

**THE UNITED REPUBLIC OF TANZANIA**



**MINISTRY OF LANDS, HOUSING AND HUMAN  
SETTLEMENTS DEVELOPMENT**

**IN COLLABORATION  
WITH  
PRESIDENT'S OFFICE PLANNING COMMISSION**

**PROJECT COORDINATION UNIT – BRU**

**PRIVATE SECTOR COMPETITIVENESS PROJECT  
LAND REFORM SUB-COMPONENT**

**RESETTLEMENT POLICY FRAMEWORK**

*October, 2008*

## **FOREWORD**

The Government of United Republic of Tanzania has the task of eradicating poverty and raising the economy in the country through its famous poverty reduction and economic growth strategy.

Land is one of the important resources in the country on which the majority of the people depend for their livelihoods. The Ministry of Lands, Housing and Human Settlements Development is responsible for land use planning, surveying and demarcating land/parcel/farms, and provision of land ownership and tenancy in both rural and urban areas.

The ministry intends to apply systematic adjudication process, demarcation and survey work, land use planning and issuance of certificates of customary right of occupancy in pilot Districts of Babati and Bariadi and certificates of right of occupancy in Dare s salaam and Mwanza Cities in unplanned settlements. These certificates will increase security of land tenure and strengthening business environment in Tanzania.

During implementation of these projects, the welfare and living standards of people and their environmental issues will be considered basing on Tanzania laws and World Bank norms.

Hereunder, is the document related to resettlement policy framework which has been duly reviewed for the purpose of adoption.

Capt (RTD) John Z. Chiligati (MP)  
Minister for Lands, Housing and  
Human Settlements Development  
24 October, 2008

## TABLE OF CONTENTS

|   |      |
|---|------|
| TABLE OF FIGURES.....   | V    |
| LIST OF ACRONYMS .....  | VI   |
| 1.0 DEFINITION OF TERMS .....   | VII  |
| 2.0 EXECUTIVE SUMMARY .....   | IX   |
| 2.1 INTRODUCTION .....  | IX   |
| 2.2 DESCRIPTION OF THE PROJECT.....   | IX   |
| 2.2.2 <i>The Land Reform Sub-component</i> .....  | x    |
| 2.2.3 <i>Formalization of Property Rights in Unplanned Urban Settlements</i> .....                        | x    |
| 2.2.4 <i>The Piloting of Systematic Adjudication and Surveying in Two Rural Districts</i> .....           | xi   |
| 3.0 INSTITUTIONAL AND LEGAL FRAMEWORK .....   | XI   |
| 3.1 NATIONAL LAND POLICY .....  | XI   |
| 3.2 OBJECTIVES AND BASIC TERMS OF PREPARATION OF THE RESETTLEMENT POLICY FRAMEWORK (RPF) .....            | XI   |
| 3.3 IMPACT, LAND ACQUISITION AND RESETTLEMENT .....   | XII  |
| 3.4 ACQUISITION OF LAND.....  | XII  |
| 3.4.1 <i>Resettlement</i> .....   | xiii |
| DISPLACEMENT OF POPULATIONS PRIOR TO PROJECT .....  | XIII |
| 4.0 RESETTLEMENT POLICY FRAMEWORK.....  | 1    |
| 4.1 INTRODUCTION.....   | 1    |
| 4.2 PROJECT BACKGROUND .....  | 1    |
| 4.3 SOCIAL SAFEGUARDS (INVOLUNTARY RESETTLEMENT AND LAND ACQUISITION).....                                | 1    |
| 4.4 PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT.....   | 2    |
| 4.5 DESCRIPTION OF THE PROCESS FOR PREPARING RESETTLEMENT ACTION PLANS.....                               | 6    |
| 4.5.1 <i>Screening Process</i> .....  | 6    |
| 4.5.2 <i>Process for carrying out baseline for RAP preparation</i> .....                                  | 7    |
| 4.5.3 <i>Description of consultation and participation procedures with project affected persons</i> ..... | 8    |
| 4.5.4 <i>Disclosure of resettlement instruments</i> .....   | 8    |
| 4.6 ELIGIBILITY CRITERIA FOR DEFINING PROJECT AFFECTED PERSONS.....                                       | 8    |
| 4.7 CRITERIA FOR DETERMINING ELIGIBILITY FOR COMPENSATION.....  | 10   |
| 4.8 CUT-OFF DATE FOR ENTITLEMENT.....   | 11   |
| 4.9 COMPENSATION MECHANISMS .....   | 11   |
| 4.9.1 <i>Entitlements for compensation</i> .....  | 11   |
| 4.9.2 <i>Calculations for compensation payments</i> .....   | 12   |
| 4.10 GOVERNMENT OF TANZANIA AND WORLD BANK LEGAL FRAMEWORK FOR LAND ACQUISITION.....                      | 14   |
| 4.10.1 LAND TENURE AND OWNERSHIP.....   | 14   |
| 4.10.2 <i>The Land Act No. 4 of 1999</i> .....  | 14   |
| 4.10.3 <i>The Village Land Act No.5 of 1999</i> .....   | 15   |
| 4.10.4 <i>The Acquisition Act 1967</i> .....  | 15   |
| 4.10.5 <i>Compensation</i> .....  | 15   |
| 4.11 COMPARISON BETWEEN LAND LAW IN TANZANIA AND BANK OP 4.12 .....                                       | 16   |

|  |           |
|--|-----------|
| <b>4.12 ARRANGEMENTS FOR FUNDING RESETTLEMENT .....</b>            | <b>18</b> |
| <b>4.13 INSTITUTIONAL ARRANGEMENTS TO ADDRESS SAFEGUARDS .....</b> | <b>19</b> |
| <i>4.13.1 Village/Mtaa levels.....</i>                             | <i>19</i> |
| <i>4.13.2 Ward levels .....</i>                                    | <i>19</i> |
| <i>4.13.3 District/Municipal/City level.....</i>                   | <i>20</i> |
| <b>4.14 COMPLAINTS AND GRIEVANCE MECHANISMS .....</b>              | <b>20</b> |
| <b>4.15 MONITORING PLAN .....</b>                                  | <b>21</b> |

## TABLE OF FIGURES

|   |    |
|---|----|
| <b>Table 1:</b> Example of expected categories of losses and their impacts on displaced persons---- | 4  |
| <b>Table 2:</b> Comparison of Tanzania law and World Bank OP 4.12 regarding compensation----        | 5  |
| <b>Table 3:</b> Categorization of displaced people-----   | 9  |
| <b>Table 4:</b> Forms of compensation-----  | 12 |
| <b>Table 5:</b> Assets and compensation types-----  | 13 |
| <b>Table 6:</b> Comparison between land law in Tanzania and World Bank OP 4.12-----                 | 17 |
| <b>Table 7:</b> Guiding budget for compensation-----  | 18 |
| <b>Table 8:</b> Tentative budget-----   | 18 |
| <b>Table 9:</b> Matrix for evaluation of project impacts-----                                       | 22 |
| <b>Table 10:</b> Potential impacts at new re-installation-----                                      | 23 |
| <b>Table 11:</b> Specimen entitlement matrix-----   | 24 |
| <b>Table 12:</b> Indicative prices to compensate for loss of trees-----                             | 25 |

## LIST OF ACRONYMS

|         |   |   |
|---------|---|---|
| DPs     | : | Displaced Persons   |
| ESIA    | : | Environmental and Social Impact Assessment                    |
| ESMF    | : | Environmental and Social Management Framework                 |
| ESRMFP  | : | Environmental, Social and Resettlement Management Focal Point |
| GOT     | : | Government of Tanzania  |
| LG      | : | Local Government  |
| LGI     | : | Local Government Institution                                  |
| LGSP    | : | Local Government Support Project                              |
| NEMC:   | : | National Environmental Management Commission                  |
| NGO     | : | Non Governmental Organization                                 |
| OP      | : | Operational Policy  |
| PAPs    | : | Project Affected persons(s)                                   |
| PCU-BRU | : | Project Coordination Unit-BEST                                |
| RAP     | : | Resettlement Action Plan                                      |
| RPF     | : | Resettlement Policy Framework                                 |
| WB      | : | World Bank  |

## 1.0 DEFINITION OF TERMS

**“Census”** means a field survey carried out to identify and determine the number of Project Affected Persons (PAP) or Displaced Persons (DPs). The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures emanating from consultations with affected communities.

**Project Affected Person(s) (PAPs)** are persons affected by land use or acquisition needs of the Land Titling Program. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they must move to another location.

**“Compensation”** means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from program activities.

**“Cut-off date”** is the date of commencement of the census of PAPs or DPs within the program area boundaries. This is the date on and beyond which any person whose land is occupied for program use, will not be eligible for compensation.

**“Displaced Persons”** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the program will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people will have their: standard of living adversely affected, whether or not the Displaced Person must move to another location, lose right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

**“Involuntary Displacement”** means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the Displaced Persons have moved to another location; or not.

**“Involuntary Land Acquisition”** is the repossession of land by government or other government agencies with or without compensation, for the purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

**“Land”** refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the Program.

**“Land acquisition”** means the repossession of or alienation of land, buildings or other assets thereon for purposes of the Project.

**“Rehabilitation Assistance”** means the provision of development assistance in addition to Compensation such as land preparation, credit facilities, training or job opportunities needed to enable Project Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.

**“Resettlement Action Plan (RAP)” or “Resettlement Plan”** - is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land

acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting on the people and their livelihoods. RAPS contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the project activities.

**“Replacement cost”** means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on **Market rate (commercial rate)** according to Tanzanian law for sale of land or property. In terms of land, this may be categorized as follows; (a) “Replacement cost for agricultural land” means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

**“Replacement cost for houses and other structures”** means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs shall include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.

**“Resettlement Assistance”** means the measures to ensure that Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

**“The Resettlement Policy Framework (RPF)”** has been prepared as an instrument to be used throughout the Land Reform Program implementation. The RPF will be disclosed to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the program. The **Resettlement Action Plans (“RAPs”)** will be **site specific** for the Land Reform Program and will be prepared in conformity with the provisions of this RPF with the views of the of the PAPs and DPs and emphasizing issues related to gender, youth, HIV/AIDS.

## **2.0 EXECUTIVE SUMMARY**

### **2.1 INTRODUCTION**

The Resettlement Policy Framework (RPF) is an instrument to be used through out the land Reform Program under Private Sector Competitiveness Project (PSCP). The framework is designed to formalize land titling in Tanzania particularly in Dar es Salaam and Mwanza cities, Babati and Bariadi districts in order to establish safeguard measures to ensure sustainable environmental development. The strategy is to enhance the living conditions and socio-economic well being of the population in the project areas and eventually in the country.

The prospect of taking land from occupants during project implementation has raised the need for preparation of a Resettlement Policy Framework that meets the policy requirements of the Republic of Tanzania and the World Bank's Safeguard Policies for involuntary resettlement of residents as per OP 4.12.

The RPF will ensure that, project affected persons do not suffer any livelihood and living standards or financial setbacks through appropriate measures contained in the framework.

The National Land Policy 1995, the Land Act No 4 of 1999 and its regulations, the Village Land Act No 5 of 1999 and its regulations and the Human Settlements Development Policy of 2000, The Land Use Planning Act of 2007 and Urban Planning Act of 2007 associated with physical planning exercise in the Pilot Areas have been the subject of intense discussions in the key government institutions and the essential element now appears to be one of implementation and safeguard measures to ensure that crucial environmental and social negative impacts are neutralized and where possible revised.

### **2.2 DESCRIPTION OF THE PROJECT**

#### **2.2.1 The Private Sector Competitiveness Project (PSCP)**

The objective of the PSCP is to create sustainable condition for enterprise creation, growth and innovation, which respond to market opportunities. The project objective will lead to the development of a healthy and competitive domestic private sector, measured in the number of new businesses, the growth of existing businesses and increasing formalization of informal business. This will be achieved by reducing the cost of doing business and increasing the capacity of the local private sector to participate in domestic and international markets. Private sector capacity will be developed in order to better utilized opportunities in value chains of key competitive clusters or areas of growth.

The PSCP supports the government program through three mutually reinforcing components: Component 1-Strengthening Business Environment; Component 2-Developing Enterprise Competitiveness; and Component 3- Improving Access to Financial Services. Component 1 on strengthening the business environment includes a sub-component on land reform.

The project, which was appraised in October 2005 and approved by the World Bank Board on December 15, 2005, became effective on July 5, 2006. It was given a C category as no major negative environmental, social and resettlement impacts were envisaged.

### **2.2.2 The Land Reform Sub-component.**

The objectives of the Land Reform Subcomponent are to support implementation of the key activities of Government of Tanzania's (GOT) Strategic Plan for Implementing Land Laws (SPILL) 2005 that will facilitate the development of a competitive domestic private sector. Support will be given to the more urgent activities identified for implementation in the short (two years) and medium (five years) term. Accordingly, the subcomponent will provide technical assistance and capacity building to develop efficient land registration and administration services by reengineering the processes, supporting updated legislation, improving the infrastructure for surveying, mapping and registration, and implementing the Village Land Act in 15 districts. The activities to be supported under the subcomponent include: (i) land registry and information; (ii) improved survey and mapping infrastructure; (iii) decentralization of land administration services including the issuing of certificates of customary rights of occupancy (CCROs); (iv) registration of property rights in unplanned urban settlements including the issuing of residential licenses; (v) strengthening the land dispute resolution mechanisms; and (vi) capacity building.

While the broad activities and process for implementation were identified and agreed before project approval, detailed preparation was undertaken as part of project implementation during which time two key adjustments were made to the activities for funding under the subcomponent. First, a land titling pilot has been proposed in rural areas to test a community-oriented, systematic approach to land titling which also goes hand-in-hand with land use planning. Second, in addition to issuing residential licenses, it is proposed that certificates of rights of occupancy be issued in urban unplanned settlements as part of a land use planning exercise, called "scheme(s) of regularization", which involves zoning and laying out of plans for public investments such as roads, public utilities and sanitary landfills as well as delineation of "hazardous" areas where people may not live. While the overall goal of the rural land certification pilot and the registration of properties in unplanned urban settlements is to formalize and document land use rights of occupants, there is a possibility that some people would get displaced during the acquisition of land by local authorities for common, public or state use as part of land use planning (scheme(s) of regularization in urban areas). Because of the prospect that some people would get affected by the processes of land use planning and land registration, a resettlement policy framework is required to guide the authorities in undertaking their land use planning and property registration.

### **2.2.3 Formalization of Property Rights in Unplanned Urban Settlements.**

There has been an ongoing project to formalize property rights in the unplanned settlements in Dar es Salaam by issuing Residential Licenses under Section 23 of the Land Act No. 4 of 1999 to enhance security of tenure and thereby increase the economic value of land and properties to be used as collateral by the majority of Tanzanians who run their economic activities in the informal sector without legal documents. It is estimated that there are 400,000 plots of unplanned housing in Dar es Salaam. Phase I of the Project commenced in 2004/05 and completed field work and documentation for 220,000 properties, and the local authorities are issuing residential licences to those (out of the 220,000) who apply for them. Under the PSCP, there is a proposal to upgrade the Residential licences to CROs to increase the term from the current 2 years to 33 years. In addition, this has to be done together with "Scheme(s) of Regularization" that entail planning for the provision and/or upgrading of basic public services that involve land, which local authorities have to acquire from occupants. Two areas have been selected for the "Scheme(s) of Regularization" and issuing of CROs: (i) the areas in Dar es Salaam covered by the Community Infrastructure Upgrading Program (CIUP of the Local Government Support Project), areas being issued with Residential licenses but not in CIUP and the remaining parts of Dar es Salaam to be implemented in Phase II of the on-going government project; and (ii) areas in Mwanza starting with areas where schemes of regularization have been prepared in a participatory

approach as per Land Act 1999 Sec 56-60 and GN 85 of the 1999 Land Act and the Land (Schemes of Regularisation) Regulations, 2001. The prospect of taking land from occupants during the schemes of regularization has raised the need for preparation of a Resettlement Policy Framework that meets the Policy Requirements of the Republic of Tanzania and the World Bank's Safeguard Policies for involuntary resettlement of residents as per OP 4.12.

#### **2.2.4 The Piloting of Systematic Adjudication and Surveying in Two Rural Districts.**

Two rural districts, Babati and Bariadi, have been identified for the piloting of a community-oriented systematic approach to the certification of lands under the 1999 Village Land Act to issue CCROs. The pilot would cover 9 villages in each of the 2 districts, with each village having an average of 4,000 land parcels. Altogether, about 70,000 land parcels would be surveyed, registered and CCROs issued for them. It is estimated that half of the villages in the 2 districts have already had their boundaries surveyed and demarcated. While attempts would be made to select villages whose boundaries have already been surveyed and demarcated, there is a likelihood that the pilot would include some un-surveyed and un-demarcated villages where surveying of village boundaries would have to be undertaken under the pilot. In addition to surveying of village boundaries, it would be necessary to prepare village land use plans as provided for in the Land Use Planning Act, 2007. The village land use plans would be prepared in a participatory process which would also involve the formulation of village by laws to govern the use of resources and establish a mechanism of redress in cases of violations especially if a village includes different types of land; these lands, such as lands for communal use, lands for seasonal use such as grazing lands on arable land, community woodlots and community forests would be identified on the ground, delineated and included in village land use plans which will be prepared with the aid of satellite imagery or aerial photography funded under the pilot. The preparation of a village land use plan is a necessary precondition for systematic adjudication, surveying and issuing of CCROs. Because of the prospect that village authorities may take land from customary land occupants settled on land designated for communal use or conservation purposes in their land use plan, an RPF needs to be prepared. The RPF would need to meet the Policy Requirements of the United Republic of Tanzania and the World Bank's Safeguard Policies for involuntary resettlement of customary land occupants as per OP 4.12.

### **3.0 INSTITUTIONAL AND LEGAL FRAMEWORK**

#### **3.1 NATIONAL LAND POLICY**

National land policy has been reviewed and developed over the years since the German occupation of Tanzania and refined through the British Colonial Era until after Independence when land was placed under trusteeship in the President of the Republic. The Present Institutional and Legal Framework should be seen in the light of various Acts of parliament passed since the Independence of Tanzania and embodied in:

- (i) The Land Act, 1999 and the Regulations of 2001
- (ii) The Village Land Act, 1999 and Subsidiary Regulation of 2001.
- (iii) The Land Use Planning Act, 2007
- (iv) The Urban Planning Act, 2007.

#### **3.2 OBJECTIVES AND BASIC TERMS OF PREPARATION OF THE RESETTLEMENT POLICY FRAMEWORK (RPF)**

The Framework document is designed to enable the Land Titling Institutions of the Government, the World Bank, The Urban and Rural Communities that could be affected by

the program and other stakeholders, including NGOs to establish policies, principles, institutional arrangements for management of issues related to dislocation of persons and livelihoods. The legislation on resettlement of the Government of Tanzania and the norms of the World Bank in its OP4.12 will be the instruments that will govern any resettlement arising out of the activities of the program.

### **3.3 IMPACT, LAND ACQUISITION AND RESETTLEMENT**

Any resettlement of populations could engender:

- Loss of Land;
- Loss of housing or commercial business,
- Loss of economic resources or employment,
- Marginalization of the population concerned,
- A degradation of health standards or increased morbidity,
- Loss of access to natural resources,
- Loss of access to resources for marginalized communities such as pastoralists and others hitherto classified as indigenous peoples, a term presently disputed in several countries,
- Disarticulation or disturbance of the way of life of affected population,
- Conflicts with host communities,
- Food shortages.

### **3.4 ACQUISITION OF LAND**

The Central and Local Government authorities in the consultation with local communities are vested with the authority to:

- Identify the scope or extent of the Land Titling Program,
- Screen the projects as to their potential environmental, social, economic impacts as well as their potential to cause resettlement and its corollaries,
- Specify the zones of installation or siting of the projects.

The Tanzanian Government, in its various Acts, notably those of 1999, subsequent legislations, and the World Bank in OP 4.12 stipulate clearly that any land needed for a program/project can only be withdrawn from the existing user if equivalent land can be allocated to the category of persons concerned. The land must have the same productive capacity if not better than the original land. No other prejudice, whether economic or livelihood and living standards must be suffered by the displaced entity. The chart below presents the scenario of resettlement impacts and mitigation measures.

### 3.4.1 Resettlement

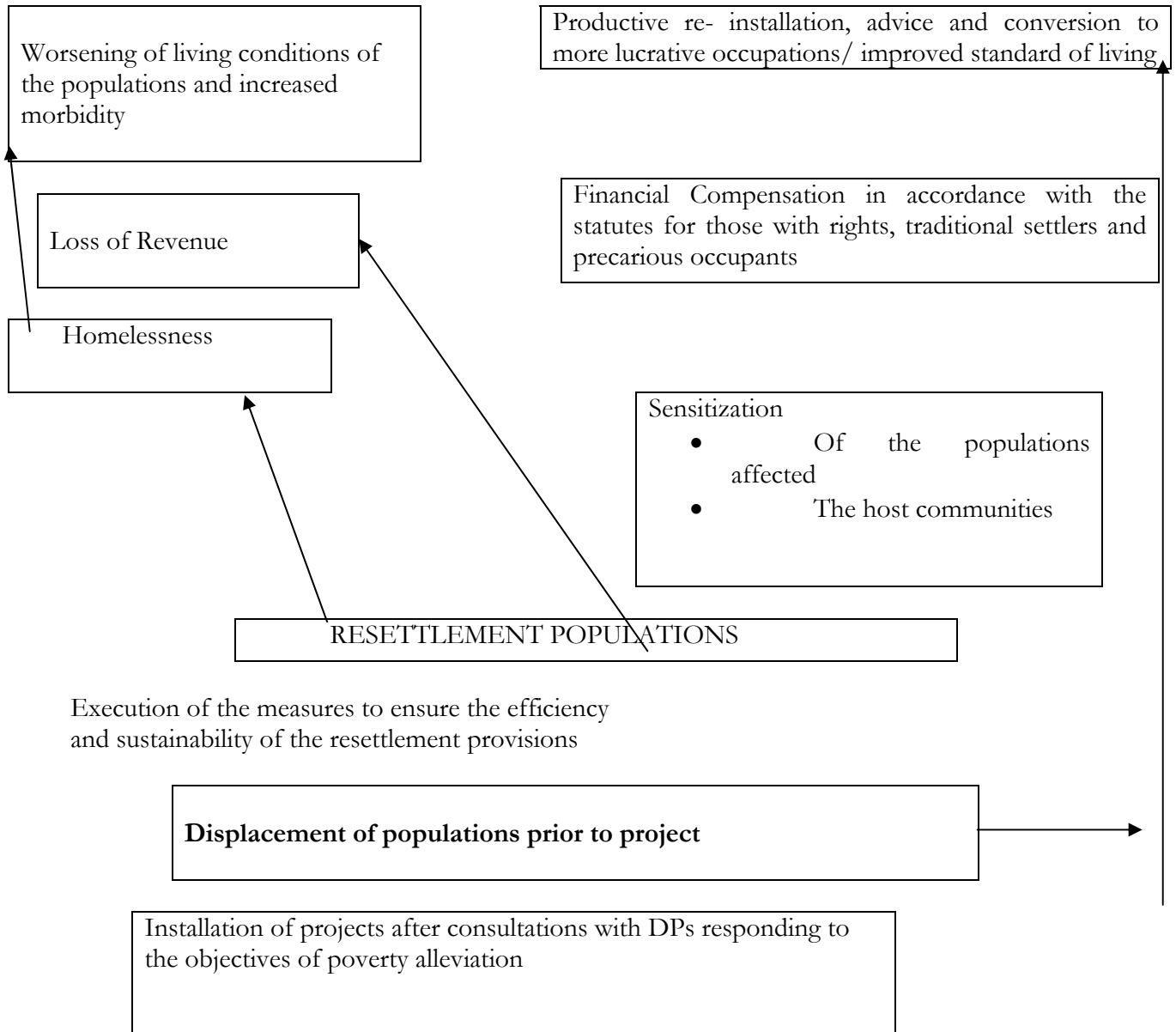
Chart No. 1 Resettlement Impacts and Mitigation

Creation of poverty

Creation of productive momentum

Without mitigating measures

With mitigation and attenuation



During the various discussions with Local Government Authorities as well as some local communities, the consultant noted the consensus amongst all the actors that the option of resettlement of populations will be avoided to the extent possible but that some loss of land or relocation of persons may be necessary for the greater good and well being of the community as a whole.

## **4.0 RESETTLEMENT POLICY FRAMEWORK**

### **4.1 INTRODUCTION**

The Resettlement Policy Framework (RPF) is an instrument to be used through out the land Reform Program under Private Sector Competitiveness Project (PSCP). The framework is designed to formalize land titling in Tanzania particularly in Dar es Salaam and Mwanza cities, Babati and Bariadi districts in order to establish safeguard measures to ensure sustainable environmental development. The strategy is to enhance the living conditions and socio-economic well being of the population in the project areas and eventually in the country.

The prospect of taking land from occupants during project implementation has raised the need for preparation of a Resettlement Policy Framework that meets the policy requirements of the Republic of Tanzania and the World Bank's Safeguard Policies for involuntary resettlement of residents as per OP 4.12.

The RPF will ensure that, project affected persons do not suffer any livelihood and living standards or financial setbacks through appropriate measures contained in the framework.

### **4.2 PROJECT BACKGROUND**

An IDA (International Development Agency) supported Private Sector Competitive Project is being carried out in Tanzania with objectives to create sustainable conditions for enterprise creation, growth and innovation which are responsive to market opportunities. The development of a healthy and competitive domestic private sector, measured in terms of new businesses, growths in existing businesses, and the increasing formalization of informal businesses are expected outcomes. There are three mutually reinforcing components to this project: The project will have three areas of focus: (i) investment climate issues focused on institutions interfacing with the private sector, (ii) private sector capacity, including access to business services and business linkages. In all three areas, the proposed project would develop new approaches and leverage or expand ongoing activities funded by bilateral and multilateral donors and (iii) access to finance, in particular for SME's (Small medium enterprises). Under Component 1 (Investment Climate) there exists a project Subcomponent B which relates to Land Reform.

Land reform sub-component will support the implementation of Government of Tanzania's (GOT) key activities of Strategic Plan, to Implement Land Laws or SPILL (2005) that will facilitate the development of a competitive domestic private sector by technical assistance and capacity building, to develop efficient land registration and administration services. The activities in 15 districts under this subcomponent include: (i) land registry and information; (ii) improved survey and mapping infrastructure; (iii) decentralization of land administration services including the issuing of certificates of customary rights of occupancy (CCROs); (iv) registration of property rights in unplanned urban settlements including the issuing of residential licenses; (v) strengthening the land dispute resolution mechanisms; and (vi) capacity building.

### **4.3 SOCIAL SAFEGUARDS (INVOLUNTARY RESETTLEMENT AND LAND ACQUISITION)**

Subcomponent B (Land Reform) has involuntary resettlement and land acquisition impacts.

During early implementation, it was found that formalization of unplanned settlements would involve land use planning and property registration at least in the city of Dar es Salaam and Mwanza. Similarly, it was also found that the decentralization of land administration would involve land use planning and land certification in the piloting of systematic land certification and possible subsequent scaling up at least in two districts of Babati and Bariadi.

Under subcomponent B, there is likelihood that some of the project affected persons (PAPs) may lose portions of plots or full lots of land as a result of planning exercise that classifies those lands as land for public use such as construction of roads or provision of other public services or declares such lands as hazardous. Land falling under this category is estimated to be about 10 percent of the plots which, in Dar es Salaam, would be about 20,000 out of 200,000 plots. For the affected plots of land, PAPs would remain on their land with compensatable land rights until the new program is in place. Landholders whose land is not designated for public use (about 180,000 plots in Dar), they will be issued with full land rights documents, called Certificates of Rights of Occupancy (CROs), financed under the current project.

In Mwanza, the project would provide CROs for about 45,000 plots which were not designated for public use. In the case of rural areas affected by the project, it is very unlikely that the planning exercise will designate privately held village land for public use. Nonetheless, this Resettlement Policy Framework (RPF) has been prepared to cover both urban and rural land. Detailed preparation of the land reform subcomponent of component 1 (done during implementation) has established that land reform activities would involve support for both urban and rural activities including: (i) land use planning and registration of property rights in unplanned settlements in at least Dar es Salaam and Mwanza; and (ii) decentralization of land administration services including land use planning and piloting of systematic land certification in Bariadi and Babati districts and possible scaling up in other districts.

#### **4.4 PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT**

The impacts due to involuntary resettlement from development projects, may give rise to economic, social and environmental risks resulting in production systems being dismantled, people facing impoverishment when their productive assets or income sources are lost, people being relocated to environments where their productive skills may be less applicable and the competition of resources increases; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help being diminished or lost. The resettlement policy may be triggered because the project activity causes land acquisition, namely: a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on that land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, people will appropriately be compensated for their loss (of land, property or access) either in kind or in cash, of which the former is preferred. The Land Act No.4 and Village Land Act No.5 of 1999 have set clear procedures for full, fair and prompt compensation while acquiring land from citizens. These procedures should be adhered to, especially the Land (assessment of the value of compensation) Regulations made under section 179 of Land Act no. 4 of 1999. GN 78 published on 4/5/2001.

Therefore, the objectives of this policy are as follows:

- a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

- b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

This RPF covers the direct economic and social impacts arising from this subcomponent that are caused by the involuntary taking of land resulting in : (i) relocation or loss of shelter; (ii) lost of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

Specifically, when the taking of land is unavoidable, the project will:

- initially endeavor to utilize available public land,
- seek voluntarily donated land, sufficient for the purposes of the program,
- negotiate acquisition of land suitable for implementation of the program activities using agreed compensation plans,
- Acquire land through involuntary means following the provisions outlined in this RPF.

In the case of customary land, apart from involving Local Government Authorities (LGA), community leaders and a broad spectrum of community members including youths and women will be part of consultations and will be party to any consensus regarding land acquisition and the modalities envisaged.

The entity in charge of resettlement and land acquisition is the Project Safeguards Coordinator who will work with the overall Coordinator of the Land Reform Sub component. The Project Safeguards Coordinator is responsible for implementing the following:

- land to be acquired
- names of owners and occupiers of land to be acquired; or in the case of customary land, the name of the land owner who is the holder of the right over the land as ascertained by the community,
- identifying local community leaders/representatives to assist in the process of land acquisition
- assessing magnitude of impacts relative to the need for resettlement and/or compensation and valuation of assets to be compensated for
- establishing financial records showing the costs of relocation and compensation, the beneficiaries and indicating how these costs were arrived at
- information on households or individuals eligible for relocation and information as to their socio-economic standing (incomes, production, material assets, debts etc)
- providing details of the relocation site(s) in response to the exigencies
- resettlement after-care and assistance, where appropriate
- employment opportunities for the PAPs in the project activities

**Table 1 : Examples of expected categories of losses and their impacts on displaced persons**

| Type of impact                              | Social and economic impacts  |
|---|--|
| Relocation of households                    | Possible impoverishment, disturbance of production systems, loss of sources of income, loss/weakening of community ties and social networks, loss of access to social amenities such as hospitals and schools, water; dispersion of kin groups, loss of cultural identity and traditional authority, loss or reduction of potential for mutual help, emotional stress. |
| Land acquisition but no relocation          | Impoverishment, loss of sources of income and means of livelihood, loss of assets or access to assets, increased time to access resources  |
| Alienation due to neighbors being relocated | Impoverishment, weakening of community systems and social networks, loss of mutual help and community support , loss of traditional authority, loss of identity and cultural survival, emotional stress  |
| PAPs and host communities                   | Impoverishment, loss of sources of income, reduced time and access to resources such as hospitals and schools, water, increased time to access resources,<br>Disruption of social fabric, increased crime, increases in diseases such as HIV/AIDS, clash of cultural and religious beliefs and cultural norms.   |

The resettlement policy applies to all components under the World Bank supported project, regardless of whether or not they are directly funded in whole or in part by the World Bank. The policy also applies to all displaced people regardless of the total number that are affected, the severity of the impact and whether or not they have legal title to the land. Particular attention will be given to the needs of vulnerable populations (disabled, children, the elderly, indigenous people, the poor and marginalized).

The World Bank policy requires that the provision of compensation and other assistance to Project Affected Persons is carried out prior to the displacement of people. In particular, repossession of land for project activities may take place only after compensation has been paid. Resettlement sites, new homes and related infrastructure, public services and moving allowances must be provided to the affected persons in accordance with the provisions of the Bank policies and incorporated into all Resettlement Action Plans.

**Table 2 : Comparison of Tanzanian Law and World Bank Op 4.12 Regarding Compensation**

| Category of PAPs and Types of loss of assets | Tanzanian Law   | World Bank OP 4.12   |
|--|---|--|
| Land Owners                                  | Cash compensation based upon market value under statute or Land for Land, disturbance and transport allowances, loss of profits or accommodation, cost of acquiring or obtaining the said land, any other immediate costs or capital expenditure on the development of the said land. Compensation must be prompt with delays incurring interest at market rates. | Recommends land-for-land compensation. Other compensation is at replacement cost.  |
| Land Tenants                                 | Entitled to compensation based on the amount of rights they hold upon land under relevant laws. Illegal tenants not entitled to compensation  | PAPS are entitled to some form of compensation regardless of the nature of their occupancy (legal/illegal)                                     |
| Land Users                                   | <ul style="list-style-type: none"> <li>-In some cases land users have some form of secured tenure extended to them under new laws. In other cases land users are not entitled to compensation for land.</li> <li>-Entitled to compensation for crops and any other economic assets.</li> <li>-Land for Land</li> </ul>  | Entitled to compensation for crops, may be entitled to replacement land and income must be restored to at least pre-project levels.            |
| Owners of Temporary Buildings                | Cash compensation based on valuation, disturbance allowance or entitled to new equivalent structure based on market value.  | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. |
| Owners of Permanent buildings                | Cash Compensation is based on market value or cost of putting up equivalent structure at the time of valuation. Disturbance allowance.  | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. |
| Perennial Crops                              | Cash compensation at market value based upon historical records. Rates for each crop established by the Valuation Division in Ministry of Lands and Human Settlements.  |  |

#### **4.5 DESCRIPTION OF THE PROCESS FOR PREPARING RESETTLEMENT ACTION PLANS**

The IDA policy on Involuntary Resettlement OP 4.12 is triggered because the Private Sector Competitive Project (under the Land Reform component) will finance activities, mainly land use planning and certification of land rights in rural and urban areas, that may require the involuntary taking of land and other assets. The land use planning and land certification processes may take currently occupied land or other assets for public use such as infrastructure and related services including construction of new schools, health centers, roads, markets, water and sanitation facilities, recreation, cultural and religious facilities and the expansion/protection/rehabilitation of these existing structures. It is not envisaged that there will be involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced person.

Since the location of these areas is not known at this time, the preparation and disclosure of this RPF by the Government of Tanzania is a condition of implementation. Once the location of Subcomponent B activities is identified, individual Resettlement Action Plans consistent with this RPF will be prepared. To address the impacts under this policy, resettlement and compensation plans must include measures to ensure that displaced persons are:

- a) Informed about their options and rights pertaining to resettlement and compensation;
- b) Consulted on, offered choices among, and provided with technically and economically feasible resettlement and compensation alternatives; and
- c) Provide prompt and effective compensation at full replacement cost for losses of assets and access, attributable to the project.

The first stage in the process of preparing the individual resettlement and compensation plans is the screening process to identify the land/areas that are causing resettlement. The resettlement and compensation plans will contain the analysis of alternative sites undertaken during the screening process. The GOT has been very successful in carrying out the decentralization policy as all the local government institutions and structures are in place. The screening process will therefore take advantage of this by assigning new responsibilities required in this RPF to the relevant local government planning bodies at the closest level to the affected communities. These planning bodies exist and are functional in Tanzania. The following steps will be carried out:

##### ***4.5.1 Screening Process***

The purpose of this step is to identify sites which will potentially have resettlement/land acquisition issues. The PMU via the Safeguards Coordinator will be responsible for screening using a checklist based on the guidelines set forth in this RPF. Members of this team should include representatives from the village, urban, sub-ward (“Mtaa”), ward, and district/municipal levels.

The list of sub projects that have potential resettlement issues will then be subjected to comprehension consultations on project impacts and also the mitigation measures designed to address impacts. These consultations should inform the design of individual RAPs. The list and the outcome of the consultative process for each site/sub-project on the list would then be sent to the respective Local Government Council in the jurisdiction mandated to confirm, approve, disapprove, refer for further consultation

and/or take a final decision on each proposed site/sub-project. Carrying out the screening process in this way is designed to give it the integrity and transparency it needs to allow all stakeholders to have confidence in the process.

**Step 1:** The project planning/ investment activities to be undertaken and the locations or the investment will undergo preliminary screening on the basis of the principles of OP 4.12.

**Step 2:** The LGA will approach all communities potentially impacted with the view to arriving at a consensus on options and alternatives related to resettlement and land acquisition and broader project impacts.

**Step 3:** The LGA (village councils, district councils, town or city councils and their various development committees) will undertake consultations in order to arrive at a possible options.

**Step 4:** The RPF screening process will determine:

- whether any resettlement will be required at the chosen site and if so whether alternative sites are available,
- whether any loss of land, assets or access to economic resources will occur or
- that the World Bank OP 4.12 is applicable or not

**Step 5:** Where resettlement or loss of assets cannot be avoided, the provisions of Land Act no. 4 of 1999 and World Bank's Operational Policy on Involuntary Resettlement and Land Acquisition (OP 4.12) will apply and RAP prepared.

#### ***4.5.2 Process for carrying out baseline for RAP preparation***

Following the determination of which sub projects will entail involuntary relocation and land acquisition, the Land Reform Program will prepare baseline information towards the preparation of individual resettlement and compensation plans for the chosen locations. The baseline study will provide: detailed demographic data on Projected Affected Persons (PAPs), detail mechanism for consultations with PAPs (including the means of incorporating their views in the design of RAPs); detail information on livelihoods systems and sources of income. The preparation of RAPs will be consistent with this RPF and will follow IDA policy on involuntary land acquisition and resettlement. The basic elements of the RAP include:

- baseline census and socio-economic (inventory of economic and social assets) survey information;
- detailed consultation plans including with host communities;
- calculation of compensation rates and standards;
- detailing of livelihoods planning and support for alternative systems of livelihoods especially for those being removed from agricultural systems;
- description of the resettlement sites;
- detailed implementation schedule for resettlement and compensation activities;
- cost estimates for provision of compensation, relocation, and other assistance (livelihoods training, transitional allowances etc) all resettlement related activities;
- provisions for a grievance redressal system that is developed in consultation with

project-affected persons.

#### ***4.5.3 Description of consultation and participation procedures with project affected persons***

Public consultation and participation are essential because they afford potential displaced persons the opportunity to contribute to both the design and implementation of the project activities.

Public consultation will take place at the inception of the planning stages when the development plans are being prepared. The participation strategy would evolve around the provision of a full opportunity for involvement. This project will ensure that community participation occurs throughout all stages of project design, implementation and monitoring. For example, community input will occur during the preparation of the; (i) the socio-economic study (baseline mentioned above), (ii) in design of the resettlement and compensation plans and (iii) monitoring framework and (iv) grievance redressal mechanism.

A public participation and consultation design will be developed well prior to when baseline information for the RAPs are carried out. This public participation will take into account the local socio-cultural features of the project context (the beneficiaries, their education levels, ways to best reach out to community members including those who are not part of the mainstream (the poor and vulnerable groups). Project consultations can occur through a variety of means including focus group discussions, town halls, announcements through radio and posters of project related events etc. It is most important that all project affected persons are part of these consultations, including the host communities. Thus consultations at the local levels (ward and Mtaa/village levels) at the appropriate venues are key.

#### ***4.5.4 Disclosure of resettlement instruments***

All project related instruments (Resettlement Frameworks, Resettlement Action Plans) will be disclosed in a form, manner and location that are appropriate to project affected persons. The disclosure of these instruments will follow IDA policy on disclosure of safeguards instruments. Disclosure of safeguards instruments will occur prior to implementation.

### **4.6 ELIGIBILITY CRITERIA FOR DEFINING PROJECT AFFECTED PERSONS**

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out, i.e. the time when the project area has been identified and when the socio-economic study is taking place.

**Table 3 : Categorization of displaced people**

| <b>Category</b>          | <b>Description</b>  | <b>Examples</b>  |
|--------------------------|---|--|
| Affected Individual      | An individual who suffers loss of assets or investments, land and property and/or access to natural and/or economic resources as a result of the sub-project activities and to whom compensation is due.  | A person who farms a land, or who has built a structure on land that is now required by a sub project for purposes other than farming or residence by the initial individuals  |
| Affected Household       | <p>A household is affected if one or more of its members is affected by sub-project activities, either by loss of property, land, loss of access, or otherwise affected in any way by project activities.</p> <p>In the local cultures, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular basis even though living separately.</p> <p>Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labor contributions are critical to the functioning of the "household". For example, among polygamous groups, each wife has her own home.</p> | <p>(a) any members in the households, men, women, children, dependent relatives and friends, tenants.</p> <p>(b) vulnerable individuals who may be too old or ill to farm along with the others.</p> <p>(c) relatives who depend on one another for their daily existence.</p> <p>(d) relatives who may not eat together but provide housekeeping and other domestic chores, and</p> <p>(e) other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.</p> |
| Affected local community | A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion.   |  |
| Vulnerable households    | <p>Vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them:</p> <p>These household types are not mutually exclusive, so that the elderly may be internally displaced persons, and women are affected individuals</p>  | <ul style="list-style-type: none"> <li>● Unmarried women</li> <li>● Non-farming</li> <li>● Elderly The infirm or ill</li> <li>● Orphans</li> </ul>   |

According to the Bank's OP 4.12 defines three criterions for eligibility:

- a) Those with formal rights to land (including customary and statutory rights of
- b) Occupancy recognized under the Laws of Tanzania).
- c) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the Laws of Tanzania or become recognized through a process identified in the resettlement action plan.
- d) Those who have no claim to land they are occupying or using.

Those covered under a) and b) above are to be provided compensation for land they lose, and other assistance in accordance with the policy. Persons covered under c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy or use, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy or use the project area prior to a cut-off date established by the local authorities and is acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in a), b) or c) above are to be provided with compensation for loss of assets other than land.

#### **4.7 CRITERIA FOR DETERMINING ELIGIBILITY FOR COMPENSATION**

This project will follow OP 4.12 of the World Bank which outlines the eligibility criteria for compensation, resettlement and rehabilitation assistance measures as follows:

- a. Persons with formal legal rights to land (including customary and traditional; and religious rights which recognized under the laws of Tanzania). This class of people includes those holding leasehold land and land held within the family or passed on through generations.
- b. Persons without formal legal rights to land or assets at the time the census begins but have a recognized claim of use to such land or ownership of assets through the national and traditional laws of Tanzania. This class of people includes those that come from outside the country and have been given land by the local dignitaries to settle, and/or to occupy.
- c. Persons with no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from.

Affected persons classified under paragraph (a) and (b) shall be provided compensation, resettlement and rehabilitation assistance for the land, buildings or fixed assets on the land and buildings taken by the project. The compensation shall be in accordance with the provisions of this framework and if affected persons occupied the project area prior to the cut-off date (date of commencement of the Census).

Persons covered under sub-section (c) above are to be provided with resettlement assistance in lieu of compensation. In addition, they have to be given the necessary

relocation assistance in conformity with the provisions of this policy framework provided the land was occupied prior to the established cut-off date.

All persons in the three sub-sections above are to be provided with compensation for loss of assets other than land. Consequently, this policy advocates for some kind of assistance to all affected persons irrespective of whether they have formal titles, legal rights or not.

Communities including districts, towns, wards and villages permanently losing land, resources and/or access to assets shall be eligible for compensation. Compensation to communities will include but not limited to public toilets, market places, car parks and health posts. Compensation measures shall ensure that pre-resettlement socio-economic status of the communities are restored and maintained.

#### **4.8 CUT-OFF DATE FOR ENTITLEMENT.**

The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out, i.e. the time when the project area has been identified and when the socio-economic study is taking place. After this date, no new cases of affected people will be considered. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land areas thereby posing a major risk to the sub-project. Therefore, establishment of a cut-off date is of critical importance.

Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

Once it is determined that an area sub-project is likely to incur land acquisition or relocation, the project implementation entity together with the community agrees on a program of implementation. They will also choose tentative cut-off dates. The dates would then be communicated to the community through their respective representative in the villages and broader project locations.

#### **4.9 COMPENSATION MECHANISMS**

##### **4.9.1 Entitlements for compensation**

Valuations methods for affected land and assets would depend on the type of asset. The land asset types identified under Tanzania law in this policy framework are:

- i) State Land not within the jurisdiction of a village
- ii) Village Land, including customary rights of villagers

For State owned land, although it is owned by the State, the land may be used by individuals and/or community. The principle here is that whoever was using the land to be acquired by the sub project, would be provided other land of equal size and quality.

Assets held under customary rights on state owned land would have to be valued according to the following method and compensation paid: the respective local government council (the corporate body causing resettlement impact) will value and duly compensate for assets and investments, including land, labor, crops, buildings, and other improvements, according to the provisions of the resettlement and compensation plan.

Compensation rates will be market rates as of the date and time that the replacement is

to be provided. The current prices for cash crops would have to be determined. Compensation would be based on valuation at or before the entitlement cut off date in compliance with this policy.

The Bank's OP 4.12 makes no distinction between statutory and customary rights but under this RPF for Tanzania not only assets and investments will be compensated for, but also land. Thus, a customary landowner or land user on state-owned land will be compensated for land, assets, investments, loss of access etc. at market rates at the time of the loss.

**Table 4: Forms of compensation**

|                      |   |
|----------------------|---|
| Cash compensation    | Compensation will be calculated in local currency. Rate will be adjusted for inflation.   |
| Cash payments        | Compensation may include items such as land, houses and other buildings, building materials, seedlings, agricultural inputs and financial credits or equipment. |
| In-kind compensation | moving allowance, training, transportation and labor  |

#### **4.9.2 Calculations for compensation payments**

In estimating the compensation to be given for any land or any estate therein or the potential profits thereof, the following shall be taken into account:

- a) The value of such lands, estates or interests or profits at the time of the emission of the notice to acquire, and shall not take into account any improvements or works made or constructed thereafter on the lands,
- b) That part only of the lands belonging to any entity /person acquired under this Act without consideration for the enhancement of the value of the residue of the lands by reason of the proximity of any improvements or works to be made or constructed by the Project, and
- c) The value of the lands acquired for public purposes but also to the damage, if any, to be sustained by the owner by reason of the injurious effects of severance of such lands from other lands belonging to such owner or occupier.

For cash payments, compensation will be calculated in Tanzanian currency adjusted for inflation. For compensation in kind, items such as land, houses, other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment may be included. Assistance may include moving allowance, transportation and labor.

**Table 5: Assets and compensation types**

| Type of asset   | Nature of compensation   |
|---|--|
| Compensation for Land   | Compensation for land is aimed at providing for loss of crops and the labor used to cultivate the crop. Compensation relating to land will cover the market price of the land, the cost of the labor invested, as well as the replacement cost of the crop lost.   |
| Compensation for crops  | Determined on the basis of the highest value over the previous year, adjusted for inflation for subsistence crops. Average value over the previous year for non-subsistence crops. Each type of crop is to be compensated for, using the same rate. This rate should incorporate the value for the crop and the value for the labor to be invested in preparing new land.  |
| Compensation for labor  | The value of labor invested in preparing agricultural land will be compensated for at the average wage in the community for the same period of time. The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement farmland.  |
| Compensation for buildings and structures                     | Compensation for buildings and other structures will be paid by replacement of these structures including fences, water and sanitation facilities etc. where part of the compensation is to be paid in cash the applicable replacement costs for construction materials will be used to calculate the values. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure. The project will survey and update construction material prices on an on-going basis. |
| Compensation for vegetable gardens                            | Vegetables are planted and harvested for daily use. Until a replacement garden can be harvested, the family displaced (economically or physically) as a result of the project will thereafter have to be compensated at the purchase prices of these items on the market.  |
| Compensation for Horticultural, Floricultural and Fruit trees | Given their significance to the local subsistence economy, fruit trees will be compensated on a combined replacement value. Fruit trees commonly used for commercial purposes in Tanzania will be compensated at replacement value based on historical production statistics   |
| Other.  |  |

## **4.10 GOVERNMENT OF TANZANIA AND WORLD BANK LEGAL FRAMEWORK FOR LAND ACQUISITION**

### **4.10.1 LAND TENURE AND OWNERSHIP**

Land tenure and ownership in Tanzania is governed by statutes such as the 1977 Constitution, Land Act No. 4 of 1999, Village Land Act No.5 of 1999, and Land Acquisition Act 1967. Land in Tanzania is owned by the state. For the purpose of management of land under the land Act No. 4 of 1999 and all other laws applicable to land, public land in Tanzania is either:

- ❖ General land;
- ❖ Village land; or
- ❖ Reserved land.

Socio-economic activities are permitted on land in the first two categories of general/public land and not permitted or restricted in land reserved for national parks, protected areas and wildlife/forest reserves. In respect of public land, Tanzania has a dual system of land tenure. The system recognizes both customary and statutory rights of occupancy. Tenure rights to land can be held by individuals and by communities. Holdings of individuals can be (i) by leasehold right of occupancy for varying periods e.g. 33, 66, or 99 years; (ii) by customary rights of occupancy that have no term limit. Communities (Villages) are allowed to hold land and to manage it, although they do not formally own the land.

### **4.10.2 The Land Act No. 4 of 1999**

The basic principles of the Land Act are adopted from Land Policy 1995. One among other basic principle of the Land Act is to pay full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the State under the Land Act or acquired under the Land Acquisition Act. The main objective is to protect majority of citizens of Tanzania who have acquired land from either inheritance or village council allocation or clearing bush should not easily lose their land without full and fair compensation. The full and fair compensation is only assessed by including all components of land quality.

Other important principle of the Land Act related to compensation; is to facilitate the operation of a market in land and regulate the operation of a market in land to ensure that rural and urban smallholders and pastoralists are not disadvantaged. To protect the smallholders and pastoralists the approach should not be to avoid land allocations to this group. Any disadvantaged group should get compensation of true land values of the land being held by any other group.

Regarding resettlement, this should be in accordance with provisions of the Land Act (and Land Acquisition Act of 1967). A process for preparing and approving resettlement plans should be based on PLUM (Participatory Land Use Planning and Management), which is explicitly recognized in the Land Policy 1995. The village government should therefore be able to:

- ❖ Review the proposal to prepare a resettlement plan

- ❖ Discuss the proposal in its village organs
- ❖ Prepare and agree on proposals of the resettlement plan
- ❖ Approve the resettlement plan subject to national legislations esp. Land Act No 4 of 1999 and Land Acquisition Act of 1967.

#### **4.10.3 The Village Land Act No.5 of 1999**

The village land Act defines village land as consisting of:

- ❖ land falling in the boundaries of a registered village under section 22 of District Authorities Act no. 7 of 1982;
- ❖ Land designated as village land under the Land Tenure (Village Settlement) Act No. 27 of 1965;
- ❖ \*and having boundaries demarcated as village land under any law or administrative procedure in force at any time before the Land Act No. 4;
- ❖ Lands with its boundaries have been agreed upon between the village councils having jurisdiction over that land; or
- ❖ Land other than reserved land which the villagers have, during the twelve years preceding the enactment of the Land Act of 1999 have been regularly occupying and using as village land in whatever manner.

Majority of people in Tanzania get land freely within their village land:

- ❖ From inheritance,
- ❖ Allocation from the village council or
- ❖ By clearing land.

The Village Land Act 1999 empowers the village council to manage village land as trustee managing property on behalf of the villagers and other persons resident in the village. The Village Land Act 1999 empowers the village assembly to divide the village land, occupied, used, available for occupation, community used and/or public used land, then to be known as communal village land. It will also identify land being occupied or used by an individual, family, or group of persons under customary law. Finally, the village council will identify land, which may be made available for communal or individual occupation and use, through allocation by the village council. The same Act provides mandate to the village assembly to further plan the land uses to be designated to the communal village land.

#### **4.10.4 The Acquisition Act 1967**

The Land Acquisition Act gives powers to the President to acquire "Land" from private occupants for public purpose when in the public interest to do so. The Land ordinance declares all land in Tanzania "Public land" to be held by the state for public purposes.

#### **4.10.5 Compensation**

It is a constitutional right in Tanzania that if one's property is either acquired or nationalized, the individual so affected must be compensated for. The word compensation connotes, paying off the loss suffered or to be suffered by an individual on his property (land) being acquired, such that the affected turns out to be in position as though he/she had not suffered or lost his property. Thus he/she will be compensated for the physical crust (soil) and developments thereon or underneath.

The Government of the United Republic of Tanzania guarantees free enjoyment of any

landholder of right of Occupancy and landholder is entitled to compensation if his land happens to be acquired by the Government for Public use. The current laws in Tanzania on property acquisition and compensation are provided for in:

- 1977 Constitution of the United Republic of Tanzania
- Land Acquisition Act 1967
- Land Act of 1999
- Village Land Act of 1999
- Urban Planning Act of 2007
- Land use plan act of 2007

In assessing the value of unexhausted improvements for compensation purposes, the law emphasizes that the value should be the price which the said improvements can fetch if sold in the open market. In normal circumstances it is lower than the replacement value but higher than the initial construction cost of the said improvements. Replacement value is defined as cost of putting up an equivalent structure as the one existing at the time of valuation and making allowance for age, state of repair and economic obsolescence in the place, Unexhausted improvements should mean any quality permanently attached to the land directly resulting from the expenditure of capital or labor by a person holding a right of occupancy.

The compensation should include the following: -

- (i) Market value of the real property
- (ii) Disturbance allowance
- (iii) Transport allowance
- (iv) Loss of profits or accommodation
- (v) Cost of acquiring or getting the subject land
- (vi) Any other immediate costs or capital expenditure incurred to the development of the subject land.

#### **4.11 COMPARISON BETWEEN LAND LAW IN TANZANIA AND BANK OP 4.12**

Whereas the law relating to land administration in Tanzania is wide and varied, entitlements for payment of compensation are essentially based on the right of ownership, occupation and use of land. The Bank OP 4.12 is not fundamentally different from this, except that the Bank recognizes the right of encroachers and illegal occupants if they occupy the land by a specified cut-off date. The higher of the two standards will be followed in this policy framework, since that procedure also satisfies the requirements of the lesser standard

**Table 6: Comparison between land law in Tanzania and World Bank OP 4.12**

| Category of PAPs/Types of loss of assets | Tanzania Law   | World Bank OP 4.12  |
|--|--|---|
| Land owners                              | Cash compensation is based upon market value of the real property, disturbance allowance, transport allowance, loss of profits or accommodation, cost of acquiring or getting the subject land, any other immediate costs or capital expenditure incurred to the development of the subject land and compensation should be paid promptly and if not paid on time, interest at market rates will be charged. | Recommends land for land compensation. Other compensation is at replacement cost.   |
| Land tenants                             | Entitled to compensation based upon the amount of rights they hold upon the land   | Are entitled to some form of compensation whatever the legal recognition of their occupancy.  |
| Land users                               | Not entitled to compensation for land, entitled to compensation for crops and sometimes provided with other land of equal size and quality   | Entitled to compensation for crops and labor. May be entitled to replacement land and income must be restored to pre-displacement levels at least |
| Owners of buildings                      | Valuation and disturbance allowance. Cost of putting up equivalent structure as the one existing at the time of valuation based on the price of the open market.   | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement     |
| Perennial crops                          | Cash compensation at market value based on historical production records. Compensation for each crop is established at the Valuation Division in the Ministry of Lands and Human Settlements Division  |   |

#### 4.12 ARRANGEMENTS FOR FUNDING RESETTLEMENT

Funds for carrying out the socio-economic baseline and inventory assessments as well as all resettlement related costs (land acquisition, relocation, training, consultations etc) will be provided by the project. Detailed estimates for this component will be available following the socio-economic baseline and inventory assessment, including information on specific impacts, individual and household incomes and numbers of affected people. When these locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data would be available, thus facilitating the preparation of a detailed and accurate budget for resettlement and compensation.

At this stage however, all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features that the budget must contain.

**Table 7: Guiding budget for compensation**

| Item   | Cost (USD) | Assumptions  |
|--|------------|--|
| Compensation for loss of land                                  | **         | For land acquisition purposes  |
| Compensation for loss of crops                                 | **         | Includes costs of labor invested and average of highest price of staple food crops                       |
| Compensation for loss of access to protected areas (??)        | **         | Data on these to be provided from socio-economic baseline study  |
| Compensation for buildings and structures                      | **         | This compensation would be in-kind. These new buildings would be built and then given to those affected. |
| Compensation for trees   | **         | See compensation described above   |
| Cost of relocation assistance/expenses                         | **         | This is cost to facilitate the transition/transportation   |
| Cost of restoration of individual income (includes businesses) | **         | Based on socio-economic survey, and discussions with PAPs. Assumed to be higher than GDP/capita          |
| Cost of restoration of household income                        | **         |  |
| For of training/retraining                                     | **         | Mitigation measures to assist with livelihoods rehabilitation  |

Note: The column marked \*\* will be filled after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and number of affected persons.

**Table 8: Tentative budget**

| Budget item  | Amount (USD)       |
|--|--------------------|
| Preparation of RAPs                                    | \$50,000           |
| Compensation for pilot districts of Babati and Bariadi | \$400,000          |
| Unplanned settlements of Mwanza City                   | \$500,000          |
| Unplanned settlements of Dar es Salaam                 | \$1,000,000        |
| <b>Total advance lending</b>                           | <b>\$1,950,000</b> |

#### **4.13 INSTITUTIONAL ARRANGEMENTS TO ADDRESS SAFEGUARDS**

The President's Office Planning Commission (POPC) will coordinate the overall project. The first component will be implemented through the Better Regulation Unit in the POPC that has been established to implement the BEST program. The second and third component will be implemented by the Tanzania Private Sector Foundation (TPSF). The units will need to be trained in safeguard policies, in order to be in a position to identify issues should they arise. Towards developing all aspects of the RAPs, the LGs will establish a technical committee (TC) which includes:

- a population specialist ( legal expert on displacement of peoples and laws on land tenure)
- a rural/urban economist,
- a sociologist
- Representatives of the communities impacted.
- Land officer, Town Planner, Land surveyor, Civil Engineer
- Representatives from MLHSD

This committee will work with the Government Valuer on matters of resettlement and compensation. NGOs may, where appropriate and necessary, be periodically engaged for the independent monitoring of the resettlement and compensation plans and shall report any deviations from the planned activities to the LGs.

The local Government Acts<sup>1</sup> provides for the administrative structure of local government. Tanzania is divided into three levels of Local Authorities whereby each level has statutory functions with respect to development planning. According to the Local Government Acts and their amendments, the village, district and urban authorities are responsible for: planning, financing and implementing development programs within their areas of jurisdiction.

##### **4.13.1 Village/Mtaa levels**

At community level, the Village Council is vested with the overall responsibility of project planning and implementation and a Village Planning Committee undertakes supervisory functions. In Villages participating in participatory development planning, a Technical Planning Team is usually constituted to undertake the planning on behalf of the communities with support from the Ward and/or District Facilitation Teams. Members of the planning teams are selected among the community members, the village council/government and other stakeholders.

##### **4.13.2 Ward levels**

At Ward level, planning and implementation is the function of the Ward Development Committee. In Wards participating in participatory development planning, a Technical Planning Team is usually constituted to undertake the planning on behalf of the WDC with support from the District Facilitation Teams.

---

<sup>1</sup> Local Government Acts (Local Government (District Authorities) Act No.7 of 1982 and Local Government (Urban Authorities) Act No.8 of 1982)

#### **4.13.3 District/Municipal/City level**

At District/Municipal/City level, Heads of Department constitute the Council Management Team (CMT), which is responsible for all technical matters including overall planning. Planning for sectoral projects is the responsibility of the Heads of Departments or Sectors. The Planning Department coordinates all planning activities. The District Development Committee supervises the implementation of all development plans.

#### **4.14 COMPLAINTS AND GRIEVANCE MECHANISMS**

Land acquisition and involuntary resettlement can disadvantage households and communities resulting in their increased impoverishment if not managed properly. Vulnerable people may face added disadvantages as they typically are not socio-politically well situated to express their grievances and seek justice.

At the time that the individual resettlement and compensation plans are approved and individual compensation contracts are signed, affected individuals should be informed of the process for expressing dissatisfaction and to seek redress. The grievance procedure should be simple, administered as far as possible at the local level to facilitate access, flexible and open to various proofs taking into cognizance the fact that most people are illiterate and poor requiring a speedy, just and fair resolution of their grievances. The Village Government being a party to the contract would not be the best office to receive, handle and rule on disputes. Therefore, taking these concerns into account, all grievances concerning non-fulfillment of contracts, levels of compensation, or seizure of assets without compensation should be addressed to the existing Land Disputes Courts.

All attempts would be made to settle grievances amicably. Those seeking redress and wishing to state grievances would do so, by notifying their Village Council and the District Commissioner (DC) /LGA Directors/District Executive Director (DED). The DC/DED will consult with the respective local governments, Ward/Village/Mtaa and other records to determine claims validity. If valid, the Village Council and project implementation teams will notify the complainant and will be settled. If the complainant's claim is rejected, then the matter will be brought before the Land Tribunal for settlement. If the matter cannot be settled by the District Land Tribunal, the matter will go to the High Court for resolution. The decision of the High Court would be final and all effort should be made to ensure decisions are reached within a full growing season after the complaint is lodged.

The local leaders will be required to give advice concerning the need for revisions to procedures. Once the local government, Ward and Village leaders agree on necessary and appropriate changes, then a written description of the changed process will be made. The project entity together with village leaders will be responsible for communicating any changes to the people.

In the case of schemes of regularization, settlements of complains and grievances shall follow the Land (Scheme of regulation) Regulations, 2001 Section 23 – 32. The regulations provides for a regularization area adjudication adviser, a panel and tribunal.

#### 4.15 MONITORING PLAN

The resettlement monitoring will be built into the overall monitoring framework for the project. The purpose of resettlement monitoring is to measure whether the objectives of this resettlement framework have been met. The design of a resettlement monitoring framework will include:

- mechanism to alert project authorities to the necessity for land acquisition in a subproject,
- mechanism to provide timely information about the valuation and negotiation process,
- reporting on grievances that require resolution, and
- Documentation of timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses, as well as unanticipated, additional construction damage.

The objective will be to make a final evaluation in order to determine:

1. If PAPs have been paid in full and before implementation of the project
2. If PAPs have been affected in such a way that they are now living a higher standard than before, living at the same standard as before, or they are actually poorer than before.

A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, health standards, etc). Therefore, the resettlement and compensation plans will set two major socio-economic goals by which to evaluate its success:

- Affected individuals, households, and communities are able to maintain their pre- project standard of living, and even improve on it; and
- The local communities remain supportive of the project.

The following types of parameters and verifiable indicators will be used to measure resettlement and compensation plans performance:

- The Local Governments to have a complete and maintained database on every individual impacted by the sub-project land use requirements including relocation/resettlement and compensation, land impacts or damages
- Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
- Index of proposed use of payments
- The number of contentious cases out of the total cases
- The number of grievances and time and quality of resolution
- Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
- Seasonal or inter-annual fluctuation on key foodstuffs
- General relations between the project and the local communities

**Table 8: Matrix for evaluation of project impacts**

| Village/City/Municipal Community  | Project    |           |               |                                   |
|---|------------|-----------|---------------|-----------------------------------|
| <b>Matrix for Evaluation of the Impacts of the Project</b>  |            |           |               |                                   |
| <b>A. Element</b>   | <b>Yes</b> | <b>No</b> | <b>Result</b> | <b>Mitigation and attenuation</b> |
| <p>Does the project entail;</p> <ul style="list-style-type: none"> <li>a) the re-installation of populations,</li> <li>b) the loss of land,</li> <li>c) the loss of structures               <ul style="list-style-type: none"> <li>• for housing,</li> <li>• for commercial use,</li> </ul> </li> <li>d) the loss of access to:               <ul style="list-style-type: none"> <li>• natural resources,</li> <li>• health facilities,</li> <li>• water and sanitation</li> <li>• Energy.</li> </ul> </li> <li>e) loss of revenue,</li> <li>f) any marginalisation</li> <li>g) increased morbidity</li> <li>h) disruption family and community values,</li> <li>i) disruption of socio-cultural or cult values</li> </ul> |            |           |               |                                   |

**Table 9 : Potential impacts at new re-installation site**

| Village/District/Municipal/City Community   |     |    | Project |                        |
|---|-----|----|---------|------------------------|
| Item.   | Yes | No | Result  | Mitigation/attenuation |
| 1.Re-housing necessary?   |     |    |         |                        |
| 2.What persons are affected ?   |     |    |         |                        |
| 3. Are there any loss of agricultural land, parks, loss of trees.                   |     |    |         |                        |
| 4. Is the new site difficult to access or subject to inundation?                    |     |    |         |                        |
| 5. Does the new site improve mobility of the populations?                           |     |    |         |                        |
| 6. Is solid waste generated?<br>Is there an appropriate disposal site?              |     |    |         |                        |
| 7. Is liquid waste generated?<br>Is there an appropriate disposal system?           |     |    |         |                        |
| 8. Is there an adequate sanitation system in place?                                 |     |    |         |                        |
| 9. Is any soil erosion likely to occur?<br>Are the drainage systems adequate?       |     |    |         |                        |
| 10. Are groundwater resources likely to be polluted?                                |     |    |         |                        |
| 11. Is their likelihood of negative impacts on the health of the displaced persons? |     |    |         |                        |
| 12. Is there a plan for the maintenance of the site?                                |     |    |         |                        |

**Table10 : Specimen entitlement matrix**

| CATEGORY OF PAP             | TYPE OF LOSS                               | ENTITLEMENTS   |  |  |   |  |
|-----------------------------|--|--|--|--|---|--|
|                             |  | Compensation for Loss of Structures  | Compensation for Loss of Assets  | Compensation for Loss of Income  | Moving Allowance                                    | Other Assistance                         |
| Property Owners             | Loss of land                               | –  | Land replacement at new site, plus land clearing by project  | Crops at market cost in scarce season                                    | None  | Food Aid during construction of new site |
|                             | Loss of structure for Residential business | Compensation at full replacement value not depreciated   | Fences (wire or wood) at \$3/meter Hand-dug wells at \$200   | For lost rental income Lump sum cash payment of 6 months rent per tenant | Moving to be done free by project                   | Disturbance Allowance                    |
| Residential Tenant          | Loss of rental accommodation               | No loss of structure, no entitlement to housing at new site  | Replacement cost for non-movables if installation was agreed with owner  | No loss of income  | Free relocation if notification before cut-off date | 6 months rent equivalent for disturbance |
|                             | Loss of premises                           | No loss  | Replacement cost for facilities that cannot be moved   | For loss of business income, payment of half of turnover for 6 months    | Free relocation if notification before cut-off date |  |
| Encroachers (using land)    | Loss of land                               | –  | Relocation to resettlement site of choice, with payment of rental fee for land. For crops, fences and wells, as above for owners |  |   | Food Aid during construction of new site |
| Bona Fide/Illegal Occupants | Loss of shelter                            | Compensation at full replacement value for structure, relocation to resettlement site, with payment of site rent | None   | Payments in lieu of wages while rebuilding                               |   | Disturbance Allowance                    |

**Table11 : Indicative prices to compensate for loss of trees**

| <b>Type of plant or tree</b> | <b>New/Small<br/>(0-1 years old)<br/>US\$</b> | <b>Medium<br/>(1-5 years old)<br/>US\$</b> | <b>Large<br/>(above 5 years old)<br/>US\$</b> |
|------------------------------|---|--|---|
| Mango Tree                   | 15  | 30   | 30  |
| Papaya Tree                  | 1   | 7  | 7   |
| Orange Tree                  | 20  | 35   | 35  |
| Lemon Tree                   | 15  | 30   | 30  |
| Banana Tree                  | 2   | 10   | 10  |
| Coconut Palm                 | 15  | 30   | 50  |
| Eucalyptus                   | 10  | 20   | 50  |
| Guava Tree                   | 5   | 20   | 20  |
| Cashew Tree                  | 10  | 40   | 40  |

**Table: 1      Main contents of the resettlement action plan**

1. Description of the project
2. Potential impacts
3. Objectives
4. Socio-economic studies
5. Legal framework
6. Institutional framework
7. Eligibility
8. Valuation and compensation for losses
9. Resettlement measures
10. Site selection, site preparation and relocation
11. Housing infrastructure and social services
12. Environmental protection and management
13. Community participation
14. Integration with host population
15. Grievance procedures
16. Organizational responsibilities
17. Implementation schedule
18. Cost and budget
19. Monitoring and evaluation