

Land Acquisition and Resettlement Framework

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KAZ: CAREC Corridor 3 (Shymkent-Tashkent Section) [Link to the Western Europe-Western People's Republic of China International Transit Corridor] Road Investment Program

Prepared under Project Preparatory Technical Assistance PPTA-8068 (46145-02): Preparing the CAREC Corridor 3 (Shymkent–Tashkent Road) Rehabilitation Project for Asian Development Bank.

GLOSSARY

| | |
|----------------------|---|
| Compensation | Payment in cash or kind to which the affected persons or entities are entitled in order to replace the lost asset, resource or income. |
| Cut-off-date | Date after which persons who have neither formal legal rights nor recognized or recognizable claim to the affected land will no longer be eligible for resettlement assistance. For this project, the date of the final design adoption will be considered as the cut-off date. |
| Affected Person | People, households, or legal entities who experience full or partial, permanent or temporary 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) resulting from involuntary acquisition or land or involuntary restrictions on land use. |
| Entitlement | Entitlement means the range of measures comprising compensation in cash or kind, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and business restoration which are due to APs, depending on the type and degree nature of their losses, to restore their social and economic base. |
| Household | Household means all persons living and eating together as a single-social unit and eating from the same kitchen whether or not related to each other. The census used this definition and the data generated by the census forms the basis for identifying the household unit. |
| Income restoration | Income restoration means re-establishing income sources and livelihoods of APs. |
| Land acquisition | Land acquisition means the process whereby a person is compelled by a public agency to alienate all or part of the land he/she owns or possesses, to the ownership and possession of that agency, for public purposes in return for fair compensation. |
| Legal Entity | Legally registered enterprise established by two or several individuals or companies vested with its separate property, rights and liability such as a limited liability partnership (LLP), and joint stock company (JSC). It also includes former Soviet collective farms that were privatized into collective enterprises, and production cooperatives. |
| Rehabilitation | Assistance provided to APs to supplement their income losses in order to improve, or at least achieve full restoration of, their pre-project living standards and quality of life. |
| Vulnerable household | A household, which might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement such as a household living below the poverty line (with per capita income of KZT 17,439 per month ¹); large household with 4 or more children below 18 years, or a household with disabled members. |

¹ This is the minimum subsistence level in Kazakhstan for 2012.

CONTENTS

| | |
|--|--------|
| A. BACKGROUND | 1 |
| B. PROJECT DESCRIPTION | 1 |
| C. INDIGENOUS PEOPLES AND VULNERABLE GROUPS | 3 |
| D. ANTICIPATED IMPACTS | 3 |
| E. ADB PROCESSING REQUIREMENTS | 3 |
| F. LEGAL AND POLICY BACKGROUND | 4 |
| G. COMPENSATION ELIGIBILITY AND ENTITLEMENTS FOR THE PROJECT | 9 |
| H. PUBLIC CONSULTATION, PARTICIPATION AND DOCUMENTS DISCLOSURE | 13 |
| I. RESETTLEMENT PLANNING AND IMPLEMENTATION | 13 |
| J. INSTITUTIONAL ARRANGEMENTS | 14 |
| K. GRIEVANCE REDRESS PROCEDURE | 15 |
| L. MONITORING AND EVALUATION | 17 |
| M. CAPACITY BUILDING AND TRAINING IN LARP IMPLEMENTATION | 19 |
| N. RESETTLEMENT BUDGET AND FINANCING | 19 |
| O. LARP IMPLEMENTATION PROCESS | 19 |
| ANNEX I. LARP OUTLINE (according to SPS) | 21 |

ABBREVIATIONS

| | |
|------------|---|
| ADB | Asian Development Bank |
| CAREC | Central Asia Regional Economic Cooperation |
| CoR | South-Kazakhstan Oblast Department of Committee of Roads of the RoK Ministry of Transport and Communication |
| DP | Displaced Person |
| EBRD | European Bank for Reconstruction and Development |
| EMP | Environmental Management Plan |
| FGD | Focus Group Discussions |
| GoK | Government of Kazakhstan |
| GosNPTsZem | Land State Scientific and Production Center for Land Management |
| KZT | Kazakh Tenge |
| LAR | Land Acquisition and Resettlement |
| LARP | Land Acquisition and Resettlement Plan |
| m | Meter |
| MoTC | Ministry of Transport and Communication of RoK |
| NGO | Non-Governmental Organization |
| PSA | Poverty and Social Analysis |
| RoK | Republic of Kazakhstan |
| TA | Technical Assistance |

CURRENCY EQUIVALENTS (as of 30 June 2012)

| | | |
|---------------|---|--------------------------------|
| Currency Unit | – | Kazakhstan Tenge (KZT) |
| | | United States Dollar (USD, \$) |
| KZT 1.00 | = | USD 0.006692 |
| USD 1.00 | = | KZT 149.42 |

A. BACKGROUND

1. The Government of Kazakhstan (GoK) has requested the ADB to provide financing for the civil works for rehabilitation of 37 km long section of Shymkent-Tashkent road, which is a part of CAREC Corridor 3 that runs from west and south Siberian region of the Russian Federation through Afghanistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Uzbekistan to the Middle East and South Asia. European Bank for Reconstruction and Development (EBRD) is financing the remaining 62 km of the Shymkent-Tashkent road.

2. In physical terms, rehabilitation of the road section will be rather simple and straightforward, since the construction corridor is mostly limited with the existing asphalt-concrete carriageway. According to the design drawings and reference developed jointly by design organization and South-Kazakhstan Oblast Department of Committee of Roads of the RoK Ministry of Transport and Communication (CoR), the proposed works are not expected to involve any land acquisition or resettlement impacts. While there are a few structures located at or near the boundaries of the existing right-of-way (ROW) of the project road, none of these structures is located within the construction corridor. The construction corridor will be wider on the sections, where bus stops and parking areas are located to accommodate additional lines for deceleration/acceleration of vehicles. In the sections, where the structures are observed, implementation of construction works will be limited within the existing asphalt-concrete carriageway (27.5 m). Right-of-way for this road section has been established since the Soviet time and no land acquisition was done by the government previously in anticipation of ADB financing. Land acquisition and Resettlement (LAR) impacts in this section, if any, will be limited.

3. This Land Acquisition and Resettlement Framework (LARF)² for the CAREC Corridor 3 (Shymkent-Tashkent) Improvement Project is prepared in line with the Asian Development Bank's (ADB) Safeguard Policy Statement of 2009 (SPS) and relevant laws and regulations in Kazakhstan. This document details mechanisms, procedures and compensation entitlements to be applied to address any LAR impacts identified based on the final design, or temporary impacts during construction, or emerging LAR issues during implementation of the works on the 37 km long road section considered for financing by ADB. It identifies likely impacts of the investment, describes anticipated groups of displaced persons, clarifies land acquisition and resettlement principles, assesses the legal framework for land acquisition and resettlement in Kazakhstan, describes procedures for redress of grievances, as well as outlines the monitoring of the LAR impacts along the project road section (if any occur). This LARF does not apply to the 62 km section being considered for EBRD financing where significant LAR impacts are expected. EBRD is undertaking its own IR planning with a policy commensurate with ADB.

4. This LARF expresses the GoK's commitment to avoid adverse LAR impacts and to mitigate them to ensure that displaced persons (DPs) are able to maintain or improve their wellbeing at the end of the Project. Once this document is approved by ADB and the Government, it will become an element of the respective financing agreements between the Government and ADB with respect to the Project.

B. PROJECT DESCRIPTION

5. The Project will rehabilitate a 37-km four-lane asphalt-paved Category 1 road section in Kazakhstan, a part of the road connecting Tashkent, the capital of Uzbekistan, and Shymkent, administrative centre of the South-Kazakhstan Oblast one of the major industrial cities in Kazakhstan. The remaining part of the road will be financed by EBRD in parallel. The project road will start from Shymkent, a junction of CAREC Corridors 1 and 3, and is expected to extend benefits of the ongoing ADB-financed improvement works. In addition, commodities trade network will be enhanced from/to Shymkent because various manufacturing industries are active in Shymkent. Moreover, due to its

² This LARF was prepared under the S-PPTA-KAZ: preparation for the CAREC Corridor 3 (Tashkent-Shymkent Road) Rehabilitation Project.

location peculiarities, the project road is considered as an important road section for regional and international traffic. Location of the project road section in CAREC Corridor 3 is presented in the Picture 1 below.

Picture 1: Location of project road section km 705 – km 742 in the CAREC Corridor 3



6. The project road section considered by ADB starts at km 705+621 – at the end point of the Shymkent city bypass – and ends at km 742+361 – at the point of connection with the section to be upgraded with funding provided by EBRD funding. Design envisages replacement of road surface to concrete cement, replacement of worn out culverts, re-establishment of connections (junctions) with adjacent roads, re-establishment of interchange and passages for agricultural machinery and cattle. 90 junctions of highway with adjacent roads will be rehabilitated as a part of the project. One existing grade separated interchange located at km 732+963, as well as four existing passages for

agricultural machinery and/or cattle will be rehabilitated. The project also includes improvement of six bus stops and rehabilitation of four existing parking / rest areas.

7. The CoR will be responsible for day-to-day management of the Project, including supervision of the detailed design, coordination of implementation of civil works, etc.

C. INDIGENOUS PEOPLES AND VULNERABLE GROUPS

8. No impact on Indigenous Peoples is expected for the Program. Special attention will be given to identifying and addressing the needs of displaced households that may be classified as disadvantaged groups such as the households living below the poverty line, large households with 4 or more children below 18 years, or households with disabled members to ensure that they are able to improve their livelihoods.

D. ANTICIPATED IMPACTS

9. Based on the preliminary design, no LAR impacts are expected within the 37 km long road ADB-financed section. All the identified impacts are located in the EBRD-financed section. All works will be done within the existing ROW and no structures are located within the construction limit. However, taking into account that the final design is not available yet, a due diligence assessment is again needed before CoR allows the start of civil works to reconfirm that none of the structures along the road will be affected. Moreover, regular monitoring should be carried out during implementation of construction works to ensure that in case of any LAR impacts, these will be timely and duly addressed in accordance with ADB SPS (2009) requirements. Moreover, it should be ensured that the access to the businesses located along the project road section is maintained during implementation of construction works and their operation is not disrupted.

10. In case the LAR impacts are identified, those are expected to be related to loss of land and/or structures, potentially affecting incomes and wellbeing of people who own or use the land and facilities. During construction, there may also be a need for temporary land acquisition. Civil works contracts will require the Contractors to be responsible for the temporary acquisition and reinstatement of all land required outside of the right of way for construction camps, offices, borrow pits, materials storage sites, materials processing sites and haul roads. Contractors are assumed to prefer to rent State land, rather than private property, but the choice is theirs. In either case, a written agreement between the Contractor(s) and the owner will be required and lands are to be returned to their original state after work is concluded.

E. ADB PROCESSING REQUIREMENTS

11. Based on ADB policy and practice, the approval of the Project and its further implementation will entail the following LAR-related conditions:

- (i) The Project approval is conditional to preparation/disclosure of a LARF acceptable to ADB;
- (ii) If LAR impacts occur, a LAR Plan (LARP) acceptable to ADB shall be developed based on the detailed design), including description of impacts identified, detailed compensation and administration budgets, and implementation schedules linking LAR tasks to the initiation of civil works;
- (iii) Civil works contract awards signing (in case of LAR impacts): Conditional to the preparation/disclosure of a final and implementation-ready LARP approved by ADB and GoK and reflecting LAR impacts, DP lists and compensation amounts;
- (iv) Provision of notice to proceed to contractors (in sections with LAR impacts): Conditional to full implementation of LARP (full delivery of compensation/

rehabilitation) as verified by a Resettlement Specialist. Such a condition will be clearly specified in the contract for the civil works.

F. LEGAL AND POLICY BACKGROUND

12. The policy framework for the Project is based on ADB's SPS (2009) the Constitution and relevant legislation of the Republic of Kazakhstan. Where differences exist between local law and ADB practices, the policy difference will be resolved in favor of the latter.

F 1. Kazakhstan's Legal Framework on Land Acquisition and Resettlement

13. In Kazakhstan, land is owned by the State but can be transferred, sold or rented to individuals for short-term (less than 5 years) or long-term (5-49 years) use. The State can acquire privately-owned/used land only for specific uses, including road construction, and only after compensating the owner for the assets and other losses.

14. Kazakhstan's laws and regulations regarding land and land ownership derive from the Constitution, which states that land (surface and underground) is in principle owned by the State, but can also be privately owned (Article 6.3). Article 26.3 also states that no one may be deprived of property unless stipulated by a court decision. Compulsory alienation of property for state needs in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation.

15. The Land Code of the Republic of Kazakhstan (RK Code No. 442-II of 20 June 2003) establishes the foundations, conditions and limits for modifying or terminating ownership of land and land-use rights, describes the rights and responsibilities of landowners and land users, and regulates land relations. The Code does not permit alienation of land ownership and land use rights without the consent of the owner/land-user, except for alienation for state needs (Article 81.2.2). A land plot can be alienated for state needs by way of purchase or by granting an equivalent plot with the consent of the owner or land user, or by decision of the court. Construction of the road infrastructure is one of several grounds for compulsory acquisition of a land plot for state needs. Leaseholders of state-owned lands are compensated in full for the losses and, at their request, may be granted an alternative plot subject to availability of suitable land (Article 84). The owner of the land or land user must be notified in writing by the body that made the decision to purchase at least one year prior to acquisition, unless the owner or land user agrees to release the land before (Article 85.2). If the remaining portion of the land can no longer be used for the intended purpose, then the entire plot must be purchased (Article 86.2).

16. If the owner or land user disagrees with the decision to purchase his land for state needs, or disagrees on the price of the acquired land or other terms of acquisition, the local executive authority which decided on acquisition may file expropriation case (Article 88.1) after three months from the date of receipt of notification by the owner or the land user, but not later than the deadline stated in the decision on acquisition of the land plot for state needs (Article 88.2, as well as Article 65.7 of RK law on state property). Civil cases for claims on acquisition of land for state needs shall be considered and resolved within one month from the date of finalization of the case preparation for trial (Article 88.3).

17. Article 96 specifies the cost of land and land-use right and states that upon termination of land ownership or land use right the cost of land or land-use right is defined by the amount paid to the state (Article 96.1) and the value of the land granted for individual housing construction, for individual part-time farm on which an individual house is located, is defined by the cost of the land, not exceeding market cost (Article 96.2 as well as Article 67.2 of the RK law on state property). The same article also states that the cost of the land, passed to the owner or user by a contract or court decision is defined by the value specified in a contract or a court decision, but not exceeding the market cost. In case the land cost is not specified in the contract or the court decision, the value of the land is assessed by its cadastre (estimated) cost (Article 96.3).

18. The amount of compensation shall include the cost of land or land-use rights; the market cost of the assets located on the plot; cost of the expenditures associated with development of the land, its operation, implementation of protective measures, improvement of soil fertility taking into consideration their inflation; all losses inflicted on the owner or land user as a result of land acquisition; loss of revenue. The amount of compensation is established based on the agreement among the parties. In case of disagreement, the land cannot be taken until the court adjudicates a settlement (Article 166).

19. Law on State Property (№ 413-IV LRK dated 1 March 2011, Article 63.1) states that in case of compulsory acquisition of land or other real property for state needs, the government agency or local executive body should issue a Decree and specifies the contents of such Decree (Article 63.2). The Decree shall be published in national or local mass media, within three working days from the date of adoption (Article 63.5). The acquiring authority is required to send to the owner or land user a written notification on the compulsory acquisition for state needs not later than 3 calendar days after the publication of the decree (Article 64.1).

20. The compulsory acquisition of the land plot or other real property is carried out after the expiry of the deadline set in the Decree, either with the consent of the land-owner or land-user, or by court decision. Termination of the rights to private property and land use rights is subject to state registration. A local executive authority shall submit to the relevant local representative authority the draft purchase agreement. The draft agreement is considered by the standing commission of the local representative authority not later than two weeks from the date of its submission. Upon reaching a consensus, the purchase agreement for the land or other real property is approved by the executive authority and is signed by the owner or land user. The actual transfer of land or other real property alienated for state needs can only take place after the land-owner or land user gets fair compensation (Article 65). Compensation is paid no later than one month after the date of signing the purchase agreement or from the date of entering into force of the decision of the court (Article 68).

21. The legislation of the Republic of Kazakhstan does not entitle encroachers to compensation for the right to use the lands they use informally (squatters) or those who have not registered their claims to lands.

22. When residences are affected, the Law on Housing Relations (№ 94-I dated April 16, 1997) also applies. If a house is demolished for state needs, the owners can choose either to receive a new residence or receive compensation at the market value of the house. An owner who chooses the replacement option can select a home from a list of available homes. If the value of the selected house is higher than the market value of the building to be demolished, the difference in cost is not charged from the owner. If the cost of the selected building is lower than the market value of the one to be demolished, the owner is compensated in cash for the difference. Disagreements over the evaluation are settled in court.

23. When businesses are affected, the Labor Code (№ 251-III dated May 15, 2007) also shall be considered. According to the Labor Code registered employees of enterprises / institutions, who are losing their jobs as a result of termination of employment agreement by the employer in the event of termination of the employer's activities are entitled to compensation in the amount of average salary for one month (Article 157).

F 2. ADB's Provisions on Involuntary Resettlement under the SPS (2009)³

24. The ADB Policy on Involuntary Resettlement is based on the following principles:

- a. Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey

³ ADB. Safeguard Policy Statement, 2009, Manila.

and/or census of DPs, including a gender analysis, specifically related to resettlement impacts and risks.

- b. Carry out meaningful consultations with DPs, host communities, and concerned nongovernment organizations. Inform all As of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of APs and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- c. Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- d. Provide physically and economically displaced persons with needed assistance, including the following: (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 resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- e. Improve the standards of living of the displaced poor and other vulnerable groups, including women, 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.
- f. 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.
- g. Ensure that DPs without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- h. Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- i. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to DPs and other stakeholders.
- j. Conceive and execute involuntary resettlement as part of a development project or program. 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.
- k. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision

throughout project implementation.

- I. Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, 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.

25. Overall, ADB's SPS (2009) is aimed at avoiding involuntary resettlement wherever possible; minimizing involuntary resettlement by exploring project and design alternatives; enhancing, or at least restoration, the livelihoods of all DPs in real terms relative to pre-project levels; and improvement the standards of living of the displaced poor and other vulnerable groups.

26. In compliance with ADB's requirements, DPs could be of three types: (i) persons with formal legal rights to land lost in its entirety or in part; (ii) persons who lost the land they occupy in its entirety or in part who have no formal legal rights to such land, but who have claims to such land that are recognized or recognizable under national laws; and (iii) persons who lost the land they occupy in its entirety or in part who have neither formal legal rights nor recognizable claims to such land. Involuntary resettlement requirements apply to all three types.

F 3. Comparison of Kazakhstan's Legislation on LAR and ADB SPS (2009)

27. There are a number of differences between the requirements of Kazakhstan legislation and the ADB SPS (2009). In particular, ADB's SPS does not consider the absence of land rights of affected persons as a bar to receive compensation for non-land assets, and entitles vulnerable groups to additional support. While ADB Policy specifically focuses to at least maintain the livelihood of vulnerable affected persons, such objective is not sought under national legislation. A major difference relates to the compensation of privately owned land. Under the local legislation, compensation is based on the amount paid by the private owner to the state that shall not exceed market value. On the other hand, ADB policy requires compensation at full replacement costs. The differences between the Kazakhstan national legislation/regulations related to involuntary land acquisition and the ADB involuntary resettlement safeguards are summarized in the Table 1 below.

Table 1. Comparison of Kazakhstan's Land Acquisition/Resettlement Practice/Policy and ADB Resettlement Safeguards

| Kazakhstan's Land Acquisition Practice | ADB Resettlement Safeguards |
|---|--|
| Compensation of privately-owned land is based on the amount paid to the state with adjustments made based on inflation and may be lower than the market cost. | Compensation of privately-owned land is based on replacement cost ⁴ . |
| Compensation for land and non-land assets is only explicitly provided for titled landowners or leaseholders, who purchased the right to land and leasing from the State. | Affected persons without formal legal rights and claims are entitled to compensation for non-land assets (e.g. crop, tree and structure losses). |
| Objective does not explicitly include restoration of livelihood and standards of living. | Objective focuses on restoring livelihood and standards of living for affected persons, regardless of tenure or legal status. |
| In addition to compensation for lost assets, physically displaced persons losing land are provided with land rental allowance for 6 months. No requirement for provision of relocation assistance and for exploring opportunities for the affected persons to benefit from the project. | Physically displaced persons (regardless of their legal status on the land) are provided with: (i) relocation assistance, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services as required; |

⁴ Replacement cost is calculated based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued; (iv) transitional and restoration costs; and (v) other applicable payments. (ADB SPS 2009, Appendix 2, paragraph 10, page 45)

| Kazakhstan's Land Acquisition Practice | ADB Resettlement Safeguards |
|---|---|
| | (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) opportunities to derive appropriate development benefits from the project. |
| No provision required for assisting economically displaced persons other than compensation for affected assets and lost income from affected business (including future losses). | Economically displaced persons are provided with: (i) assistance (i.e. credit facilities, training, and employment opportunities). (ii) opportunities to derive appropriate development benefits from the project. (iii) compensation for (i) the costs of reestablishing commercial activities elsewhere; (ii) the net income lost during the transition period; and (iii) the costs of transferring and reinstalling plant, machinery, or other equipment. |
| No requirement for conducting a census and socio-economic survey | Socio-economic survey(s) and a census, with appropriate socio-economic baseline data is required to identify all affected persons and to assess the project's socio-economic impacts on them. |
| No specific requirements to identify and assist vulnerable groups | Requires the identification of vulnerable groups and development of targeted measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing the benefits and opportunities resulting from development. |
| No requirement for land acquisition and resettlement plan (LARP) preparation and approval. No requirement for consultation with affected persons. | Requires the preparation, approval, disclosure and monitoring of a LARP based on consultation with affected persons and social impact assessment. |
| Uses negotiated settlement as an initial approach to acquiring land without the requirement for third party validation. If agreement cannot be reached, initiates compulsory acquisition through court. | Encourages acquisition through a negotiated settlement subject to third party validation, to verify if compensation was made at replacement costs and meaningful consultations with affected persons were carried out. |

28. Kazakhstan's Constitution considers international treaties ratified by the Republic (such as ADB Loan agreements) as having priority over its laws and hence can be directly implemented. The ratification of the loan agreement will provide the legal basis and justification for undertaking measures to address the gaps between Kazakhstan's laws, and the compensation payments and rehabilitation assistance envisaged according to ADB's policy requirements. Upon the ratification of the loan agreement, the ADB policy requirements shall prevail.

F 4. LARF Principles and Entitlements adopted for this Project

29. Although there is no land acquisition or resettlement anticipated for the Project, the following resettlement principles, eligibility requirements, entitlements matrix, and grievance mechanism have been prepared in the event that any LAR impacts are identified at a later date.

30. The impacts caused by road rehabilitation will be compensated based on the laws of the Republic of Kazakhstan and the requirements of the ADB Safeguard Policy Statement (ADB SPS, 2009). Taking into account that ADB can only finance projects that comply with its SPS, specific gap-filling measures need to be made to cover differences between ADB's safeguards requirements and countries' laws and to ensure that policy and safeguards requirements are achieved. In particular, if any land/property acquisition is required for the Project, the following principles shall be applied:

- Involuntary resettlement should be avoided or at least minimized;
- If impacts are unavoidable appropriate compensation/rehabilitation should be provided so as to preserve the affected person's living standards;

- DPs should be fully informed and consulted on LAR compensation options and implementation steps;
- Compensation should be carried out with equal consideration of women and men;
- DPs without legal rights to land should be compensated for non-land assets;
- Vulnerable persons should be provided with special allowances;
- Appropriate redress mechanisms to solve grievances should be established;
- A LARP based on the census and socio-economic surveys, valuation and consultation should be prepared and submitted to ADB as a condition for loan appraisal. The LARP should be disclosed in a language and form that is understandable to DPs and posted on the web for general public disclosure;
- Compensation payments should be initiated only after ADB has approved the LARP. Moreover, LARP implementation should be monitored by an independent monitor to be agreed with ADB; and,
- Civil works in road sections with LAR impacts should only commence after the LARP implementation has been completed, and verified by an independent monitoring entity.

G. COMPENSATION ELIGIBILITY AND ENTITLEMENTS FOR THE PROJECT

G 1. Eligibility

31. Displaced persons eligible to compensation or at least rehabilitation provisions under the Project are:
- All persons losing either land covered by legal title/traditional land rights or without legal status;
 - Tenants and sharecroppers whether registered or not;
 - Owners of buildings, crops, plants, or other assets attached to the land; and affected persons losing business, income, and salaries regardless of tenure on the affected land; and
 - Workers from affected businesses.

G 2. Compensation Entitlements

32. Compensation/rehabilitation provisions for DPs are defined in Table 2 below.

Table 2. Entitlement and compensation matrix

| Asset | Specifications | DP | Compensation Entitlements |
|-----------------------|--|----------------------------|--|
| Permanent Loss | | | |
| Arable Land | All Land Losses irrespective of severity of impact | Owners | <ul style="list-style-type: none"> • Cash compensation at replacement cost (without deduction of depreciation, taxes and other transaction costs) or through replacement land equal in value/productivity to the plot lost and at locations acceptable to DPs where feasible. |
| | | Leaseholders of State land | <ul style="list-style-type: none"> • Cash compensation for potential profit loss equal to market value of one year crop harvest (based on a 3-year average); plus • Cash compensation for activities related to land plot development, maintenance, protective measures etc.; plus • Cash compensation for pre-termination of lease (based on resolution 890); or, • renewed lease in an alternative plot. |

| Asset | Specifications | DP | Compensation Entitlements |
|---|---|--|--|
| | Severe Impact— >more than 10% of income/ productive land lost | Owners, leaseholders of State land | <ul style="list-style-type: none"> Additional cash compensation equal to one year crop harvest and agricultural subsidies. |
| Commercial Plots | | Owners | <ul style="list-style-type: none"> Cash compensation at replacement cost (without deduction of taxes and other transaction costs) or through replacement land equal in value/productivity to the plot lost and at locations acceptable to DPs where feasible. |
| | | Squatters (if any) | <ul style="list-style-type: none"> Leased plot on State land; Self-relocation cash allowance option. |
| Buildings and Structures | | Owners of permanent structures | <ul style="list-style-type: none"> Compensation of full market value (without deduction of depreciation, taxes and other transaction costs) or, at the owner option, house for house swap. |
| Crops | Standing crops affected | All DPs including squatters | <ul style="list-style-type: none"> cash compensation for actual crop loss at full market rate. |
| Trees | Trees affected | All DPs including squatters | <ul style="list-style-type: none"> Cash compensation reflecting income replacement. Fruit trees value based on age category and valued at gross market value of one year income times the number of years to grow a tree to similar productivity, plus purchase price of seedlings and starting materials. For wood/timber trees, compensation will be based on the price of dry wood volume. |
| Business and employ ment | Temporary or permanent business/ employment loss | All DP including squatters and workers of enterprises | <ul style="list-style-type: none"> Owner of shops/commercial establishments: if permanent loss, cash compensation equal to one year income (lost profits); if temporary, cash compensation for the period of income loss taking into account the compensation to workers for lost job (forced interruption) due to complete or temporary business cancellation – amounting up to 3-months average wages; Owner of peasant farm: allowance for labor maintenance. |
| Resettle ment | Transport and transitional livelihood costs | All resettled DPs | <ul style="list-style-type: none"> Allowance sufficient to cover transport expenses and livelihood expenses for one month due to relocation. |
| Vulnerable households | | HH below the poverty line; Large families having 4 or more children below 18 yrs., and HH with disabled members | <ul style="list-style-type: none"> Assistance equivalent to minimum living wage for 3 months; Enrollment in government social assistance program if not yet enrolled; Priority in local employment for able members of vulnerable household. |
| Temporary Loss | | | |
| Lands for construction sites and burrow pits | | Owners (private or public) | <ul style="list-style-type: none"> Cash compensation at local commercial rental rates for duration of use; Land restored to original status at the end of rental. |

33. The entitlements provided in the matrix are further elaborated below:

- a. **Land impacts.** The households with private ownership will be given cash compensation at replacement cost or through replacement land equal in value/productivity to the plot lost and at location acceptable to DPs where feasible and also cash compensation for crop losses at current market rates. Actual transaction taxes/fees will be paid by the Committee of Roads (CoR) or waived by the concerned agency. Compensation will also include costs incurred by the owner related to land plot development, maintenance, protective measures and soil fertility improvement, taking into account the inflation, as well as the losses, that the owner incurred related to early termination of obligations to third parties.

Leaseholders of State-owned land will be paid cash compensation for potential profit loss from the land equal to market value of one year crop harvest (based on a 3-year average). To facilitate livelihood restoration of leaseholders, leaseholders may be granted an alternative plot to lease depending on the plot availability. If no alternative equivalent land to lease can be provided, leaseholders will be provided with cash compensation for the pre-termination of their lease following the established base rates as per Resolution No. 890 (adopted on 2 September 2003 and revised on 7 November 2008). They will also be given compensation for works related to land plot development, maintenance, protective measures etc.

If the permanent or temporary acquisition results in partial or complete damage to irrigation, drainage and erosion-preventive structures (systems), then the losses will be determined based on the costs of the work for construction of new facilities or rehabilitation of existing structures (systems), including the costs of design and survey works.

Residual agricultural land impacts. Residual portions of the acquired lands which are rendered unusable will be included in the affected land and compensated as indicated above subject to the preference of the DP.⁵

Alternatively, the DP has the option of seeking an alternative plot or of changing the intended use of the remaining plot i.e. from agricultural to commercial. Moreover, DPs may also explore the reorganization and swapping of plots with adjacent owners to improve the economic viability of the remaining agricultural lands.

Severe impact losses. When >10% of an DP income or agricultural land is affected, DP (owners, leaseholders, sharecroppers, and squatters) will receive an additional allowance for severe impacts equal to one year's harvest from the acquired land. The amount of the harvest is determined based on the average yield in the past three years. Assistance will also be provided (i.e. agricultural subsidies and micro-credit support under the current agricultural programs of the Government), to help them restore their livelihoods.

Agricultural sharecroppers and agricultural workers. Sharecroppers will receive cash compensation equivalent to their share of harvest at market rates, including costs incurred by the sharecropper in the improvement of the land. Costs incurred by the sharecropper on the plot allotted will be determined under the procedure stipulated by constituent documents of economic partnerships, producers' co-operatives or an agreement between the parties. On the other hand, agricultural workers who will lose employment due to land acquisition for the Project will be paid cash compensation equivalent to their salary for the remaining part of the agricultural year.

- b. Commercial land.** Households and legal entities who own commercial plots that will be affected by the Project will be compensated at replacement rate either (i) in the form of land for land or (ii) in cash at current market rates free of transaction costs.
- c. Buildings and structures** will be compensated in cash at replacement cost free of deductions for depreciation, salvaged materials, and transaction costs irrespective of the registration status of the affected item. The cost of lost water and electricity connections will be included in the compensation.
- d. Crops.** Standing crops on the acquired lands will be compensated at market rates for their

⁵ The main criterion to determine whether the residual part (plough land or pasture) is or is not suitable for its earlier purpose, is its economic impracticability based on the following: a) small area of the remaining part; b) difficulty of access (driving of agricultural machinery or cattle via highway); c) incomparable costs for plot processing and insignificant profits that can be obtained from its further use. The owner or long-term leaseholder has the right to determine practicability of further use of the land. This will be determined via negotiation. (Article 86, RK Land Code)

gross value of 1 year's harvest losses. Crop compensation will be paid both to landowners and tenants. However, for this project no standing crop is expected to be affected since there is sufficient time between the notification and commencement of civil works. The land user will be able to harvest its crops way ahead of the site clearing.

- e. **Trees.** Trees planted by private land users will be paid cash compensation reflecting replacement of income derived from the trees. The economic value of fruit trees will be based on the age category and valued equivalent to one year income times the number of years to grow a tree to similar productivity. The cash compensation will also include the price of seedlings and starting materials. For wood/timber trees, cash compensation will be based on the price of dry wood volume.
- f. **Businesses.** If business is lost permanently, it will be compensated in cash equal to 1-year net income (loss of profit). If disruption is temporary, the DP will be paid cash compensation for the period of business interruption period based on tax declaration or, if unavailable, official monthly minimum salary. Cash compensation is also provided in cases where there is already an approved business plan and the DP has already incurred cost in the business preparation, subject to review of supporting documents. For those involved in agricultural production and who employ workers, a one-time labor maintenance allowance will be provided to supplement cost of maintaining labor despite the reduced income as a result of land acquisition. Labor maintenance allowance is computed based on the following formula: number of workers X average wages for 3 years X percentage of acquired land.
- g. **Employees.** Workers whose employment will be disrupted, will be provided with indemnity for lost wages for the period of business interruption up to a maximum of 3 months, based on their registered monthly wages/salaries.
- h. **Self relocation allowance.** DP households/owners of structures forced to move will receive a self-relocation allowance to help them transport their structures, goods and personal items.
- i. **Community structures and public utilities** will be fully replaced or rehabilitated to maintain their pre-project functions.
- j. **Socially vulnerable people** Displaced households below the poverty line, large families having 4 or more children below 18 years, and households with disabled members will be provided cash assistance equivalent to 3 months minimum wage, and will be enlisted in existing special programs and other initiatives for socially vulnerable people (i.e. Targeted Social Assistance and State social benefits) if not yet enrolled. Able-bodied (and qualified, after training if necessary) members of vulnerable households will be given priority in project-related jobs.
- k. **Temporary impacts.** In case of temporary land acquisition, compensation will be based at local commercial rental rates for the duration of use, taking into account the lost income from the land. The project will ensure that the land is restored to its original status at the end of the rental period.

34. If the temporary use of the land will damage existing structures on the land, the payment will include the cost for constructing a new facility or rehabilitation of existing structures (systems) including the cost of design and survey works. Moreover, losses (expenditures) related to inconveniences in the land use (disturbed transport connections, disconnection of territory etc.) shall include the cost of the design and survey works, as well as the construction of access roads and other structures. When defining expenses connected with the need to reclaim disturbed soils, the calculation may include the cost of soil, agrochemical and other specialized investigation and surveys as well as soil reclamation measures.

35. The responsibility of the contractor in handling temporary use of land during construction,

including reporting, will be stipulated in the civil works contract. Contractor's compliance to the LARP provision will be monitored by the CSC and included in its monthly progress report.

36. For unexpected adverse effects during the project implementation, the rayon akimats and the CoR will undertake measures in accordance with the objectives of this LARP of restoring the socio-economic and living conditions of the DPs.

37. In case of cash compensation, payment will be made through the banks or "KazPost" JSC, by checks or other means based on the preference of the DPs, free from fees or processing charges. Expenses related to transfer of funds, and documentation requirements will be borne by the CoR.

H. PUBLIC CONSULTATION, PARTICIPATION AND DOCUMENTS DISCLOSURE

38. According to ADB policy, the DPs must be fully consulted and provided with opportunities to participate in the planning and implementation of land acquisition and resettlement. They also must be informed in an appropriate and timely manner of the outcomes of the planning process, as well as the schedules and procedures for implementation of the LARP. Public information and consultation campaign must be carried out by the CoR during all stages of the land acquisition and resettlement process. In addition, the CoR must also organize public information meetings, full disclosure of the LARP and informing the DPs about the procedures for payments for compensation and relocation.

39. The LARF (in Russian version) shall be made available at the Project area. The LARF will be uploaded on the ADB website. Similarly, the LARF (in English and Russian version) will be posted on the MoTC (CoR) website. During the different stages of the Project (planning, implementation, and monitoring), once any LAR impacts occur, the following actions are in place: (i) distribution of public information brochure, (ii) availability of copies of the LARP in CoR, and in community, rayon and oblast akimats, and (iii) uploading of the LARPs on the ADB and MoTC (CoR) / akimat websites.

40. Rayon and municipal authorities shall be informed about the Project. In case LAR impacts will be identified, their assistance shall be solicited in the conduct of the inventory of affected assets, the Census of APs and the detailed measurement surveys (DMS). Also, prior to the finalization of the LARP and its submission to the ADB and MoTC for endorsement, the DPs shall be thoroughly informed on the results of the census and DMS, and their preferences on compensation or other resettlement assistance shall be given due consideration. The processes and mechanisms ensuring the active involvement of DPs and other stakeholders will be detailed in the LARP including the date, list of participants, and minutes of consultation meetings.

I. RESETTLEMENT PLANNING AND IMPLEMENTATION

41. Once LARP is deemed necessary for the Project, the following steps shall be undertaken for its preparation: (i) census of DPs to ascertain their current standard of living and assess expected impacts; (ii) detailed measurement surveys, (iii) official asset valuation/documentary research on affected plots, (iv) consultation with governmental agencies and affected parties; and (v) submission of the final plan and cost estimates to ADB for concurrence before funding is authorized.

42. Final design will indicate the number and location of land plots and/or structures to be affected, so as the APs can be identified and notified on LAR procedures and entitlements. When the encroachment consists of cropping on informally occupied land, the users will be allowed to harvest standing crops and offered the opportunity to rent alternative land. These provisions, or other appropriate ones, will be incorporated in the LARP.

43. DPs must be informed about land acquisition (expropriation) procedures and their rights and options in the process. CoR will play an important role in the public information process by preparing and distributing information brochure that describes the LAR processes and clarifies the rights and responsibilities, compensation rates, payment schedule and grievance redress options.

44. For purposes of eligibility, the date of adoption of the final detailed design will be considered as the cut-off date for the project area. Persons who occupy affected areas after that date are not entitled to compensation provisions.

J. INSTITUTIONAL ARRANGEMENTS

45. The timely and effective implementation of the LARP will require involvement of several agencies and units. This chapter describes the roles of the different units involved in LAR preparation and implementation.

J 1. MoTC / CoR

46. The Ministry of Transport and Communication (MoTC) of the Republic of Kazakhstan is the central executive entity of the RoK responsible for management and inter-entity coordination of development and implementation of the state policy in the field of transport and communications. The Committee of Roads under the MoTC is the key entity responsible for implementation of the state policy in the field of road network development and maintenance. At the oblast level the Committee of Roads is implementing its functions through oblast departments. South-Kazakhstan Oblast Department of Committee of Roads of the Ministry of Transport and Communication of the Republic of Kazakhstan (CoR) is the main entity responsible for the coordination and management activities related to the automobile roads network located in the territory of the South-Kazakhstan Oblast of RoK. The CoR will be responsible for day-to-day management of the Project, including supervision of the detailed design, coordination of implementation of civil works, etc.

47. MOTC has overall responsibility for the Project. This includes preparation, implementation and financing of all LAR tasks and cross-agency coordination. MOTC will exercise its functions through the CoR. The CoR will have designated representative who will be responsible for general management of the planning and implementation of all LAR tasks. The designated representative of the CoR will be responsible for: assisting to the activities of the Contractor (and in particular its LAR specialist), facilitating the communication with local authorities, assisting in case of complaints and in the course of compensation delivery to the APs.

48. The Contractor will develop and implement the LARP for the Project based on the policy and procedures set out in this LARF. The Contractor will have a LAR specialist in its team to: (i) coordinate LAR with cadastral office and local governments; (ii) assisting the consultants in mapping, surveying and title verification activities; (iii) send the LARP to ADB for review, (iv) disclose the LARP; (v) plan and manage LARP implementation and the distribution of compensation; (vi) assist in case of complaints; (vii) ensure proper internal monitoring; and (viii) hire, following ADB recommendation, the external monitor. In addition, CoR representative on LAR related issues will also provide all needed documentation to ensure the prompt allocation of LAR budgets to the APs and will maintain the coordination of all LAR related activities.

49. The CoR through the Contractor has overall responsibility for LAR preparation, implementation and financing. At Contractor, LAR tasks will be handled by a LAR consultant. At CoR focal point / coordinator will be assigned to deal with LAR related issues, including resolution of complaints. The CoR and Contractor will be assisted by construction supervision consultant, nongovernmental organizations, impact assessment / valuation consultants hired for impact surveys / monitoring assistance. The CoR will coordinate with community / rayon akimats that have jurisdiction over land administration.

J 2. Consultants

50. Different types of consultants will be involved in LAR tasks:

(i) Design Consultant: This consultant is responsible for developing the final design, identifying LAR impacts and preparing the LARP. The design consultant will have at least 2.0 person-months of international staff provision for the conduct of due diligence and LARP (if required) based on detailed design.

(ii) Supervision Consultant: From LAR perspective the supervision consultant will (a) assist the CoR in monitoring and reporting the implementation of the LARP prepared (if any) based on final design, (b) identify and report on emerging LAR issues and temporary LAR impacts during project implementation, and (c) prepare LARP (as required) during project implementation. The supervision consultant will have at least 3.0 person-months of intermittent international resettlement specialist provision which will be tapped in case a LARP will be required during project implementation, as well as 9.0 person-months of intermittent national resettlement specialist to do quarterly monitoring of emerging and temporary LAR impacts during project implementation and for communicating with communities for feedback and complaints.

J 3. Rayon akimat and Local Self-Government

51. Local authorities have direct jurisdiction for land administration and title verification. They will provide the data available in the local land registry and will facilitate the communication with community authorities. Community authorities will support surveys tasks, complaints resolution, AP consultation and compensation delivery as needed.

J 4. Other Agencies and Institutions

52. Several other institutions will participate to the preparation and implementation of LAR activities. These are:

- i **Ministry of Finance of the Republic of Kazakhstan** will participate in financing of compensation for land / property acquisition and resettlement. On behalf the Government of the Republic of Kazakhstan the Ministry of Finance will also sign the loan agreement with the ADB for this project;
- ii **Local Courts.** The court system will be involved in LAR process in case the agreement is not reached between Contractor / CoR and the owner/user of the affected land plot / property. The Courts will participate in solving problematic cases related to property acquisition for state needs, the basis will be the court decision entered into force;
- iii **Independent Asset Valuers.** These will be accredited / licensed private firms hired by Contractor / CoR to evaluate the affected assets subject to acquisition / expropriation.

J 5. ADB

53. Besides supervising periodically the Project, ADB will review the LARP and provide clearance to contract awards signing and initiation of civil works in case the Project has LAR impacts.

K. GRIEVANCE REDRESS PROCEDURE

54. Grievance redress procedure for the Project aims to provide an effective and systematic mechanism in responding to queries, feedbacks and complaints from DPs, other key stakeholders

and the general public. The existing grievance redress procedure developed and enforced for implementation of current road reconstruction project funded by the World Bank will be replicated to cover issues for this project. The CoR Deputy Director will act as the Grievance Coordinator. CoR shall continue to closely collaborate with the group of NGOs⁶ that monitor IFI assisted projects in the region. The grievance redress procedure for the proposed Project is presented below. It should be noted that this grievance procedure does not prevent any person to lodge his or her complaint directly to a court of law for resolution.

K 1. Grievance Redress Process

55. A grievance mechanism will be available to allow DPs to appeal any disagreeable decision, practice or activity arising from land use, social and environmental impacts. The project will pursue a participatory approach in all stages of planning and implementation. This is expected to ensure that DPs have nothing or little to complain about. However, some people may still remain dissatisfied for some reason or the other. Many grievances arise due to inadequate understanding of project policies and procedures, and can be promptly resolved by properly explaining the situation to the complainant.

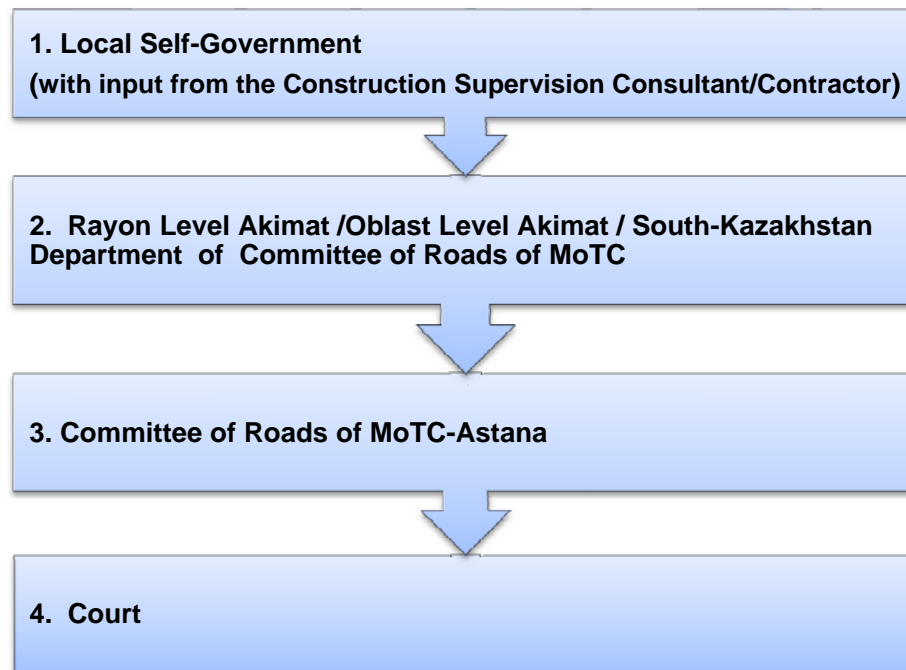
56. Timely redress of grievances is critical to the completion of a project in a satisfactory manner. The efforts will be to first seek resolution of these grievances at the local level through the mediation by Grievance Coordinators appointed at Construction Supervision Consultant and CoR, as well as by involving designated officials at local community, rayon and oblast levels. In addition, the NGOs may serve as informal mediators to facilitate grievance resolution process.

57. The Grievance resolution process will follow the steps defined below:

- (i) People with complaints or queries about the project can first approach the head of their respective local self-governments or the construction supervision consultant (CSC). The CSC will be required to nominate a Grievance Focal Point (GFP) to receive complaints, provide explanation to DPs regarding their particular case, record complaints in a special form and attempt to resolve them on the spot. The CSC-GFP shall inform aggrieved parties about the development of their grievance and decision made with respect to their case. The CSC-GFP will regularly coordinate with the heads of the self-governments along the road alignment to identify and address emerging issues.
- (ii) If the complaint remains unresolved within two weeks after being considered at the self-government/CSC level, DPs may take their complaints to the rayon administration (akimats of Shymkent Town or Sayram, Tolebi and Kazgurt Rayons) or to the CoR-South Oblast (particularly for technical or contracts-related issues). Issues that require decision or action from the Oblast akimat will be referred to the Oblast akimat for action/decision. The rayon-oblast akimat / Committee of Roads of the MoTC will convene a grievance redress committee that includes representatives of Government, professional organizations (design firm, etc.), independent parties (academic organizations, NGOs) as well as a representative of the complaining party. If the complaint is not resolved within two-weeks, it will be passed to the CoR in Astana for consideration.
- (iii) If there is no resolution within two weeks, the case will be referred to a Kazakh court for resolution according to Kazakh legislation, with the understanding that for all project related land use, social and environmental issues the specific agreements between the Government of Kazakhstan and ADB will supersede national law.

58. The following scheme represents the grievance redress process:

⁶ A key NGO in the group is "Social Monitoring Group Analytical Resource" led by Mr. Isaliyev.



K 2. Grievance Coordinators and Focal Points, Complaints Recording and Reporting

59. Grievance Focal Points will be designated at various levels (the community, rayon, CSC, contractor) to receive, help to resolve, record, report or forward complaints received from DPs and the general public⁷.

60. DPs or other concerned individuals may visit, call or send a letter or fax to any of the Grievance Focal Points to register their comments or complaints related to land use, social and environmental aspects of the project (including but not limited to disturbance created to the traffic, noise, intrusion to the territory, etc).

61. GFPs will maintain a record-book to register complaints, keep track of their status. Complaint forms will be available at these entities to facilitate recording of complaints. The information of grievance resolution will be summarized in the regular progress reports to be submitted to ADB.

K 3. Disclosure of the Grievance Process

62. All contact details of designated officials and a clear description of the grievance mechanisms will be published in print media, distributed via brochures, posted on the MoTC website. Grievance redress mechanism will also be presented during the public consultations and informal meetings at Project area. Coordination will also be made with the Association of NGOs (named "Civil Council") active in the South-Kazakhstan Oblast to help disseminate information about the grievance redress procedure and facilitate awareness raising in the Project area. The information on grievance resolution process will also be made available at the CSC, CoR, as well as at the offices of designated officials at community, rayon and oblast levels.

L. MONITORING AND EVALUATION

⁷ This does not preclude a citizen's right to submit the case to the court at any stage of the grievance process.

63. LAR risks/impacts from the Project are expected to be limited, if any. Related to this, monitoring and reporting of the implementation of the LARP (if any) prepared based on detailed design and emerging / temporary LAR impacts during project implementation (if any) by the Construction Supervision Consultant-Resettlement Specialist is deemed sufficient. Moreover, the monitoring will ensure that operations and access of businesses along the road are not hampered. The results will be communicated to ADB through the quarterly Project implementation reports. Indicators for the LARP monitoring will be those related to process and immediate outputs and results. Specific monitoring benchmarks will be:

- (i) Information campaign and consultation with DPs;
- (ii) Status of land acquisition and payments on land compensation;
- (iii) Compensation for affected structures and other assets;
- (iv) Relocation of DPs;
- (v) Payments for loss of income;
- (vi) Selection and distribution of replacement land areas; and
- (vii) Income restoration activities.

64. The above information will be collected by CSC through the following instruments:

- (i) Review of census information for all DPs;
- (ii) Consultation and informal interviews with DPs;
- (iii) In-depth case studies;
- (iv) Sample survey of DPs;
- (v) Key informant interviews; and
- (vi) Community public meetings.

65. In sections where LAR issues were identified, no civil works will be allowed until DPs have been compensated and assisted as per the provisions under the LARF. This will be confirmed through a resettlement compliance report prepared by the CSC Resettlement Specialist. The report will also assess the status of project affected vulnerable groups, such as households living below the poverty line, large households with 4 or more children below 18 years, or households with disabled members. The following will be considered as the basis for indicators in the LARP compliance monitoring:

- (i) Socio-economic conditions of the DPs in the post-resettlement period;
- (ii) Communications and reactions from DPs on entitlements, compensation, options, alternative developments and relocation timetables etc.;
- (iii) Changes in housing and income levels;
- (iv) Rehabilitation of informal settlers;
- (v) Valuation of property;
- (vi) Grievance procedures;
- (vii) Delivery and Disbursement of compensation; and
- (viii) Level of satisfaction of DPs in the post resettlement period.

M. CAPACITY BUILDING AND TRAINING IN LARP IMPLEMENTATION

66. The knowledge and experience gained by the CoR during implementation of the ongoing World Bank funded project will greatly contribute to timely and smooth implementation of the proposed Project, and will facilitate review and resolution of LAR related issues, should such occur.

67. To ensure adequate knowledge and awareness on applicable LAR issues, the staff of the CoR, Contractor(s) and design organization, as well as relevant representatives of akimats and local self-governments involved in LAR tasks will undergo an orientation and training on the ADB SPS (2009), the LARF, Kazakhstan legislation related to LAR and approaches accepted for this Project.

N. RESETTLEMENT BUDGET AND FINANCING

68. All LARP preparation and implementation costs, including cost of compensation and LAR administration will be contributed by the GoK. LARP will include a budget section indicating (i) unit compensation rates for all affected items and allowances, (ii) methodology followed for the computation of unit compensation rates, and (iii) a cost table for all compensation expenses including administrative costs and contingencies. Costs for external monitoring tasks and for the preparation of surveys and LARPs can be allocated under the loan.

O. LARP IMPLEMENTATION PROCESS

69. Upon the approval of LARP, all the arrangements for fixing the compensation and the disbursement have to be done. These include payment of all eligible assistance, relocation of DPs, rehabilitation measures, site preparation for delivering the site to civil works contractor(s) and, finally, commencement of the civil works. Internal monitoring will be the responsibility of Contractor / CoR and will start early during the project when implementation of LARP starts and will continue till the completion of the project.

70. Table 3 shows the activities involved in the LARP preparation, finalization and implementation and the agencies/units involved.

Table 3. LARP preparation, finalization and implementation process

| No. | Work Description | Responsible Agency |
|-------------------------------|--|------------------------------------|
| A. LARP Preparation | | |
| A1 | Final design is ready and LAR impacts are identified | Design organization |
| A1 | Akimat decree and notification of DPs | Akimat (with CoR support) |
| A2 | Detailed surveys (census, socio-economic survey and valuation) | Contractor, CoR, licensed valuator |
| A3 | Public consultations | Contractor, CoR, licensed valuator |
| A4 | LARP development | Contractor, CoR, |
| A5 | LARP review/approval/disclosure | Akimat/ADB |
| A6 | Mobilization of external monitor | CoR |
| A7 | No objection to signing of civil works contract | ADB |
| B. LARP Implementation | | |
| B1 | Allocation of LAR funds | CoR, Ministry of Finance |
| B2 | Detailed Schedule for compensation action plan | CoR, Contractor |
| B3 | Preparation of relocation plots/structures/houses | CoR, Contractor |

| No. | Work Description | Responsible Agency |
|------------|---|---------------------------|
| B4 | Registration of new plots/structures/houses | CoR, Akimat |
| B5 | Processing of compensation payments to DPs | CoR, Akimat |
| B6 | Expropriation proceedings | CoR, Akimat, Court(s) |
| B7 | Demolishing/ relocation of affected structures/assets | Contractor |
| B8 | Monitoring | CSC |
| B9 | Preparation of compliance report | CSC |
| B10 | Review of compliance report and issuance of Notice to Proceed for civil works is issued | ADB |

71. Efforts will be made to reach agreements or resolution of issues with the DPs on the compensation payments without involving the Courts in order to avoid delays in project implementation.

ANNEX I. LARP OUTLINE (according to SPS)

A. Executive Summary

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

B. Project Description

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

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. Socioeconomic Information and Profile

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

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

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

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;
- (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.
- (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

This section:

- (i) defines displaced persons' 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

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 displaced persons 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

This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, 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 programs.

K. Resettlement Budget and Financing Plan

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.
- (iv) includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations 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

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

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.