The compensated area does not exceed the residential land quota in the locality; and</p> <p>Cash compensation for the area greater than land quota at replacement cost based on current market prices for agricultural land plus an allowance equal to 20 to 50% (as per provincial decision) of the average affected residential land value.</p>	<p>a/ The DPC will determine availability of replacement land</p> <p>b/ Affected landholding is under dispute: Compensation held in escrow account until land dispute is resolved.</p>
	Loss of residential land/or non-agricultural landholding with houses and structures built thereon.	<p>AP will be entitled to one of the following options:</p> <p>(a) Stay and rebuild their houses/structures on the remaining land if viable, and cash compensation at replacement cost for the affected land area and the affected house/structures without depreciation of salvable materials, plus package of rehabilitation and relocation allowances (see E); OR</p> <p>(b) Relocation in resettlement site with cash compensation at replacement cost for the affected house/structures without depreciation of salvable materials, plus package of rehabilitation allowances (See E). If amount of compensation and assistance is lower than value of a standard plot or apartment in resettlement site, the difference payment is not required; OR</p> <p>(c) Self-relocation with cash compensation at replacement cost for affected land and house/structures without depreciation of salvable materials, plus package of rehabilitation and relocation allowances (see E); and relocation household is entitled to support by cash for preparation of housing foundation equal to the average investment value in infrastructure of a standard plot in resettlement site.</p>	<p>a/ Infrastructure in relocation site will be constructed by project.</p> <p>The resettlement sites are all close to the affected area and with completed infrastructures.</p> <p>b/ Affected landholding is under dispute: Compensation held in escrow account until land dispute is resolved.</p>

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
User with lease or temporary use rights of public land	Loss of residential land/or non-agricultural land	a) Cash compensation for the remaining value of contract, or support equal to 60% of affected land value, depending whichever is higher; and b) Cash compensation at replacement cost for house/structures on affected land, and c/ Package of rehabilitation and relocation assistances (see E below).	Local authorities assist AP to find alternative land.
Non-titled user	Loss of residential land or non-agriculture land	No compensation for affected land, however, a) Non-titled AP entitled to full compensation for affected structures at replacement cost, and b) Package of rehabilitation and relocation allowances (see E below)	a) In case of non-titled AP has no other residential place in affected commune/ward: Local authorities should consider to allocate replacement residential land or house with full title and plus package of rehabilitation allowances. b) In case of non-titled AP has no other non-agriculture land: Local authorities should consider to allocate replacement non-agriculture land with temporary of lease land right.
Public organizations	Loss of non-agricultural land	a/ No compensation for land if land use fee is unpaid or paid by state funds, otherwise cash compensation for land at replacement cost; and b/ Cash compensation for affected structures at replacement cost and allowance of relocation if any.	
C COMPENSATION FOR AFFECTED HOUSE AND STRUCTURE			
<i>C.1. Main Structures (Houses and/or Shops)</i>			
Owners of houses/ structures	House/Structure partially affected and remaining portion can be used	a) Cash compensation at replacement cost for materials and labour for affected portion with no deduction for depreciation or salvageable materials; and b) Repair allowance (see E, below).	
Owners of house or combined house/shop structures	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a) Cash compensation at replacement cost for materials and labour for whole affected structure with no deduction for depreciation or salvageable materials; and b) Relocation and subsistence allowances (see E, below).	

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
Owners of shop	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a) Cash compensation at replacement cost for whole affected structure for materials and labour with no deduction for depreciation or salvageable materials; and b) Relocation allowance (see E, below).	
Tenant	Structure partially affected and remaining portion viable	a) Cash compensation to the structure owner for the whole affected structure at replacement cost with no deduction for depreciation or salvageable materials; b) Repair allowance to the structure owner (see E, below); and c) Tenant may remain with owner's agreement.	Notice to tenants by owner at least 6 months in advance or as early as possible
	Remaining structure no longer viable, OR Tenant opts to move	a) Cash compensation to the structure owner for the whole affected structure at replacement cost with no deduction for depreciation or salvageable materials; b) Rent allowance equivalent to 6 months' rent or the remaining value of the rental contract (whichever is higher); c) Assistance to find new, affordable rental accommodation; and d) Relocation allowance (see E, below)	
C.2. Other Structures, e.g., kitchens, toilets, animal sheds, fences, foundations, etc.			
Owners of structures	Partially or totally affected structures or other property	Cash compensation at full replacement cost for materials and labour and with no deduction for depreciation or salvageable materials; OR Cash or in-kind assistance to relocate affected structures or property; OR Cash assistance to repair of property to original or better condition (see E, below).	Owners of structures are entitled to compensation regardless of whether or not they possess a) land use rights to the land OR b) construction permits for the structures
	Graves / tombs-yard/cemetery	All costs of excavation, relocation and reburial will be reimbursed in cash to the affected family as prescribed in PPC's regulation. If the tombs-yard is required, the place and layout of the yard shall be decided by the affected households and the costs for the yard constructions shall be made by the Project.	Compensation to be paid directly to APs. For ownerless affected graves / tombs, compensation will be given to Commune PC to relocate them to new site. Graves to be exhumed and relocated in culturally sensitive and appropriate ways. The place and layout of the yard shall be

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
			consulted with communities and affected peoples
D COMPENSATION FOR AFFECTED CROPS AND TREES			
Owners of crops and/or trees	Loss of annual crops	If standing crops are ripening and cannot be harvested, cash compensation of un-harvested crops at market values based on the average production over past 3 years.	A minimum of 3 months' notice to harvest crops; Owners of crops and/or trees are entitled to compensation regardless of whether they possess land use rights
	Loss of perennial crops, fruit and timber trees and tree fences	Cash compensation at current market prices given the type, age and productive value of the affected crops and/or trees.	Compensation must equal in value to crops that would be harvested had acquisition not occurred. A market survey shall be carried out when updating the RPs
E .PACKAGE OF ECONOMIC REHABILITATION AND RELOCATION ASSISTANCE			
<i>E1 Economic Rehabilitation Assistance</i>			

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
Severely affected APs, displaced from housing or losing 10 percent or more of their productive, income generating irrespective of tenure status.	Assistance to restore livelihoods and incomes following acquisition of agricultural land or other productive assets	<p>AHs directly cultivating on the affected land entitled:</p> <p>(a) Losing from 10 to 30% of agricultural land holding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;</p> <p>(b) Losing more than 30% to 70% of total agriculture landholding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;</p> <p>(c) Losing more than 70% of total agriculture landholding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area;</p> <p>(d) In-kind assistance to be decided in consultation with eligible APs. Forms of assistance may include, but are not limited to, agricultural extension assistance, and training for non-agricultural occupations; and</p> <p>(e) Participating in income restoration programs.</p>	<p>Value of in kind assistance to be determined during RP implementation.</p> <p>Income Restoration Programs will be designed during project implementation with the assistance of an agency specialized in livelihoods/labor or vocational assistance and with the active involvement of the AHs.</p> <p>Income Restoration Program shall be prepared during the RP updating following the needs assessment of the APs</p>
	Job training/Creation allowance	<p>Cash assistance equal to 1.5 to 5 times of compensation value for affected land area but not exceed 5 (five) times of land quota in locality.</p> <p>If AP has demand for training, he/she will be entitled to a free training course</p>	Eligibility will be confirmed during DMS.
<i>E 2. Relocation assistance</i>			

Entitled Persons	Type &Level Of Impact	Compensation Policy	Implementation Issues
All APs that relocate	Relocation of household and/or business effects and salvaged and new building materials.	<p>a) Cash assistance is minimum of VND 3,000,000 for APs that relocate within the same province; OR Cash assistance minimum of VND 5,000,000 for APs that relocate to another province and based on regulation per provinces</p> <p>b) Temporary Relocation Assistance for renting temporary resettlement house: The period of assistance and administration of this provision will be as per the Provincial People's Committee regulations</p> <p>NB. Not applicable for AHs rebuilding on same plot.</p>	<p>Eligible APs include owners of residential structures that are totally or partially affected and remaining portion is not viable; non-titled APs allocated alternative residential land or housing; tenants; and, businesses and eligible land use/management organisations that relocate.</p> <p>At the time of compensation, the level of allowance will be re-evaluated to ensure the APs have enough assistance to relocate</p> <p>The resettlement sites are all close to the affected area and with completed infrastructure</p>
<i>E. 3 Special allowance for social and economically vulnerable households</i>			
Vulnerable APs (the poor, war invalid person, woman headed household, the elderly)	Assistance to the poor and vulnerable households to improve their social and economic conditions.	<p>a) For the poor households, cash assistance equal to 30 kg of rice (at market price) per each family member per month for at least 36 months, according to Decree 17/2006/ND-CP.</p> <p>b) For other vulnerable APs, assistance of minimum VND 2,000,000 per household to improve their social and economic conditions based on regulation per provinces</p> <p>c) All vulnerable APs are also entitled to participation in income restoration program regardless of severity of impact</p>	Eligible households are those who are classed as vulnerable under MOLISA definition.

IV. SOCIO-ECONOMIC INFORMATION

A. Screening and Categorization of Impacts on DPs

45. Initial screening will be conducted as early as possible in the subproject cycle to categorize the impacts and identify subsequent approaches and resource requirements to address IR (involuntary resettlement) issues. The screening will identify the potential for loss of land, asset/structures, livelihoods, willingness of the community to collaborate in the implementation of the project, and their impacts through primary and secondary data information collection. The resettlement survey team with the local community representatives will make a walkthrough survey of each subproject. The team will visit the subproject site and arrange public meetings in selected settlements including village leaders to provide information about the project and collect their views on resettlement impact and willingness of APs about the subproject.

46. Resettlement screening will also enable the categorization of subprojects based on their level of social impacts. If necessary a due diligence report will be prepared for the subprojects to establish the impact on public land. The screening and categorization will then be prepared during the project preparation. Once finalized, the due diligence report and categorization form will be included in subproject feasibility/design report to be submitted to ADB.

B. Methodology for Socio-economic survey (SES), and Inventory Of Losses

47. Depending on the extent of impacts on IR the surveys will be contracted out to a competent firm or service provider. The data, analysis and reports will lead to the preparation of the Resettlement Plans and provide understanding of the socio-economic circumstances people in the project area – including poverty, gender and ethnic minority peoples. The information collected should be presented and discussed in the RP, and disaggregated by gender and ethnic group. The activities of the survey team will be to conduct the following:

- (i) Inventory of Loss (IOL) that calls for a 100% census of the possible project Affected Households (AHs) quantifying the possible social impact in terms of loss of land, assets and income; possible social impact in the affected area; and
- (ii) Socio-Economic Survey for a representative number of Project Affected households (AHs) will also be pursued by the survey team. The coverage of the survey include (i) 10% of total AHs (marginally affected households to be surveyed will be selected via simple random sampling) and 20% of Severely Affected household (SAHs) and Vulnerable affected Households (VAHs), (ii) selected households based on information generated through the census survey (Inventory of Loss - IOL) conducted earlier in the survey. Socioeconomic information on the community and AHs should include, among others: (a) demographic information; (b) economic profile such as major economic and livelihood activities and number of AH members who are gainfully employed; and (c) household health and sanitation practices/facilities and community's access to health and education facilities. A description of the availability and conditions of public infrastructure in the community should also be included.

C. Valuation and Replacement of Assets

48. The resettlement Unit, local officers and a representative of the DPC and AP representatives will form the Compensation Determination Committee (CDC) and agree rates of compensation with the AP. APs will be compensated at replacement cost for any involuntary land acquisition. The district survey team will assess the various categories of loss envisaged in the entitlement matrix and fix prices/costs for compensation according to the compensation entitlements agreed by the CDC. Safeguards for poor and socially disadvantaged groups will be facilitated by the presence of NGO representative as necessary. Designated third-party or NGO will confirm "no coercion clause"

in any voluntary contribution of land. Disagreements over valuations and extent of land-take should be negotiated as quickly as possible in order to reduce delays to letting contracts to start of civil works. If further disagreement over the value of land or assets, the complaint may be brought to the grievance committee.

49. In case of land in the mountains with low value as per land revenue transaction statement and where very few transaction of land is effected, the land value maybe estimated as per present transaction rate but also considering an added value of five years (or more) of production to compensate the non-availability of value of present market rate.

50. The CDC will disburse compensation payments. A transparent system for checking entitlement against payment is needed with a monitoring exercise to ensure that payment has been made as assessed to the right person. The best arrangement may be to make the payment at the home of the recipient to reduce off-take in town. Payments are made by check and APs may need help in opening and operating bank accounts.

D. Resettlement Plan Preparation

51. The RP will be prepared based on the results of the census and information drawn from the SE survey and IOL. The RP will include measures to ensure that the socioeconomic condition, needs, and priorities of women are identified, and that the process of land acquisition will not disadvantage women. If any adverse impacts on the Indigenous People (IPs) are identified, they will be addressed adequately through an Indigenous Peoples Plan (IPP) or specific actions included in the RP. The PPMU will prepare RPs for subprojects based on the engineering design of the infrastructures, if necessary, and in consultation with APs, local representatives, and local NGOs. The RP will be prepared in English and translated to local language and notified to the public.

52. The content of resettlement plan includes a statement of involuntary resettlement objective and strategy with (i) executive summary; (ii) project description; (iii) scope of land acquisition and resettlement; (iv) socio-economic information and profile; (v) information disclosure, consultation and participation; (vi) grievance redress mechanisms; (vii) legal framework; (viii) entitlement, assistance and benefits; (ix) relocation of housing and settlements; (x) income restoration and rehabilitation; (xi) resettlement budget and financing plan; (xii) institutional arrangements; (xiii) implementation schedule; and (xiv) monitoring and reporting plan, showing how activities will be scheduled with time-bound actions in coordination with the civil works. The RP will establish an eligibility cut-off date.

53. Where subprojects involve voluntary land donation, the RP will also include arrangements to deal with losses on a voluntary basis with appropriate safeguards. Such land donations will require a written agreement with the respective landowners. It may be in a form of MOU between the landowner(s) and the CPC or other documentation acceptable to ADB, including a no coercion clause witnessed by an independent third party e.g. nongovernment organizations. Such agreement sample is provided in Appendix 2. Voluntary land donation will only be accepted if this does not severely affect the living standards of affected persons.

54. The PPMU will organize a consultation meeting with APs and local stakeholders to share the draft RP and inform them about how the concerns raised by them during the screening and walk-through survey have or have not been addressed in the project design. In order to ensure that the subproject design have incorporated concerns raised locally and measures to minimize adverse impacts and enhance project benefits, the RP will be finalized only after the final consultation with affected persons. A meeting minute on endorsement of entitlements proposed in RP duly signed by APs will also annexed to the RP.

E. Preparation and Submission of Subproject Resettlement Plans

55. The RPs for the project will be submitted to the PPC for review before submitting to CPMU and ADB for review and approval. The outline of an RP is available in the ADB SPS of June 2009. The RP shall follow the provisions and procedures specified in the Resettlement Framework.

56. The RP must be updated following the completion of the detailed designs and conducting of the DMS. This will provide up-to-date and accurate figures regarding the scope of impact, identification of APs and severity of impact, as well as an updated compensation calculation. The RP should be reviewed to update any changes in market prices for replacement values and would need to be reviewed again at the time compensation is due for payment. If rates and prices are found to be out of date, revised updated costs based on the latest market rate must be used. Also in the RP updating process, the IRP (Income Restoration Programme) will be prepared. Affected people must be consulted before finalisation of the updated RP. The RPs and the updated RPs will be sent to ADB for approval and uploaded to ADB's website.

57. No section or part thereof under the civil works contract shall be handed over to the contractor nor initiated unless the RP has been approved by ADB and required land compensation has been completed.

V. CONSULTATION, PARTICIPATION, AND DISCLOSURE

A. Information Disclosure, Consultation and Participation

58. Information disclosure is an on-going process beginning early in the project cycle and continuing throughout project preparation and implementation. The process must provide timely information to communities in order that they may meaningfully contribute to project design, decisions and also mitigation. Provision of timely and accurate information will avoid misinformation and inaccurate rumours from circulating in communities. During consultations particular attention is given to vulnerable subgroups in the community to ensure their understanding and collective input. In accordance with both ADB and government policy (contained in Decree 69 Articles 29, 30 and 31 and 2) the PPC and DPC must ensure that public notice is given and disseminate details of the approved draft resettlement plan, or framework, before project Fact Finding by the ADB. This draft will also be disclosed on the ADB website. Following the census of affected persons, the final resettlement plan, as endorsed by the government and ADB, is further disseminated to the affected communities and posted on the ADB website. Any updates or revisions to the final resettlement plan must be further disseminated to affected communities and again, posted on the ADB website.

59. The PPMUs, with assistance from relevant provincial and district agencies, will conduct a series of public meetings to provide information regarding project activities and the proposed resettlement and compensation arrangements. These public meetings will be needed to: (i) disseminate information on inventory and pricing results; (ii) inform the APs on amounts of compensation and supports of each affected household; (iii) to listen to their feedback and suggestions; and (iv) for revising or adjusting the inaccurate data, if any. It is important that APs are informed well in advance, of the date, time and location of each meeting, and that reminders are also provided. It is essential that these meetings enjoy maximum participation, as this will reduce misunderstandings and potential for conflict. For removal or relocation of tombs/graveyards or other religious or cultural significant items, special consultation should take place and a record of consultation should be made available which includes: (i) nature and type of tombs; (ii) how old are the tomb and status of land where the tombs are located; (iii) new location and status of land; (iv) if the tombs are owned by ethnic minorities or not and the implications of impact on the religious and

cultural sentiments of the community; and (v) agreed ritual process, cost and time of removal of tombs, and other arrangements as deemed necessary.

60. In accordance with Decree 69/ND-CP Article 30(2b) the posting must be recorded in official minutes and confirmed by the CPC, the Commune Fatherland Front and APs. As per Decree 69/ND-CP Article 30 Clause 3(a), following expiration of this period the agency in charge of compensation will summarise all opinions and comments received, including numbers of APs and stakeholders who agree and disagree, with the compensation and land acquisition and assistance offered in the resettlement plan. Interviews with APs will be conducted in order to check the adequacy of compensation prices issued by the provinces. Further public consultations will be carried out during the implementation stage with a focus on specific activities including assessment of compensation, acquisition of land, and design of rehabilitation assistance planning. These measures are undertaken to ensure that APs are satisfied with the compensation arrangements and will not object to the disruption and that they will not suffer enduring negative impacts due to the project and be able to fully restore and further improve their livelihoods.

B. Gender and Ethnic Minorities Consideration

61. Gender and social economic analysis, including ethnic minorities, gender division of labour related to the potentially affected people in the specific project area must be conducted. Based on these analyses, special attention will be given to address women's concerns during the preparation of RP, updating process and implementation. Participation and involvement of the women's union at all levels should be encouraged especially for supervision and monitoring of the resettlement process and its implementation, and to help inform communities and women's groups as to project potential impacts. Ensurances should be given that women have full and equitable access to the project's resources and benefits including income restoration programmes and skills training. Adequate resources including a financial and social safeguard specialist must be allocated to support the resettlement process and its implementation. Women must be present during consultations made when conducting the detailed measurement survey and visit to resettlement site. This is to ensure that all information and opinions can be collected and that they include the women's perspectives. Names of both husband and wife must be in the land use rights certificates. Women must be present when compensation payments are made to ensure that any decisions regarding use of compensation monies will be open to decisions made by husband and wife. Sex-disaggregated data must be collected in the socio-economic survey and inventory of loss. Gender sensitive and culturally appropriate approach and methods need to be applied when dealing with EM women and they need to be consulted accordingly.

VI. COMPENSATION, INCOME RESTORATION, AND RELOCATION

62. This chapter will be further developed during preparation of the resettlement plan based on the extent of negative impacts. In the event that any households will be severely affected by the project, the RP chapter on compensation, income restoration and relocation will include:

- (i) Description of the measures proposed for income restoration, including compensation and special measures to help vulnerable households improve their living standards;
- (ii) Explanation of measures to provide replacement land (very unlikely);
- (iii) Description of support to be provided for host populations; and
- (iv) Budget, financing, and implementation arrangements.

VII. GRIEVANCE REDRESS MECHANISM

63. In order to ensure that all APs' grievances and complaints on any aspect of land acquisition, compensation and resettlement are addressed in a timely and satisfactory manner, and that all possible avenues are available to APs to air their grievances, a well-defined grievance redress mechanism needs to be established. All APs can send any questions to implementation agencies about their rights in relation with entitlement of compensation, compensation policy, rates, land acquisition, resettlement, allowance and income restoration. Furthermore, APs will not be ordered to pay any fee during the grievance and complaints at any level of trial and court. Complaints will pass through 3 stages before they could be elevated to a court of law as a last resort. The EA will shoulder all administrative and legal fees that might be incurred in the resolution of grievance and complaints.

64. **First Stage, Commune People's Committee:** The aggrieved affected household will bring his/her complaint in writing before any member of the Commune People's Committee, either through the Village Chief or directly to the CPC. 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.

65. **Second Stage, District People's Committee:** 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 DPC or the DRC. 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 and will inform the DRC of any determination made. The DRC must ensure this decision is notified to the AP.

66. **Third Stage, Provincial People's Committee:** 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.

67. **Final Stage, the Court of Law Arbitrates:** If after 15 days following the lodging of the complaint with the PPC, the aggrieved affected household does not hear from the PPC, or if he/she is not satisfied with the decision taken on his/her complaint, the case may be brought to a court of law for adjudication.

68. The above grievance redress mechanism will be disclosed and discussed with the APs to ensure that the APs understand the process. PPMU/ DRCs and monitoring unit are responsible for follow up of the grievance process. Notwithstanding the provisions of the grievance process, local laws and regulations will take precedence.

VIII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

A. Institutional Arrangements

69. Implementation of the resettlement plan requires the participation of relevant agencies from the Central to local district, and commune level. The Executing Agency has the overall responsibility

for implementation of the RPs. District Resettlement Committees (DRCs) will be established at district level according to Decree 197/2004/NĐ-CP and Decree 69/2009/NĐ-CP.

1. Institutional Features at Central level

70. MARD will delegate responsibility of the Executing Agency to a Central Project Management Unit (CPMU). The CPMU will be led by a Project Director with fully delegated responsibility for decision making. The CPMU comprises full-time qualified and experienced MARD staff.. Project implementation consultants will assist the CPMU with these tasks.

71. The CPMU will:

- (i) Provide overall management and coordination of the project;
- (ii) Liaise with IAs to carry out all project components;
- (iii) Coordinate with ADB in providing resettlement consultant services for the project;
- (iv) Support the PPMU for preparing and updating RPs of the project's components to get approval of PPCs and ADB;
- (v) Consolidate project progress reports on land acquisition and resettlement submitted by the PPMU for relevant ministries and ADB; and
- (vi) Supervise resettlement implementation of the project components.

2. Institutional Features at Provincial Level

72. The Implementing Agency (IA) will be the Provincial People's Committee (PPC). The PPC will be responsible for issuing all decisions and approvals relating to the implementation of RPs including those relating to its formal adoption, unit compensation costs, notices and approvals for updated RPs, information disclosure, land acquisition and compensation payments, allocations of replacement land (if applicable) and grievance redress. The PPC will also be responsible for establishing the Land Valuation Council and allocation of responsibilities to district-based organisations.

73. PPC will authorise DARD to be the Owner of the land acquisition, resettlement and compensation component in this Project. Within its authorisation, DARD established the Provincial Project Management Unit (PPMU) for implementation of the Project components and to undertake the internal monitoring on implementation of updated RPs for the Project.

74. The PPMU will oversee all activities of District Resettlement Committees (DRCs) in regard to the implementation of the RPs. The PPMU will also be responsible for:

- (i) Preparing, updating, and supervising RP implementation of project components;
- (ii) Guiding DRC to implement all resettlement activities in compliance with the approved RPs; and resolving any mistakes or shortcomings identified by internal monitoring to ensure that the objectives of the RPs are met; and otherwise, to provide appropriate technical, financial and equipment supports to DRC and Commune-level Inventory Working Groups.
- (iii) Conducting, in combination with DRCs and CPCs, information campaigns and stakeholder consultation in accordance with established project guidelines;
- (iv) Coordinating with other line agencies to ensure delivery of restoration and rehabilitation measures to APs;
- (v) Implementing internal resettlement monitoring, establishing and maintaining AP databases for each component in accordance with established project procedures and providing regular reports to CPMO; and
- (vi) Implementing prompt corrective actions in response to internal monitoring.

75. The membership of the PPMU should include the Vice-Director of DARD who will be the Head of the PPMU.

3. District Level

76. The Peoples' Committees of the District concerned will establish District Resettlement Committees (DRCs) to implement the RPs; Direct CPCs in combination with DRCs to implement RPs; resolving complaints and grievances of APs.

77. DRC in combination with PPMUCPCs and under the direction of the PPMU, will carry out resettlement activities of the project, in particular:

- (i) Conducting dissemination of the Public Information Brochure and other publicity material to ensure that APs are aware of the LAR process;
- (ii) Planning and carrying out the DMS and the disbursement of compensation payments;
- (iii) Identifying severely affected and vulnerable APs and the planning and implementing rehabilitation measures for these APs;
- (iv) Supporting for identifying any resettlement sites and new farming land for APs who cannot remain their present location; and
- (v) Assisting DPC in the resolution of AP grievances.

4. Commune Level

78. The CPC will assist the DRC in their resettlement tasks. Specifically, the CPC will be responsible for the following:

- (i) In cooperation with District level and with commune level local mass organizations, mobilize people who will be acquired to implement the compensation, assistance and settlement policy according to approved RP;
- (ii) Cooperate with DRC and Working groups to disclose project information and resettlement policy; notify and publicize all resettlement options on compensation, assistance and resettlement which are approved by DPC;
- (iii) Assign Commune officials to assist the DRC in implementation of resettlement activities;
- (iv) Identify replacement land for affected households;
- (v) Sign the Agreement Compensation Forms along with the affected households; and
- (vi) Assist in the resolution of grievances.

B. Implementation

79. The implementation process is as follows:

- (i) Establishment of the DRCs. The PPC will establish DRCs for the projects, and entrust tasks to relevant agencies and entities.
- (ii) Land clearance/boundary setting for the Project. After receiving the PPC and DPCs in revoking land and handing over land to the PPMU for implementing the projects, PPMU will cooperate with the provincial Department of Natural Resources, Environment and the specialised cadastral agency having a contract with PPMU to determine the project land clearance red line and setting out boundary at the field, handing over land to implement resettlement tasks for the displaced persons (DPs), in order to clear land for the project. Relevant Offices of Natural Resources,

Environment of districts and Commune People's Committees of the project will assign their staff working as members of DRCs to implement this task.

- (iii) Information campaign before DMS. According to Decree No.197/2004/ND-CP, before land acquisition, within 90 days in case of agricultural land and 180 days in case of non-agricultural land, the DRCS must send written notices to affected land owners in respect of reasons for land acquisition, time and plan of displacement, resettlement options, land clearance and resettlement.
- (iv) Before census and detailed measurement survey, PPMU in cooperation with local authorities of districts and communes will provide project information to residents in the project area. Information will be broadcasted via the public address system of the locality in combination with other multi-media such as radios, press, television, brochures or letters delivered to households to be open posted in public areas.
- (v) Orientation meetings will be held in the project affected commune to notify the affected community about the scope and scale of the project, impacts, policies and rights for all kinds of damages, implementation schedule, responsibilities for organisation, and complaint mechanism. Brochures including (images, photos or books) related to project implementation will be prepared and delivered to all affected communes in the meetings.
- (vi) Conduct of Replacement Cost Survey by a Qualified Agency. A qualified agency will be engaged by CPMU to assist PPC in determining the current market price under normal condition of land and non-land assets. If there is a significant difference between compensation price and market price as per replacement cost survey carried out by a qualified agency, PPC will update the compensation unit price according to regulations and implementation guidance of Decree No.197/2004/CP and 17/2006/ND-CP.
- (vii) Detailed Measurement Survey. DMS will be undertaken once detailed design is finalised. These surveys will be the basis for the preparation of compensation plan and for preparation of the RPs.
- (viii) Preparation of Compensation Plan. DRCs are responsible for applying prices and preparing compensation tables for each affected commune. PPMU and People's Committees of districts will appraise these tables in respect of prices, quantities of affected assets, rights that the DPs are entitled to, etc. before notifying each commune for review and comments. All tables of compensation price application must be checked and signed by the DPs to prove their consensus. PPMU and DRCs will submit the proposed unit rates as per result of the replacement cost survey to PPC for review and approval. The unit rates to be applied will be based on the approved unit rates of PPC.
- (ix) Submission of RP and ADB concurrence. PPMU will prepare Updated Resettlement Plan, disclose key information of the Updated RP to the DPs and submit the same to ADB for review and concurrence.
- (x) RP Uploading on ADB website. Once the RP is acceptable to ADB, the RP will be uploaded on the ADB website.
- (xi) Implementation of RP. Compensation and assistance will be paid directly to the APs under the supervision of representatives of DCARBs, commune authorities and representatives of the DPs. Income restoration and relocation plan will be implemented in close consultation with the APs and concerned agencies.

80. Internal monitoring will be implemented from RP preparation to implementation. Grievances received will be addressed through the grievance redress mechanism set up for the project. One post-project assessment survey will be undertaken within six to 12 months after completion of compensation and resettlement activities.

IX. BUDGET AND FINANCING

81. Resettlement budget is required for all resettlement activities, including compensation for land acquisition (if any), affected assets, administrative cost, monitoring, income restoration, etc. and included in project cost. Estimated costs will be updated based on the DMS and RCS results following detailed designs. Resettlement costs will be financed by Provincial Counterpart funds and are estimated to cost approximately \$1.4 million. The PPCs, PPMU, CPMU and the ADB will review and revise the resettlement plan and budget should unforeseen obligations related to the agreed RF arise during implementation of the project resettlement plan. The updated RP will identify key activities for which funds will be used.

X. MONITORING AND REPORTING

A. Monitoring and Reporting

82. The Project will establish systems for internal monitoring and evaluation. The main purpose of the monitoring and evaluation programme is to ensure that matters related to involuntary resettlement have been implemented in accordance with the policies and procedures of the RPs following ADB SPS 2009. External monitoring is not required for this project because resettlement of the project is not complicated or sensitive issue. .

83. The objectives of the monitoring and evaluation programme are to (i) ensure that the standard of living of APs is restored or improved; (ii) monitor whether the time lines are being met; (iii) assess if compensation, rehabilitation measures and social development support programmes are sufficient; (iv) identify problems or potential problems; and (v) identify methods of responding immediately to mitigate problems.

84. The PPMU will establish an internal monitoring system and prepare progress reports on all aspects of land acquisition and resettlement activities. Internal reports of RP implementation will be prepared by the PMU and submitted to the EA. The EA will submit semi-annual monitoring report to ADB.

B. Internal Monitoring

85. The PPMU will conduct the internal monitoring of RP implementation to identify as early as possible the activities achieved and the cause(s) of problems encountered so that arrangements in RP implementation can be adjusted. Related information will be collected monthly from the field to assess the progress of RP implementation and will be consolidated every quarter.

86. An initial key indicator will be, as per assurances to the ADB, the payment of compensation, rehabilitation assistance being in place before award of civil contracts and these will be monitored under each of the Civil Contracts. The other main indicators that will be monitored regularly are:

- (i) Payment of compensation to all APs in various categories, according to the compensation policy described in the RP.
- (ii) Delivery of technical assistance, relocation, payment of subsistence and moving allowances.
- (iii) Delivery of income restoration and social support entitlements.

- (iv) Public information dissemination and consultation procedures.
- (v) Adherence to grievance procedures and outstanding issues requiring management's attention.
- (vi) Priority of APs regarding the options offered.
- (vii) Coordination and completion of resettlement activities and award of civil works contract

87. The CPMU will incorporate the status of RP implementation in the overall Project progress report to ADB.

OUTLINE OF RESETTLEMENT PLAN

A. Executive Summary

1. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

B Project Description

2. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

C. Scope of Land Acquisition and Resettlement

3. This section:

- (i) Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) Describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) Summarizes the key effects in terms of assets acquired and displaced persons; and
- (iv) Provides details of any common property resources that will be acquired.

D. Socio-economic Information and Profile

4. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- (i) Define, identify, and enumerate the people and communities to be affected;
- (ii) Describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) Discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) Identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

5. This section:

- (i) Identifies project stakeholders, especially primary stakeholders;
- (ii) Describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) Describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) Summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;

- (v) Confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

F. Grievance Redress Mechanisms

6. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

G. Legal Framework

7. This section:

- (i) Describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
- (ii) Describes the legal and policy commitments from the executing agency for all types of displaced persons (DPs);
- (iii) Outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.; and
- (iv) Describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

8. This section:

- (i) Defines DPs' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) Specifies all assistance to vulnerable groups, including women, and other special groups; and
- (iii) Outlines opportunities for affected persons to derive appropriate development benefits from the project.

I. Relocation of Housing and Settlements

9. This section:

- (i) Describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) Describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) Provides timetables for site preparation and transfer;

- (iv) Describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) Outlines measures to assist DPs with their transfer and establishment at new sites;
- (vi) Describes plans to provide civic infrastructure; and
- (vii) Explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

10. This section:

- (i) Identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) Describes income restoration programmes, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) Outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) Describes special measures to support vulnerable groups;
- (v) Explains gender considerations; and
- (vi) Describes training programmes.

K. Resettlement Budget and Financing Plan

11. This section:

- (i) Provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation;
- (ii) Describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).;
- (iii) Includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs; and
- (iv) Includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

12. This section:

- (i) Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) Includes institutional capacity building programme, including technical assistance, if required;
- (iii) Describes role of NGOs, if involved, and organisations of affected persons in resettlement planning and management; and
- (iv) Describes how women's groups will be involved in resettlement planning and management.

M. Implementation Schedule

13. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

N. Monitoring and Reporting

14. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

AGREEMENT IN CASE OF LAND DONATION**Sample voluntary contribution consent form**

(This form will be translated in Vietnamese Language for implementation purpose)

Government of Viet Nam,

Land Revenue Office,

[INSERT NAME] District

[INSERT NAME] Commune , Village

CERTIFICATE OF LAND TRANSFER

I, [INSERT NAME, AGE, OCCUPATION], with residence located in [INSERT NAME] village, Commune [INSERT NAME] district, province

Certify that I have been previously informed by local authority of my right to entitle compensation for any loss of property (house, land and trees) that might be caused by the construction of ([INSERT NAME]) financed under the productive rural infrastructure development project (PRIDP) in five central highland provinces (CHP) (hereafter called “the Project”) in [INSERT NAME] district. I confirm that I voluntarily donate the land of [INSERT AMOUNT LOSS] square meters located in [INSERT NAME] village ([INSERT NAME] district) to the Project construction. I also confirm that I do not request any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES] and would request the local authority to consider this as my contribution to the project.

Type of Loss	Area (sqm)	Number of Trees	Unit Rates	Total	Comment
Land					
Total					

Therefore, I prepare and sign this certificate for the proof of my decision. Further, I certify that I have given my consent without any force/coercion from anybody, including project authorities.

[INSERT NAME] district [INSERT DATE]

The owner of the land [INSERT NAME AND SIGN]

Witnesses:

1. [INSERT NAME] and sign
2. [INSERT NAME] and sign
3. [INSERT NAME] and sign

Certified by the [INSERT NAME OF INDEPENDENT THIRD PARTY], [NAME AND SIGN]

PROJECT INFORMATION BOOKLET

Public Information Brochure (PIB)

Question 1: How the project will improve productive rural infrastructures (PRI)? And what benefits?

Answer: The proposed project (Project) aims to rehabilitate and upgrade existing but deteriorated critical productive rural infrastructure (PRI) in five central highland provinces (Lam Dong, Gia Lai, Kon Tum, Dak Lak and Dak Nong) over a period of seven years. The Project would focus on sustainably improving approximately 15 medium scale irrigation systems, and associated PRI including: rural access infrastructure; and, local markets. In consultation with the Ministry of Agriculture and Rural Development (MARD), about 15 subprojects from the five central highland provinces would be selected from CHP's Socio-Economic Development Plans. The improved PRI is expected to enable communities to respond to market signals by: increasing agricultural intensity and diversity; providing quicker and safer access to markets, employment opportunities, and social services; and, reducing costs of rural production and marketing, as well as reducing food wastage. Improved PRI increases incomes from both on- and off-farm employment, decreases the burden of chores on women, and increases food availability even when yields are constant. This is pro-poor and will be increasingly important for Climate Change Resilience (CCR).

Question 2: how will the rehabilitation of the infrastructures affect the local population?

Answer: The population in the subproject areas will benefit variously from more extensive access to irrigation system and water supply, reduced risk of crop failure due to lack of water and more active irrigation. Also improved road access will reduce costs of rural production and marketing, as well as reducing food wastage. The implementation of the subprojects may however necessitate the acquisition of some land for the construction of new infrastructure or extension and / or constriction of additional components. Every attempt will be made during the design process to minimise the negative impacts of such acquisition on households and communities.

Where land acquisition is necessary, those affected by acquisition will be properly compensated for their affected land, houses, structures, crops and/or trees. Relocation and income restoration assistance will also be provided to Affected Persons (APs) who will be severely affected by the Project (unlikely there will be HH severely affected by the Project). Details are included in a Resettlement Plan that is available at your commune office.

Question 3: What is the main objective of resettlement plan?

Answer: The main objective of the Resettlement Plan is to ensure that all APs will be at least as well-off, if not better-off, than they would have been in the absence of the Project.

Question 4: What if my land is affected by the project?

Answer: You will be offered a choice of replacement land of equal area and productive capacity at a location acceptable to you OR cash compensation at replacement value at current market prices.

Question 5: Do we need to have a land title in the order to be compensated?

Answer: No, lack of formal legal rights to land does not prevent any APs from receiving compensation, allowances and rehabilitation assistance. Those APs who possess a land use rights certificate (LURC) or any other form of written agreement to utilise the land are entitled to compensation for the lost land as well as assets on the land. Those APs who do not have legal/legalisable or temporary/lease rights for affected land will not be compensated but

supported maximum amount equal to compensation value for affected land and still be compensated for the assets on the land, such as any structures, crops and trees at replacement cost.

Question 6: Is the compensation applied for affected houses and structures?

Answer: Yes. Compensation will be applied for all affected assets including houses, shops and other structures as well as other fixed assets at replacement value at current market prices (including material and labour) without any deductions for building depreciation or salvageable building materials. This will ensure that the APs are able to reconstruct houses and other structures of better or at least the same quality as before.

Question 7: What about affected crops and trees?

Answer: Affected crops, fruit and timber trees and tree fences will be compensated in cash at current market prices. Compensation for un-harvested crops will be based on the average production in the past 3 years multiplied by the market prices (based on a recent survey data) at the time that acquisition takes place. Compensation for trees will be based on the type, age and productivity of trees.

Question 8: How are compensation rates decided?

Answer: Compensation rates will be set by the PPC based on the advice from the Land Administration Bureau and an independent assessment of current market prices. You will have the right to appeal if you are not satisfied with the proposed compensation rates (see question 12 below).

Question 9: Besides the compensation, how can the project help?

Answer: In addition to compensation for loss of land and other assets, the Project will provide rehabilitation assistance to eligible APs to ensure that their standard of living is maintained or improved after the Project. Eligible APs for rehabilitation assistance include:

- **Severely affected households:**

AHs directly cultivate on the affected land to be entitled:

- (i) Losing from 10 to 30% and above of agricultural land holding:
- (ii) Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;
- (iii) Losing more than 30% to 50% of total agriculture landholding. Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;
- (iv) Losing more than 50% of total agriculture landholding. Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area; AND
- (v) In-kind assistance to be decided in consultation with eligible APs. Forms of assistance may include, but are not limited to, agricultural extension assistance, and training for non-agricultural occupations. And
- (vi) Participating in income restoration program (IRP).
- (vii) Cash assistance equal to 1.5 times of compensation value for affected land area but not exceed 5 (five) times of land quota in locality.

If AP has demand for training, he/she will be entitled to a free training course.

- **Households that relocate:** Households that must relocate to new residential land will receive a transition subsistence allowance equivalent to 30kg of rice per person per month for six months for during transition; a transportation allowance of between VND 3,000,000 and 5,000,000 in cash; and, an incentive bonus of VND 5,000,000 if APs demolish their affected houses or structures in a timely manner.
- **Business owners that lose income while they relocate or rebuild their shops/businesses:** Households with small, unregistered businesses will receive cash compensation equal to the provincial minimum wage for six months. Owners of registered businesses will receive cash compensation equal to their monthly after-tax revenues for at least four months.
- **Employees and hired labourers who lose their jobs:** will receive cash compensation for lost salary/wages for each month they cannot work, if the loss is temporary; or, if the loss is permanent, cash compensation equivalent to the provincial minimum wage for six months or cash compensation for remaining contract period whichever is higher.
- **Poor households:** Households eligible under MOLISA definition will receive an allowance equivalent to 30kg of rice per person per month for thirty six months Other vulnerable assistance of VND 200,000 per household.

Question 10: does that mean that anybody in our community can claim for compensation?

Answer: No. Entitled APs are those persons or households that will lose land or property based on the detailed measurement survey (DMS) that will be conducted following completion of the final designs for the subproject. Affected communes and local authorities will be informed of the cut-off date (the date of DMS) for the subproject. The DMS inventory the losses for compensation and rehabilitation of all APs who will be affected by the sub Project. The DMS will be conducted in the presence of APs, the design engineers, the Land Administration Department and officials from the District and Commune People's Committees.

Question 11: How will APs be consulted and informed?

Answer: A consultation and public information program will be organised in your commune to ensure that APs receive complete and timely information about the subproject. APs will be provided information on subproject components, impacts, their rights and entitlements, grievance mechanism, rights of participation and consultation, resettlement activities, responsibilities of institutions and implementation schedule. This program will enable the subproject to design the resettlement and rehabilitation program to meet the needs of APs, and help APs to make informed decisions about compensation and relocation. Consultations with APs and local authorities will reduce the potential for conflicts and minimise the risk of project delays, and maximise the economic and social benefits of the Project.

Question 12: If there are any disagreements or problems about land acquisition, compensation or other general disputes during project implementation, do APs have the right to voice their complaints?

Answer: Yes, APs can voice their complaints (in verbal or written form) to responsible local authorities and resettlement committees. Their complaints can be filed first at the ward or commune level, and can be elevated to the district and provincial level and taken to provincial court if the APs are not satisfied with the decision of lower levels. APs will be exempted from all taxes, administrative and legal fees. All complaints of APs on any aspect of land acquisition, compensation, resettlement and implementation will be addressed in a timely and satisfactory manner.

Question 13: as a resident in the project area, how can I help?

Answer: We would like you to participate in all consultation meetings and other subproject related activities in order to ensure that you are fully informed and consulted. Your active participation during the detailed measurement survey (DMS) and implementation will allow us to determine measures to mitigate impacts, to identify problems or potentials problems and to identify ways of responding immediately to solve these problems.

Question 14: How will you know if the objectives of this project are met?

Answer: The PPMU will ensure internal monitoring all subproject activities. In addition, PPMU will engage an independent monitoring agency to conduct external monitoring of resettlement activities during the subproject implementation. Every 6 months, the independent monitoring agency will submit a report to PPMU and ADB on resettlement implementation progress. A post-resettlement impact evaluation will assess whether negative impacts have been mitigated adequately and pre-project standards of living of APs have been restored as a result of resettlement and the subproject.

FOR FURTHER INFORMATION AND SUGGESTIONS –

Please contact the PRC, DRCs or CPCs where you live:

1. Provincial Resettlement Committee of the province.....,

Address:.....

Person in charge:.....Tel.....

2. IA;

Address:

Person in charge:.....Tel.....

3. District Resettlement Committee of;

Address:.....

Person in charge:.....Tel.....

4. Commune Resettlement Committee;

Address:.....

Person in charge:.....Tel.....